

# **CITY OF ATOKA**

## **CODE OF ORDINANCES**

**2020**

Containing all of the ordinances of the  
City of Atoka, Oklahoma  
of a general and permanent nature passed prior to  
August 1, 2020, and still in effect on that date

**ORDAINED AND PUBLISHED  
BY AUTHORITY OF THE  
MAYOR AND CITY COUNCIL  
CITY OF ATOKA**

City of Atoka  
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**CITY OF ATOKA**

**Updated May 30, 2023**

**Mayor:**

Mr. Brian Cathey

**Vice Mayor:**

Ms. Diane McGee

**Council Members**

Mr. Coby Sherrill

Mr. Pat Turner

Ms. Erica Pogue

**City Manager:** Mr. Danny Delay

**City Clerk:** Ms. Susan Bates

**City Treasurer:** Ms. Kelly Ingram

**City Attorney:** Mr. Johnny Sandmann

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**OF THE CITY OF ATOKA, OKLAHOMA**

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# Charter

## PREAMBLE

We, the people of the City of Atoka, exercising the powers of home rule granted to us by the constitution and laws of the State of Oklahoma, in order to provide for more efficient, adequate, and economical government, do hereby ordain, ratify, and establish this Charter of the City of Atoka, Oklahoma.

## ARTICLE 1

### INCORPORATION, FORM OF GOVERNMENT, POWERS

#### SECTION 1-1            INCORPORATION.

The City of Atoka, Oklahoma, within the corporate limits as now established or as hereafter may be established, shall continue to be a municipal body politic and corporate in perpetuity under the name of the “City of Atoka”. It shall succeed to and possess all the property, rights, privileges, franchises, powers, and immunities now belonging to the corporation known as the City of Atoka; and shall be liable for all debts and other obligations for which the corporation is legally bound at the time this charter goes into effect.

#### SECTION 1-2            FORM OF GOVERNMENT.

The municipal government provided by this charter shall be known as a “council-manager government”. All powers of the city shall be exercised in the manner prescribed by this charter, or, if the manner is not thus prescribed, then in such manner as the council may prescribe by ordinance.

#### SECTION 1-3            POWERS OF THE CITY.

(a) The city shall have all powers, functions, rights, privileges, franchises, and immunities granted to cities by the state constitution and law, and all the implied powers necessary to carry into execution all the powers granted. Except as prohibited by the state constitution or law, the city shall have all municipal powers, functions, rights, privileges, franchises, and immunities of every name and nature whatsoever.

(b) The city shall have power to adopt a corporate seal and to alter it at pleasure, to sue and to be sued, and to make contracts. It shall have power to acquire property within or without its corporate limits for any city purpose, including public utilities, works, and ways, in fee simple or any lesser interest or estate, by purchase, gift, devise, lease, condemnation, or other legal means; and to hold, maintain, improve, enlarge, manage, control, operate, lease, sell, convey, or otherwise dispose of, such property as its interests may require, including public utilities, works, and ways. It shall have power to incur indebtedness and to issue bonds within the limitations prescribed by the state constitution. It shall have power to accept and administer federal and state grants-in-aid and to do everything necessary to accomplish the purpose or purposes for which such grants may be made. It shall have power to ordain and to enforce local legislation for the proper organization and functioning of the city government, for the preservation and enforcement of good government and

order, for the protection of health, life, morals, and property, for the prevention, summary abatement, and removal of nuisances, and otherwise for the promotion of the common welfare. It shall have power to grant, extend, and renew franchises in accordance with the state constitution.

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

(d) Provisions of state law relating to matters which may be regulated by cities operating under charters, shall be in effect only insofar as they are applicable and are not superseded by this charter or by ordinance.

## ARTICLE 2

### THE COUNCIL

#### SECTION 2-1            COUNCILMEN: NUMBER, QUALIFICATIONS.

There shall be a Council of five members, which shall consist of the Mayor as Councilman at large and one Councilman from each of the four wards of the City as the wards are now constituted or as they may hereafter be constituted by ordinance. Only qualified electors of the City shall be qualified for the office of Mayor. Only qualified electors residing in the city and, at the time of their election, in the respective wards from which they are candidates, shall be qualified for the office of Councilmen.

#### SECTION 2-2            MAYOR AND VICE MAYOR.

(a) The mayor shall preside at meetings of the council. 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 such written obligations of the city as the council may require. As a councilman, he shall have all powers, rights, privileges, duties, and responsibilities of a councilman, including the right to vote on questions.

(b) At the first meeting after the time prescribed for the beginning of the terms of newly elected councilmen, or as soon thereafter as practicable, the council shall elect from its membership a vice mayor, who shall serve as such until the next such first meeting. The vice mayor shall act as mayor during the absence, disability, or suspension of the mayor, or, if a vacancy occurs in the office of mayor, until another mayor is elected by the council for completion of the unexpired term and qualifies. If the office of vice mayor becomes vacant, the council shall elect from its membership another vice mayor for completion of the unexpired term.

#### SECTION 2-3            COUNCILMEN: COMPENSATION.

The mayor and each other councilman shall be paid \$2.50 for each council meeting which

he attends, but not to exceed \$5.00 for such attendance in any calendar month. They shall be paid no other compensation but may be reimbursed for actual expenses incurred in the discharge of their official duties.

SECTION 2-4            COUNCIL: POWERS.

Except as otherwise provided in this charter, all powers of the city including the determination of all matters of policy, shall be vested in the council. Without limitation of the foregoing, the council shall have power, subject to the state constitution, law, and this charter:

- (1) To appoint and remove the city manager.
- (2) By ordinance to enact municipal legislation.
- (3) To raise revenue and make appropriations; and to regulate bond elections, the issuance of bonds, sinking funds, the refunding of indebtedness, salaries and wages, and all other fiscal affairs of the city.
- (4) To inquire into the conduct of any office, department, or agency of the city government, and investigate municipal affairs.
- (5) To appoint or elect and remove the city attorney, the members of the personnel board, the members of the planning commission, the members of the board of adjustment, and other quasi-legislative, quasi-judicial, or advisory officers and authorities, now or when and if established, or to prescribed the method of appointing or electing and removing them.
- (6) To grant pardons for violations of the charter and ordinances, including the remission of fines and costs.
- (7) To regulate elections, the initiative and referendum, and recall.
- (8) To regulate the organization, powers, duties, and functions of the municipal court and of the minor violations bureau when and if established.
- (9) To create, change, and abolish all offices, departments, and agencies of the city government other than the offices, departments, and agencies created by this charter; and to assign additional powers, duties, and functions to offices, departments, and agencies created by this charter.

SECTION 2-5            COUNCIL NOT TO INTERFERE IN APPOINTMENTS AND REMOVALS.

Neither the council, the mayor, nor any of its other members may direct or request the appointment of any person to, or his removal from, office or employment by the city manager or by any other authority, or except as provided in this charter, participate in any manner in the appointment or removal of officers and employees of the city. Except for the purpose of inquiry,

the council and its members shall deal with the administrative service solely through the city manager; and neither the council nor any member thereof may give orders on administrative matters to any subordinate of the city manager either publicly or privately.

SECTION 2-6            CITY CLERK TO BE CLERICAL OFFICER OF COUNCIL.

The city clerk, hereinafter provided for, shall also serve as clerical officer of the council. He shall keep the journal of its proceedings, and shall enroll in a book or books kept for the purpose all ordinances and resolutions passed by it; shall be custodian of such documents, records, and archives as may be provided by applicable law or ordinance; shall be custodian of the seal of the city; and shall attest, and affix the seal to, documents when required in accordance with applicable law or ordinance.

SECTION 2-7            COUNCIL: MEETINGS.

The Council shall hold at least one regular meeting every month at such time as it may prescribe by ordinance or otherwise. The mayor or any three councilmen may call special meetings. All meetings of the Council shall be open except for executive sessions which may be held during either regular, special or emergency meetings and which shall require a majority vote of those councilmen present to call. Said executive sessions shall be limited to the purposes of discussing the employment, hiring, appointment, promotion, demotion, disciplining or resignation of any salaried officer or municipal employee of the City of Atoka and for purposes of consulting with its attorney concerning a pending investigation, claim or action, where disclosure of the matter discussed would seriously impair the ability of the Council to process the claim or conduct the pending investigation, litigation or proceeding in the interest of the City of Atoka. Except for executive sessions all meetings of the council shall be open to the public and the journal of its proceedings shall be open to public inspection. All votes on matters coming before the City Council shall be publicly made and taken. (Original 1968 Section amended March 15, 1985, to provide for executive sessions to comply with decision of Supreme Court of State of Oklahoma.) (Amended by Resolution 1988-17, adopted 9/13/88)

SECTION 2-8            COUNCILMEN: ABSENCES TO TERMINATE MEMBERSHIP.

If the mayor or any other councilman shall be absent from more than one-half of all the meetings of the council, regular and special, held within any period of four consecutive calendar months, he shall thereupon cease to hold office.

SECTION 2-9            COUNCILMEN: REMOVAL.

The mayor or any other councilman may be removed from office for any cause specified by applicable state law for the removal of officers, and by the method or methods prescribed thereby, and by recall as provided in this charter.

SECTION 2-10         COUNCIL: VACANCIES.

The council, by majority vote of its remaining members, shall fill vacancies in its own

membership, including the office of mayor, for the unexpired terms or until successors are elected as provided in this section. If a vacancy occurs before the beginning of a regular filing period for candidates for councilmen, and the unexpired term extends beyond the time when the terms of councilmen elected that year begin, then a mayor or a councilman for that place, as the case may be, shall be elected at the elections of that year to serve the rest of the unexpired term beginning at the time the terms of councilmen elected that year begin.

SECTION 2-11            COUNCIL: QUORUM, RULES, YEAS AND NAYS.

A majority of all of the members of the council shall constitute a quorum, but a smaller number may adjourn from day to day or from time to time. The council may determine its own rules. On the demand of any member, the vote on any question shall be by yeas and nays, and shall be entered in the journal.

SECTION 2-12            ORDINANCES: ENACTING CLAUSE.

The enacting clause of all ordinances passed by the council shall be, “Be it ordained by the Council of the City of Atoka, Oklahoma”, and of all ordinances proposed by the voters under their power of initiative, “Be it ordained by the People of the City of Atoka, Oklahoma”.

SECTION 2-13            ORDINANCES: PASSAGE, WHEN IN EFFECT.

Every proposed ordinance shall be read, and a vote of a majority of all the councilmen shall be required for its passage. The vote on final passage of every ordinance shall be by yeas and nays, and shall be entered in the journal. The mayor shall have no power to veto. Within ten days after its passage, every ordinance shall be published in full or by number, title, and brief gist in a newspaper of general circulation within the city. Every ordinance except an emergency ordinance, so published, shall become effective thirty days after its final passage unless it specifies a later time; provided that a franchise for a public utility shall not go into effect until the ordinance granting it has been published in full in a newspaper of general circulation within the city and has been approved at an election by a vote of a majority of the qualified electors voting on the question.

SECTION 2-14            ORDINANCES: EMERGENCY.

An emergency ordinance is an ordinance which in the judgment of the council is necessary for the immediate preservation of peace, health, or safety, and which should become effective prior to the time when an ordinary ordinance would become effective. Every such ordinance shall contain, as a part of its title, the words, “and declaring an emergency”; and in a separate section, herein called the emergency section, shall declare the emergency. An affirmative vote of at least three (3) councilmen shall be required for the passage of an emergency ordinance. An emergency ordinance shall take effect upon passage and publication unless it specifies a later time. (Amended by Resolution 1988-17, 9/13/88)

SECTION 2-15            ORDINANCES: ADOPTION BY REFERENCE.

The council by ordinance may adopt by reference codes, ordinances, standards, and regulations relating to building, plumbing, electrical installations, milk and milk products, and other matters which it has power to regulate otherwise. Such code, ordinance, standard, or regulation so adopted need not be enrolled in the book of ordinances; but a copy shall be filed and kept in the office of the city clerk.

SECTION 2-16            ORDINANCES: CODIFICATION.

The permanent, general ordinances of the city shall be codified and published in book or pamphlet form at least every ten years unless the council, by use of a loose-leaf system, provides for keeping the code up-to-date. The ordinances and parts of ordinances included in the code may be revised, rearranged, and reorganized; and the code may contain new matter, provisions of the state constitution and law applicable to the city, and this charter. A copy of the published code shall be filed in the office of the city clerk after the council adopts the code by ordinance, but the code need not be enrolled in the book of ordinances.

ARTICLE 3

CITY MANAGER AND ADMINISTRATIVE DEPARTMENTS

SECTION 3-1            CITY MANAGER: APPOINTMENT, TERM, QUALIFICATIONS, REMOVAL.

There shall be a city manager. The council shall appoint him 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. At the time of his appointment, he need not be a resident of the city or state; but, during his tenure of office, he shall reside within the city unless he is given specific permission to reside elsewhere by a majority of all the members of the council. The council may suspend or remove the city manager at any time by a vote of a majority of all its members. (Original 1968 Section amended March 15, 1983, to allow City Manager to reside outside city with permission of council.)

SECTION 3-2            CITY MANAGER: POWERS AND DUTIES.

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

(1) Appoint, and when deemed necessary for the good of the service, lay off, suspend, demote, or remove all directors, or heads, or administrative departments and all other administrative officers and employees of the city except as he may authorize the head of a department, an officer, or an agency to appoint, lay off, suspend, demote, and remove subordinates in such department, office, or agency.

## Charter

(2) Supervise and control, directly or indirectly, all administrative departments, agencies, officers, and employees.

(3) Prepare a budget annually and submit it to the council, 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 as of 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 such recommendations to the council on matters of policy and other matters as may seem to him desirable.

(6) Have such other powers, duties, and functions as this charter may prescribe, and such powers, duties, and functions consistent with this charter as the council may prescribe.

### SECTION 3-3            ADMINISTRATIVE DEPARTMENTS, OFFICES, AND AGENCIES.

There shall be a department of finance and such other administrative departments, offices, and agencies as this charter establishes and as the council may establish.

### SECTION 3-4            PUBLIC LIBRARY.

The public library or libraries, when and if established, shall constitute, or be a part of, an administrative department; and shall be under the supervision and control of an officer or of a board established by ordinance and appointed by the city manager, as the council may ordain. The library board, if any, shall appoint library personnel.

## ARTICLE 4

### DEPARTMENT OF FINANCE, FISCAL AFFAIRS

### SECTION 4-1            CITY CLERK: OFFICE CREATED, DUTIES.

There shall be a city clerk, who shall be an officer of the city appointed by the city manager for an indefinite term, and who shall be head of the department of finance. Except as the council by ordinance provides otherwise, the city clerk shall collect or receive revenue and other money for the city, shall deposit the same with the city treasurer or for the city treasurer in an account and/or accounts maintained by the city treasurer in a depository or depositories, and shall maintain a general accounting system for the city government. He shall have such other powers, duties, and functions as may be prescribed by the charter, by applicable law, or by ordinance. In no event, however, shall the City Clerk serve as City Treasurer, holding both said positions at the same time. (Section 4-1 or adopted in 1968 was amended March 15, 1983, to prohibit the city clerk from also being the city treasurer.)



SECTION 4-2                    CITY TREASURER: OFFICE CREATED, DUTIES.

Within the department of finance, there shall be a city treasurer, who shall be an officer of the city appointed by the city manager for an indefinite term; provided also that the same person may be appointed both city clerk and city treasurer, and that the council by ordinance may provide that the city clerk shall be ex officio city treasurer and that an acting city clerk shall be ex officio acting city treasurer. Subject to such regulations as the council may prescribe, the city treasurer shall deposit funds received for the city in such depositories as the council may designate. He shall have such other powers, duties, and functions as may be prescribed by the charter, by applicable law, or by ordinance. (This section adopted in 1968, has largely been repealed by amendment to Section 4-1, infra.)

SECTION 4-3                    PURCHASES AND SALES.

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

(b)     Before the purchase of, or contract for, any supplies, materials, or equipment, or the sale of any surplus or obsolete supplies, materials, or equipment, ample opportunity for competitive bidding, under such regulations, and with such general exceptions, as the council may prescribe, shall be given; but the council shall not except an individual contract, purchase, or sale from the requirement of competitive bidding.

(c)     The council by ordinance may transfer some or all of the power granted to the city manager by this section to an administrative officer appointed by the city manager.

SECTION 4-4                    SALE OF PROPERTY VALUED AT MORE THAN \$3,000.

The sale of any property, real or personal, including public utilities, or of any interest therein, the value of which is more than \$3,000, may be made only (1) by authority of an affirmative vote of a majority of the qualified electors of the city who vote on the question of approving or authorizing the sale at an election, or (2) by authority of a special nonemergency ordinance. Such ordinance shall be published in full in a newspaper of general circulation within the city within ten days after its passage, and shall include a section reading substantially as follows: "Section--. This ordinance shall be referred to a vote of the electors of the city if a legal and sufficient referendum petition is properly filed within thirty days after its passage; otherwise it shall go into effect thirty days after its passage." The sale of an entire public utility may be authorized only as provided in (1) hereinabove.

SECTION 4-5            PUBLIC IMPROVEMENTS.

Public improvements may be made by the city government itself or by contract. The council shall award all contracts for such improvements; provided that the council may authorize the city manager to award such contracts not exceeding an amount to be determined by the council and subject to such regulations as the council may prescribe. A contract for public improvements of more than \$1,000 may be awarded only to the lowest and best responsible bidder after such notice and opportunity for competitive bidding as the council may prescribe. All bids may be rejected, and further notice and opportunity for competitive bidding may be given.

SECTION 4-6            FISCAL YEAR.

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

SECTION 4-7            INDEPENDENT ANNUAL AUDIT.

The council shall designate a qualified public accountant or accountants who shall make an independent audit of the accounts and evidences of financial transactions of the department of finance and of all other departments, offices, and agencies keeping separate or subordinate accounts or making financial transactions as of the end of every fiscal year at least, and who shall report to the council and to the city manager. In lieu of the above, the council may arrange with an appropriate state authority for such an audit when and if permitted by law.

ARTICLE 5

MUNICIPAL COURT

SECTION 5-1            MUNICIPAL COURT.

There shall be a municipal judge, who shall be an officer of the city appointed by the city council for an indefinite term. The council may suspend or remove the municipal judge or an acting municipal judge by vote of a majority of all its members. The municipal judge shall have original jurisdiction to hear and determine all cases involving offenses against the charter and ordinances of the city; provided that the council by ordinance may create a minor violations bureau with authority to dispose of case arising out of designated minor violations, such as minor traffic and parking violations, when the accused waives his right to be heard in court, pleads guilty, and pays fines and costs. The municipal judge shall keep a record of all proceedings of the municipal court, of the disposition of all cases, and of all fines and other money collected. The municipal judge may issue warrants of arrest and subpoenas, administer oaths and affirmations, make and enforce all proper orders, rules, and judgments, and punish for contempt.

ARTICLE 6

ELECTIONS

Ed Note: Sections 6-1, 6-2, 6-3, and 6-5 were amended by Resolution No. 1999-23, 8/2/99. The election was held 11/16/99 and the change of election date was approved by a vote of the people. We received approval from the Governor's office for the change to the Charter regarding the election dates. Section 6-1 through 6-5 were amended by Resolution No. 2015-19, adopted 12/7/15. The election was held 2/9/16 and approved by a vote of the people.

SECTION 6-1                    MAYOR AND OTHER COUNCILMEMBERS TO BE ELECTED, AT LARGE, IN ALTERNATING YEARS, DETERMINING ELECTION DATE; GENERAL PROVISIONS.

The Elections for the Mayor and other Councilmembers of the City Council shall be held as follows:

(A) The Mayor shall be elected, at large, by the qualified electors of the entire city, in an election to be held in 2017, and in each odd numbered year thereafter. Candidates for the Office of Mayor must be a qualified elector of the City, and reside within one of its four (4) wards.

(B) A Councilmember representing each of the City's four (4) wards shall be elected, at large, by the qualified electors of the entire city, in an election to be held in 2016, and in each even numbered year thereafter. Candidates for the Office of Councilmember must be a qualified elector of the City, and must, respectively, reside within the particular ward for which he or she is seeking to be elected.

(C) Every qualified elector shall be entitled to vote for one, but only one, candidate for each Councilmember position being filled at each such election.

(D) Except as otherwise provided in subparagraph (E) of this Section 6-1, the elections for the Mayor and the other Councilmembers, respectively, shall take place on the First (1<sup>st</sup>) Tuesday of April of each such respective year.

(E) However, if the County Election Board is not permitted to conduct the election on that date; then the election shall be held on the next closest date available thereto for which the County Election Board is permitted to conduct the election, in accordance with the State Statutes applicable to such elections.

(F) The date of the election, and for the filing periods for such offices, shall be declared in the Resolutions and/or Proclamations calling for such election.

SECTION 6-2                    TERMS OF OFFICE OF MAYOR AND OTHER COUNCILMEMBERS.

The Mayor and other Councilmembers shall each serve terms of two (2) years, beginning at 7:00 O'clock p.m. on the last Tuesday in May of the year in which they are elected, and, ending at 6:59 O'clock p.m. on last Tuesday in May two years thereafter; but, continuing for so long thereafter until their respective successors are elected and qualified.

SECTION 6-3                    FILING DECLARATION OF CANDIDACY; FILING PERIOD.

Any qualified person may have his or her name placed on the ballot as a candidate for the office of Mayor or other Councilmember by filing a sworn declaration of candidacy, specifying the office for which he or she is a candidate, and the ward of the City within which he or she then resides. Such sworn declaration of candidacy must be filed with the Secretary of the County Election Board within the filing period for the election, as set forth in the Resolution and/or Proclamation calling such election. Such filing period shall comply with the applicable State Statutes.

SECTION 6-4            PROCEDURES UPON THE DEATH OR WITHDRAW OF CANDIDACY, OR WHEN ONLY ONE PERSON FILES FOR THE POSITION.

If one or more of the candidates for a particular office should happen to die or withdraw his or her candidacy prior to the election date, the names of such persons shall not be included upon the ballots to be used in the election for that office. If two or more candidates for that office remain, then the election for that office shall proceed. But, if only one candidate remains, or, in the event that only one person timely files a proper sworn declaration of candidacy for a particular office, then he or she shall be declared elected, ipso facto; and no ballots shall be prepared or utilized for such office at such election.

SECTION 6-5            GENERAL ELECTION PROCEDURES.

Every qualified elector of the City shall be entitled to vote for one, but only one, of the candidates for each office to be filled by the election. The candidate for each office receiving the greater number of votes shall be elected. In case of failure to elect because of a tie, the election shall be determined, fairly by lot, by the county election board, in a public meeting.

SECTION 6-6            ELECTIONS: WHEN NOT HELD.

If there are no candidates and no questions to be voted upon at a primary or general election, the election shall not be held.

SECTION 6-7            REGISTERED QUALIFIED ELECTORS.

Only electors residing in this city who have the qualifications prescribed for electors by the state constitution and law, and who are registered as may be required by law, may vote in city elections.

SECTION 6-8            POLITICAL ACTIVITY OF OFFICERS AND EMPLOYEES.

(a) No officer or employee of the city except the mayor and other councilmen and personnel who receive no compensation for their services, may work for or against, or attempt to influence, the nomination, election, or defeat of any candidate for mayor or other councilman, or the recall of the mayor or any other councilman; but this shall not prohibit the ordinary exercise of one's right to express his opinions and to vote.

(b) Any person who violates this section, shall be punished, upon conviction thereof, by a fine not exceeding twenty dollars including costs. Such violation shall constitute cause for removal from office or employment; and if the regular removal authority has not already removed a person who violates this section, he shall be automatically removed by conviction of violating this section effective at the time the conviction becomes final.

SECTION 6-9                    STATE CONSTITUTION AND LAW TO GOVERN.

The provisions of the state constitution and law applicable to city elections shall govern such elections in this city insofar as they are applicable and are not superseded by this charter or by ordinance.

ARTICLE 7

RECALL

SECTION 7-1                    RECALL AUTHORIZED.

The incumbent of any elective city office, including a person appointed to fill a vacancy in any such office, may be recalled from office by the electors qualified to vote for the election of a successor to the incumbent, in the manner provided in this article.

SECTION 7-2                    RECALL PETITION.

(a) To initiate recall proceedings, a written statement in duplicate proposing the recall of the incumbent of an elective office, shall be signed by twenty or more registered qualified electors of the city, and shall be filed with the city clerk after the incumbent has held the office at least four months. The statement shall also contain the reason for which the recall is sought, in not more than two hundred words. Within five days, the city clerk shall mail a copy of such statement by registered, certified, or similar special mail to the officer at his residential address. Within ten days after the statement is mailed to the officer, the officer may make and file with the city clerk a written statement in duplicate justifying his conduct in office, in not more than two hundred words; and the city clerk on request shall deliver one copy to one of the persons filing the statement proposing the recall.

(b) The petition for recall shall include a demand that a successor to the incumbent sought to be recalled be elected, and shall also include before the space where the signatures are to be written the statement giving the reason or reasons for recall under the heading "STATEMENT FOR RECALL", and if the officer has filed a statement as authorized, the statement justifying his conduct in office under the heading "STATEMENT AGAINST RECALL". The two statements shall be in letters of the same size. A copy of the petition shall be filed with the city clerk within one month after recall proceedings are initiated by the filing of the first statement, and before the petition is circulated.

(c) A number of registered qualified electors of the city equal at least to twenty percent (20%) of the total number of votes cast for governor in the city at the last general state election at

which a governor was elected, must sign the petition. Each signer shall write after his name his address within the city, giving street or avenue and number, if any. Not more than one hundred signatures may appear on a single copy of the petition. Petitions may be circulated only by registered qualified electors of the city; and the person who circulates each copy of the petition shall sign an affidavit on the copy stating that each signer signed the petition in his presence, that each signature on the petition is genuine, and that he believes each signer to be a registered qualified elector of the city.

(d) The circulated petition shall be filed with the city clerk not later than one month after the filing of a copy as provided above. Within one month after date of filing of the circulated petition, the city clerk shall examine it and ascertain whether it has been prepared and circulated as required, and whether the required number of registered qualified electors of the city have signed it. He shall then attach his certificate to the petition. If his certificate states that the petition has not been prepared and circulated as required and/or lacks a sufficient number of signatures, the petition shall have no effect. But, if the city clerk's certificate states that the petition has been prepared and circulated as required and has a sufficient number of signatures, he shall submit the petition and certificate to the council at its next meeting.

SECTION 7-3                    RECALL ELECTION: COUNCIL TO ORDER.

(a) The council, by resolution or ordinance passed within ten days after receiving the petition and certificate of the city clerk, shall order and fix the date for a recall election, which shall be held not less than forty days, nor more than fifty days, after the passage of the resolution or ordinance. The city clerk shall cause the resolution or ordinance ordering the election to be published in full in a newspaper of general circulation within the city within ten days after its passage; and such publication shall be sufficient notice of the election.

(b) The qualified electors of the city may vote in a recall election on the election of successors to more than one office on the same day.

SECTION 7-4                    SAME: HOW HELD.

(a) The recall election shall be an election to fill the office held by the incumbent sought to be recalled. There shall be no primary. Any qualified person, including the incumbent, may file as a candidate for the office. The candidate receiving the greatest number of votes in the recall election shall be elected. If a candidate other than the incumbent is elected, the incumbent shall be recalled from office effective as of the time when the result of the election is certified. The successful candidate must qualify within one month thereafter; and if he fails to do so, the office shall be vacant, and the vacancy shall be filled as other vacancies in the council are filled. A candidate thus elected and qualifying shall serve for the unexpired term. If the incumbent is a candidate and receives the greatest number of votes, he shall continue in office without interruption; and recall proceedings may not again be initiated against him within one year after the election.

(b) The provisions of this charter relating to city elections shall also govern recall elections insofar as they are applicable and are not superseded by the provisions of this article.

SECTION 7-5            PERSON RECALLED OR RESIGNING.

A person who has been recalled from an office, or who has resigned from such office while recall proceedings were pending against him, may not hold any office or position of employment in the city government within two years after his recall or resignation.

ARTICLE 8

OFFICERS AND EMPLOYEES GENERALLY

SECTION 8-1            APPOINTMENTS, REMOVALS, ETC.

(a)     Appointments and promotions in the service of the city shall be made solely on the basis of merit and fitness; and layoffs, suspensions, demotion, and removals, shall be made solely for the good of the service.

(b)     The council, by ordinance or by personnel rules, may regulate personnel matters and may establish a merit system.

SECTION 8-2            QUALIFICATIONS OF OFFICERS AND EMPLOYEES.

Officers and employees of the city shall have the qualifications prescribed by this charter and such additional qualifications as the council may prescribe; but the council shall not prescribe additional qualifications for the mayor and other councilmen.

SECTION 8-3            NEPOTISM.

Neither the city manager, the council, nor any other authority of the city government, may appoint or elect any person related to the mayor or any other councilman, to the city manager, or to himself, or in the case of a plural authority, to one of its members, by affinity or consanguinity within the third degree, to any office or position of profit in the city government; but this shall not prohibit an officer or employee already in the service of the city from continuing therein.

SECTION 8-4            HOLDING MORE THAN ONE OFFICE.

Except as may be otherwise provided by this charter or by ordinance, the same person may hold more than one office in the city government. The city manager may hold more than one such office (including the office of municipal judge), through appointment by himself, by the council, or by other city authority having power to fill the particular office, subject to any regulations which the council may make by ordinance; but he may not receive compensation for service in such other offices. Also the council by ordinance may provide that the city manager shall hold ex officio designated offices subordinate to the city manager as well as other designated compatible city offices, notwithstanding any other provision of this charter.

SECTION 8-5            OFFICIAL BONDS.

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

SECTION 8-6                    OATH OR AFFIRMATION OF OFFICE.

Every officer of the city, before entering upon the duties of his office, shall take and subscribe to the oath or affirmation of office prescribed by the state constitution. The oath or affirmation shall be filed in the city clerk's office.

SECTION 8-7                    WHO MAY ADMINISTER OATHS AND AFFIRMATIONS.

All officers authorized by federal or state law, the mayor, the city manager, the city clerk, the municipal judge, and such other officers as the council may authorize, may administer oaths and affirmations in any matter pertaining to the affairs and government of the city.

SECTION 8-8                    REMOVAL, ETC., OF OFFICERS AND EMPLOYEES.

The power to lay off, suspend, demote, and remove accompanies the power to appoint or elect, and the city manager, the council, or other appointing or electing authority at any time may lay off, suspend, demote, or remove any officer or employee to whom he, the council, or other appointing or electing authority respectively may appoint or elect a successor.

SECTION 8-9                    ACTING OFFICERS AND EMPLOYEES.

The appointing or electing authority who may appoint or elect the successor of an officer or employee, may appoint or elect a person to act during the temporary absence, leave, disability, or suspension of such officer or employee, or, in case of vacancy, until a successor is appointed or elected and qualifies, unless the council provides by general ordinance that a particular superior or subordinate of such officer or employee shall act. The council by general ordinance may provide for a deputy to act in such cases. Also an acting municipal judge may be appointed to serve in any case or proceeding for which the municipal judge is disqualified.

SECTION 8-10                    OFFICERS TO CONTINUE UNTIL SUCCESSORS ARE ELECTED OR APPOINTED AND QUALIFY.

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

SECTION 8-11                    CONFLICT OF INTERESTS.

- (a) Neither the mayor, any other councilman, nor the city manager shall sell or barter



## Charter

anything to the city or to a contractor to be supplied to the city; or make any contract with the city; or purchase anything from the city other than those things which the city offers generally to the public (as for example, utility services), and then only on the same terms as are offered to the public. Any such officer violating this section, upon conviction thereof, shall thereby forfeit his office. Any violation of this section, with the knowledge, express or implied of the person or corporation contracting with the city, shall render the contract voidable by the city manager or the council. This subsection shall not apply in cases in which the city acquires property by condemnation.

(b) The council by ordinance or personnel rules may further regulate conflict of interests and ethics of officers and employees of the city.

### ARTICLE 9

#### GENERAL AND MISCELLANEOUS PROVISIONS

##### SECTION 9-1        FEMININE GENDER.

When the masculine gender is used in this charter, it shall also include the feminine unless the masculine alone is clearly indicated.

##### SECTION 9-2        INITIATIVE AND REFERENDUM.

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

### ARTICLE 10

#### AMENDMENT AND SEPARABILITY OF CHARTER

##### SECTION 10-1        AMENDMENT: PROPOSAL, RATIFICATION, APPROVAL.

This charter may be amended by proposals therefor submitted by the council or by the mayor upon initiative petition of the electors as provided by the state constitution, at a general or special election, ratified by a majority of the qualified electors voting thereon, and approved by the governor as provided by the state constitution. If more than one amendment are proposed, all of them except those which are so interrelated that they should be ratified or rejected together, shall be submitted in such manner that the electors may vote on them separately. A proposition to amend this charter may be either in the form of a proposed amendment to a part or parts of the charter or of a proposed new charter.

##### SECTION 10-2        SEPARABILITY.

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

inseparably connected in meaning and effect with that section or part.

(b) If a court of competent jurisdiction holds a part of this charter invalid, or if a change in the state constitution or law renders a part of this charter invalid or inapplicable, the council by ordinance may take such appropriate action as will enable the city government to function properly.

## ARTICLE 11

### SUCCESSION IN GOVERNMENT

#### SECTION 11-1      WHEN CHARTER GOES INTO EFFECT.

This charter shall go into effect immediately upon its ratification by a vote of a majority of the qualified electors of the city voting upon the question at an election and its approval by the Governor as provided by the State Constitution; and this charter shall supersede the heretofore existing charter as of that time and become the organic law of the City of Atoka.

#### SECTION 11-2      WARDS.

The boundaries of the wards within the city shall be reviewed by the council following the receipt by the council of the results of each decennial United States census, at which time, within sixty (60) days from such receipt, said ward boundaries shall be relocated and re-aligned, to that no ward shall have more than ten per cent (10%) more or less population than any other ward in the city. (This section amended March 15, 1983, to provide for redistricting with every decennial census.)

Cross Reference: See Section 1-302 of the city code on wards and Appendix 1 of the city code for ward map.

#### SECTION 11-3      ORDINANCES CONTINUED.

All ordinances, insofar as they are not inconsistent with this charter, shall continue in effect until they are repealed or until they expire by their own limitations.

#### SECTION 11-4      OFFICERS AND EMPLOYEES TO CONTINUE.

When this new charter goes into effect, the mayor and other commissioners under the previous charter shall remain in office and be respectively mayor and councilmen of their respective wards, as the case may be, and shall continue in office until their respective terms expire, the title of “commissioner” being changed to “councilman” in this new charter. All other officers and employees under the previous charter (including members of boards and commissions), shall continue in their respective offices and positions of employment under this charter until their respective terms expire or until their services are terminated in accordance with the provisions of this charter and ordinances relating to the creation, change, and abolition of offices and removal of officers and employees, as the case may be.

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SECTION 11-5      PENDING ACTIONS AND PROCEEDINGS.

The adoption of this charter shall not abate or otherwise affect any action or proceeding, civil or criminal, pending when it takes effect, brought by or against the municipality or any office, department, agency, or officer thereof.

ARTICLE 12

FIRE DEPARTMENT

SECTION 12-1      VOLUNTEER DEPARTMENT.

The fire department of the City of Atoka shall be and/or consist of:

a. a volunteer fire department, with not less than twelve (12) and not more than Twenty-Five (25) volunteer firemen, or such other minimum and maximum limits on the number of volunteer firemen as may be hereafter provided by the applicable State law (e.g. 11 O.S. § 29-203) and/or an Ordinance hereafter adopted by the Atoka City Council in accordance with such applicable State law; and

b. if and to the extent that the citizens of the City of Atoka approve and adopt (and, if so, thereafter retain) and excise tax (or “sales tax”) of not less than one-half of one percent (0.005%) (such being one half cent (\$0.005) per dollar) exclusively dedicated to funding the costs and expenses thereof, then there may also be established and operated a paid fire department, consisting of one or more paid firemen and/or employees.

END OF CHARTER

NOTE:

The above Charter was adopted by the voters of the City of the City of Atoka on November 19, 1968, by a vote of 398 to 69. The Charter was approved by Governor Dewey F. Bartlett on December 12, 1968, and went into effect at that time.

General Provisions

**PART 1**

**GENERAL PROVISIONS**

**CHAPTER 1**

**DEFINITIONS, INTERPRETATION,  
APPLICABILITY, FINES**

Section 1-101	Designation and citation of code.
Section 1-102	Rules of code construction; definitions.
Section 1-103	Authority of code.
Section 1-104	Conflicting provisions.
Section 1-105	References include amendments; construction.
Section 1-106	Catchlines and headings; construction.
Section 1-107	Code provisions as continuance of existing ordinances.
Section 1-108	General and specific penalties; suspension or revocation of license or permit.
Section 1-109	Each day of violation of code a separate offense.
Section 1-110	Prohibited acts include causing, permitting, concealing.
Section 1-111	Civil relief from violations of code of ordinances.
Section 1-112	Territorial applicability.
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**CHAPTER 2**

**STANDARD RULES: NOTICES, WARRANTS,  
INSPECTIONS, FEES, BONDS.**

Section 1-201	Acts by deputy or designee.
Section 1-202	Notices; service and proof.
Section 1-203	Inspections and right of entry.
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**CHAPTER 3**

**CORPORATE AND WARD LIMITS**

Section 1-301	Map of the city.
Section 1-302	Ward boundaries.

**CHAPTER 4**

**ABSENTEE VOTING**

## General Provisions

Section 1-401	Definitions and/or terms.
Section 1-401	Definitions and/or terms
Section 1-402	Absentee voting authorized
Section 1-403	Adjustment of filing periods and/or election dates to allow for absentee voting-Resolution by Council

General Provisions

CHAPTER 1

DEFINITIONS, INTERPRETATION,  
APPLICABILITY, FINES

Section 1-101	Designation and citation of code.
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Section 1-111	Civil relief from violations of code of ordinances.
Section 1-112	Territorial applicability.
Section 1-113	Ordinances in effect in outlying territory of city.
Section 1-114	Code severability.

SECTION 1-101      DESIGNATION AND CITATION OF CODE.

The ordinances embraced in this and the following chapters and sections shall constitute and be designated as “The City Code of Atoka, 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.”

Charter Reference: Ordinances; codification, Sec. 2-16 of the Charter.

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 mayor or 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;

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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. “Charter” means the Charter of the City of Atoka;
9. “City” means the City of Atoka, in the County of Atoka and State of Oklahoma;
10. “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;
11. “Clerk” means the city clerk;
12. “Council” means the governing body of the city, the city council;
13. “County” means Atoka 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 the 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 co-partnership 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, ordinances and charter 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;

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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 where by 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;
34. “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 any 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;



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35. “Real property” means land together with all things attached to the land so as to become a part thereof;

36. “Shall” the word “shall” is mandatory;

37. “Sidewalk” means that portion of a street between the curblines 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;

38. “Signature and subscription” means 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;

39. “State” means the State of Oklahoma;

40. “Statutes” means the Oklahoma Statutes as they are now or as they may be amended to be;

41. “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;

42. “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;

43. “Tense” words used in the past or present tense include the future, past and present where applicable unless the context clearly indicates otherwise;

44. “Time” means the hour of the day according to the official time of the day;

45. “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;

46. “Treasurer” means the city treasurer;

47. “Watercourse” means any drain, ditch and stream, flowing in a definite direction or course in a bed with banks;

48. “Week” means seven (7) days;

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49. “Writing” and “written” means any representation of words, letters or figures, whether by printing or otherwise, capable of comprehension by ordinary visual means; and

50. “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. 11-1 - 11-5, as amended)

### SECTION 1-103      AUTHORITY OF CODE.

This code is a revision and codification of the general ordinances of the city which have been enacted and published in accordance with the authority granted in Sections 14-108 and 14-109 of Title 11 of the Oklahoma Statutes.

### SECTION 1-104      CONFLICTING PROVISIONS.

A. If the provisions of different parts, chapters, articles or sections of this code conflict with or contravene each other, the provisions of each part, chapter, article or section shall prevail as to all matters and questions growing out of the subject matter of that part, chapter, article or section.

B. If clearly conflicting provisions are found in different sections of the same chapter, the provisions of the section last enacted shall prevail unless the construction is inconsistent with the meaning of that section.

C. Where any conflict exists between a part, chapter, article or section of this code and any chapter or section of the charter, the latter shall prevail.

### SECTION 1-105      REFERENCES INCLUDE AMENDMENTS; CONSTRUCTION.

A. Any reference in this code to an ordinance or provision of this code means such ordinance or provision as may now exist or is hereafter amended.

B. Any references in this code to parts, chapters, articles or sections shall be to the parts, chapters, articles or sections of this code unless otherwise specified.

### SECTION 1-106      CATCHLINES AND HEADINGS; CONSTRUCTION.

All designations and headings of parts, chapters, articles and sections are intended only for convenience in arrangement and as mere catchwords to indicate the contents of such parts, chapters, articles or sections, whether printed in capital letters or bold face type. They shall not be deemed or taken to be any part or title of such parts, chapters, articles or sections; nor, unless expressly so provided, shall they be so deemed upon amendment or reenactment; nor shall they be

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construed to govern, limit, modify, alter or in any other manner affect the scope, meaning or intent of any of the provisions of this code.

SECTION 1-107      CODE PROVISIONS AS CONTINUANCE OF EXISTING ORDINANCES.

The provisions appearing in this code, insofar as they relate to the same subject matter and are substantially the same as those ordinance provisions previously adopted by the city and existing at the effective date of this code, shall be considered as restatements and continuations thereof and not as new enactments.

SECTION 1-108      GENERAL AND SPECIFIC PENALTIES; SUSPENSION OR REVOCATION OF LICENSE OR PERMIT.

A. Whenever in this code, in any ordinance of the city, or in any rule or regulation promulgated pursuant to this code, any act or failure to do a required act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, where no specific penalty is provided herein or therefore, the violation of any such provision of this code or any ordinance or rule shall be punished by a fine not exceeding Seven Hundred Fifty Dollars (\$750.00), except in the following circumstances:

(i) For any alcohol or drug related offense, the maximum fine or deferral fee in lieu of a fine shall not exceed Eight Hundred Dollars (\$800), and;

(ii) 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).

B. Ordinances of the city, and any amendments thereto, adopting fine and bail schedules for specific and general violations of the city code, are adopted and incorporated herein by reference. This schedule may be amended from time to time by the city council. A copy is on file with the city clerk and may be included in Appendix 4 of this code, Schedule of Fines and Penalties.

C. Violations of the following sections of the city code are punishable by a fine not to exceed One Hundred Dollars (\$100.00):

<u>Section of Code</u>	<u>Subject</u>
9-406	Garage sale requirements
15-1601 to 15-1615	Bicycle regulations

D. The suspension or revocation of any license, certificate or other privilege conferred by the city shall not be regarded as a penalty for the purposes of this code but shall in addition thereto.

E. The court shall remit Fifty Dollars (\$50.00) of each alcohol fine or deferral fee to

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a fund of the municipality 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. (Ord. No. 359, 9/19/88; Ord. No. 316, 2/18/86; Ord. No. 382, 4/2/90; Ord. No. 546, 9/5/17)

State Law Reference: 11 O.S. Sec. 27-119.

Ed. Note: See ordinance table or copy with city clerk and city court clerk for the schedule of fines and bail as adopted by the city council.

Cross Reference: See Appendix 4, Schedule of Fines and Penalties.

### SECTION 1-109 EACH DAY OF VIOLATION OF CODE A SEPARATE OFFENSE.

Each day any person is in violation of any provision of this code, and each day any such violation occurs or continues to exist, or each separate occurrence, shall be a separate offense. (Ord. No. 382, 4/2/90)

### SECTION 1-110 PROHIBITED ACTS INCLUDE CAUSING, PERMITTING, CONCEALING.

Whenever in this code any act or omission is made unlawful or prohibited, it shall include causing, allowing, permitting, aiding, abetting or concealing the fact of such act or omission.

### SECTION 1-111 CIVIL RELIEF FROM VIOLATIONS OF CODE OF ORDINANCES.

No penalty imposed by or pursuant to Section 1-108 or any other section of this code or other ordinance of the city shall interfere with the right of the city to apply to the proper courts of the state for a writ of mandamus, an injunction or other appropriate relief in the case of violations of this code or other ordinances.

### SECTION 1-112 TERRITORIAL APPLICABILITY.

Except as provided otherwise, this code refers only to the commission or omission of acts within the territorial limits of the city and to that territory outside this city over which the city has jurisdiction, ownership or control by virtue of any constitutional or charter provision, or any law.

### SECTION 1-113 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 including but not limited to Lake Atoka, and is 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. (Prior

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Code, Sec. 11-6)

### SECTION 1-114      CODE SEVERABILITY.

It is declared to be the intention of the council that the sections, subsections, paragraphs, sentences, clauses and words of this code are severable. If any section, subsection, paragraph, sentence, clause or word is declared unconstitutional or otherwise invalid by the judgment or decree of any court of competent jurisdiction, its unconstitutionality or invalidity shall not affect the validity of any of the remaining sections, subsections, paragraphs, sentences, clauses and words of this code, since the sections or parts of sections would have been enacted by the council without and irrespective of any unconstitutional or otherwise invalid section, subsection, paragraph, sentence, clause or word being incorporated into this code. (Prior Code, Sec. 11-7)

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CHAPTER 2

STANDARD RULES: NOTICES, WARRANTS,  
INSPECTIONS, FEES, BONDS

Section 1-201	Acts by deputy or designee.
Section 1-202	Notices; service and proof.
Section 1-203	Inspections and right of entry.
Section 1-204	Search warrant or access warrant.
Section 1-205	Schedule of fees and charges created.

SECTION 1-201      ACTS BY DEPUTY OR DESIGNEE.

Whenever a power is granted to or a duty is imposed upon a public officer or employee, the power may be performed by an authorized deputy or designee or by any person authorized pursuant to law or ordinances, unless this code expressly provides otherwise.

SECTION 1-202      NOTICES; SERVICE AND PROOF.

A. Unless otherwise specifically provided in this code or applicable law, whenever a notice is required to be given pursuant to any section of this code, such notice shall be given either by personal delivery to the person to be notified or by deposit in the United States mail in a sealed envelope, postage prepaid, addressed to the person to be notified at his last-known business or residence address as the same appears in applicable city records or other records pertaining to the matter for which such notice is served, or by any other method of delivery approved by law. Service by mail shall be deemed to have been completed at the time of deposit in the post office or any United States mailbox.

B. Unless otherwise specifically provided, proof of giving any notice may be made by the certificate of any officer or employee of this city or by affidavit of any person over the age of eighteen (18) years who actually accomplished personal service in conformity with this code or other provisions of law applicable to the subject matter concerned, or by a return receipt signed by the recipient notified by United States mail.

C. Service upon the city, the Atoka Municipal Authority, or any other agencies or divisions of either, shall be accomplished in accordance with the provisions of the statutes of the state for service of petition and summons. Proof of such notice shall be given in accordance with the requirements of the Oklahoma Statutes and civil rules pertaining thereto.

SECTION 1-203      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

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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 1-204 SEARCH WARRANT OR ACCESS WARRANT.

A. Any officer designated by the city to inspect a premises 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; or

2. That observation of external conditions of the premises and its public areas has resulted in the belief that violations of this code exist.

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 1-205 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 council. Where a fee or charge is authorized to be collected by the city in any ordinance the amount of the fee or charge shall be set by resolution or motion and entered into the schedule of fees and charges. 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.

Cross Reference: See fee schedules, Appendix 2 of this code.

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CHAPTER 3

CORPORATE AND WARD LIMITS

- Section 1-301 Map of the city.
- Section 1-302 Ward boundaries.

SECTION 1-301      MAP OF THE CITY.

The map of the city showing its territorial limits, as maintained in the office of the city clerk, is hereby designated as the official map of the city, and the corporate limits as shown thereon, and as amended, 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 April 1, 1991.

SECTION 1-302      WARD BOUNDARIES.

The Four (4) Wards of the city shall respectively be and/or consist in the following described and/or identified areas and/or territory within its city limits:

A. Any references contained in the section to roadways and/or watercourses shall, unless otherwise specifically provided, be deemed and/or construed to mean and refer to the centerline of such roadway or watercourse; and likewise, references to “corners” and/or other intersections thereof shall be deemed and/or construed to mean and refer to the intersection of such centerlines (and/or projected centerlines) thereof.

B. Furthermore, as used in this section, the following terms, phrases and/or expressions shall be deemed and/or construed as having the usage and/or meaning herein below ascribed thereto, to-wit:

1. The “North division line”: means a line more particularly described as follows – beginning at the corner of Muddy Boggy Creek and the Atoka Corporate limit boundary found near the East line of the SW ¼ of Section 11 Township 2 South Range 11 East (§11, T2S, R11E), thence westerly and northerly along Muddy Boggy Creek to a point on North Mississippi Avenue (US 69/75); thence southerly from said point along North Mississippi Avenue (US 69/75) to the intersection of East C Street; thence continuing easterly along East C Street to the intersection of North Ohio Avenue; thence southerly along said North Ohio Avenue to the intersection with East B Street; thence easterly on East B Street to the intersection of North Main Street; thence southerly along North Main Street to the intersection of East Court Street; thence westerly along East Court Street to the intersection of North Minnesota Avenue; thence northerly along North Minnesota Avenue to the intersection of West Sandy Creek Road; thence westerly along West Sandy Creek Road to the intersection Sand Creek; thence continuing to follow Sand Creek Southerly and Westerly to the western boundary of the Atoka corporate limits found in the NE ¼ of Section 16 Township 2 South Range 11 East. (§16, T2S, R11E)



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2. The “South division line”: means a line more particularly described as follows – beginning at a point in section 16 Township 2 South Range 11 East (§16, T2S, R11E) where the Atoka corporate limit boundary meets Sand Creek, thence due south continuing along the Atoka corporate limit boundary to the intersection of West 13<sup>th</sup> Street (OK 7); thence easterly along West 13<sup>th</sup> Street to the intersection of South Mississippi Avenue (US 69/75)

C. The “East/West division line”: means a line more particularly described as follows beginning at the intersection of East Court Street and Mississippi Avenue (US 69/75); thence southerly on Mississippi Avenue to the Atoka corporate limit boundary found in the NW ¼ of Section 4 Township 3 South Range 11 East (§4, T3S, R11E)

D. Ward 1 encompasses all that part of the city limits lying east of said “East/West division line” and south of said “North division line”.

E. Ward 2 encompasses all that part of the city limits lying west of said “East/West division line”, south of said “North division line” and north of said “South division line”.

F. Ward 3 encompasses all of the city limits lying north of said “North division line”.

G. Ward 4 encompasses all that part of the city limits lying west of said “East/West division line” and south of said “South division line”.

(Prior Code, Sec. 22-1; Ord. No. 401, 9/3/91; Ord. No. N.C. 492, 9/3/02; Ord No. N.C. 543. 8/15/16)

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.

Charter Reference: Division into wards, number, etc., Sec. 11-2 of the charter.

Cross Reference: See also Map of the City and ward boundaries, Appendix 1 of this code.

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CHAPTER 4

ABSENTEE VOTING

Section 1-401	Definitions and/or terms.
Section 1-401	Definitions and/or terms
Section 1-402	Absentee voting authorized
Section 1-403	Adjustment of filing periods and/or election dates to allow for absentee voting-Resolution by Council

SECTION 1-401      DEFINITIONS AND/OR TERMS.

As used in Sections 1-401 through 1-403, inclusive, of the Atoka City Code, the following terms, phrases and/or expressions shall be deemed and/or construed as having the usage and/or meaning hereinbelow ascribed thereto, to-wit:

- a.      “City’s Absentee Voting Procedures” - The provisions and procedures set forth in the State Absentee Voting Act for absentee voting in State elections by way of a mail-in absentee ballot, an in-person absentee ballot, or an absentee ballot cast by an incapacitated person confined to a nursing home or convalescent hospital, except as the same may be otherwise specifically provided for by the City Charter and/or the provisions of Sections 4.01 et seq. of the City Code and/or otherwise required of necessity for purposes of their application to City Elections.
- b.      “City Elections” - Any primary, run-off, general, special and/or other municipal election for the City of Atoka.
- c.      “State Absentee Voting Act” - The provisions and procedures for absentee voting in State elections set forth at Sections 14-101 et seq. of Title 26 of the Oklahoma Statutes.
- d.      “Qualified Absentee Voter” - Any person who would be authorized and entitled to cast his or her vote in a simultaneously scheduled State election pursuant to the State Absentee Voting Act who is also otherwise qualified to vote in the City Election for which such absentee voting is sought.

SECTION 1-402      ABSENTEE VOTING AUTHORIZED.

Any Qualified Absentee Voter choosing so to do may cast his or her vote in City Elections by way of an absentee ballot acquired and cast in accordance with the City’s Absentee Voting Procedures.

SECTION 1-403      ADJUSTMENT OF FILING PERIODS AND/OR ELECTION DATES TO ALLOW FOR ABSENTEE VOTING-RESOLUTION BY COUNCIL.

Pursuant to Section 14-101 of Title 26 of the Oklahoma Statutes and other laws for such

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cases made and provided:

a. In the event that the filing period or election date set forth by the City Charter and/or by resolution of the City Council otherwise calling for a City Election do not provide sufficient time for the mailing and return of absentee ballots, then the City Council shall, by resolution duly passed therefor, adjust such filing period or election date to allow sufficient time for the mailing and return of such absentee ballots.

b. In the event that a City Election is scheduled simultaneously with any other entity's election scheduled to be held in any part of the corporate limits of the City of Atoka, then the City shall provide no less time for the mailing and return of absentee ballots than the least time provided by such other entity. (Ord No. N.C. 454, 1/20/98)

Administration and Government

**PART 2**

**ADMINISTRATION AND GOVERNMENT**

**CHAPTER 1**

**GOVERNMENT ORGANIZATION**

Section 2-101	Form of government.
Section 2-102	Meetings of the council.
Section 2-103	Mayor's powers and duties, vice mayor.
Section 2-104	City manager appointment by council; powers and duties.
Section 2-105	City clerk appointment; duties.
Section 2-106	City treasurer appointment; duties.
Section 2-107	City attorney.
Section 2-108	Administrative departments, officers, and agencies.
Section 2-109	Bonds for city officers and employees.
Section 2-110	Department of public works.
Section 2-111	Cooperative health department.
Section 2-112	Personnel department established.
Section 2-113	Personnel regulations adopted.
Section 2-114	Residency not required of board, committee members, employees; exceptions.

**CHAPTER 2**

**RETIREMENT AND PENSIONS**

**ARTICLE A**

**SOCIAL SECURITY**

Section 2-201	City officers and employees under federal social security.
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**ARTICLE B**

**FIRE FIGHTERS PENSION AND RETIREMENT SYSTEM**

Section 2-211	System created.
Section 2-212	System to be operated in accordance with law.

**ARTICLE C**

**POLICE PENSION AND RETIREMENT SYSTEM**

Section 2-221	System created.
Section 2-222	Contributions and appropriations.
Section 2-223	Insufficient funds; proration.

Administration and Government

CHAPTER 3

CITY RECORDS

Section 2-301	Appointment of official custodians.
Section 2-302	Designation of additional record custodians.
Section 2-303	Duties of custodians.
Section 2-304	Requests to be directed to custodians.
Section 2-305	Procedures regarding both inspection and copying of open public records.
Section 2-306	Procedures regarding inspection of open public records.
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Section 2-308	No fee for inspection.
Section 2-309	Copying fee.
Section 2-310	Fee for mechanical reproduction.
Section 2-311	Search fee.
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Administration and Government

CHAPTER 1

GOVERNMENT ORGANIZATION

Section 2-101	Form of government.
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Section 2-107	City attorney.
Section 2-108	Administrative departments, officers, and agencies.
Section 2-109	Bonds for city officers and employees.
Section 2-110	Department of public works.
Section 2-111	Cooperative health department.
Section 2-112	Personnel board established.
Section 2-113	Personnel regulations adopted.
Section 2-114	Residency not required of board, committee members, employees; exceptions.

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 the city charter, by the city code, by state statute and in such manner prescribed by ordinances adopted by the city council, only if not in conflict with the city charter.

Charter Reference: Similar provisions, Section 1-2 of the charter.

SECTION 2-102      MEETINGS OF THE COUNCIL.

A. Except as otherwise below provided, regular meetings of the Council (and, consequently of the various Atoka City Public Trusts) shall be held at the City Hall on the first and third Monday of every month and, unless subsequently redesignated by resolution of the City Council, at 6:00 p.m. thereof. Provided, however: that:

1. If such Monday falls on a holiday, then instead of being held at such time and place thereon, such meeting shall be held at such time and place on the next day which is not a holiday;
2. For good cause, the Mayor and/or Councilmembers calling for an emergency or special meeting may designate another time and/or place for holding thereof; and
3. Any meeting which is commenced and thereafter adjourned (to be reconvened) and/or recessed may be reconvened at such date, time and place as is designated by the Council.

B. Emergency and/or special meetings may be called by the Mayor, by the Vice-Mayor and any Councilmember, or by any three (3) Councilmembers concurring therein.

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C. The Council may, from time to time, adopt, amend, modify and/or repeal rules to govern the proceedings of the Council.

(As amended by Ord. No. N.C. 498, 2/2/04; Ord. No. N.C. 509, 7/5/05; Res. 2008-24, 11/17/08; Res. 2012-26-29, 12/17/2012; Res. 2018-21, 12/17/18) (Prior Code, Secs. 1-1, 1-2)

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

Charter Reference: Council Composition, see Sec. 2-1 of the charter; council meetings and special meetings, Sec. 2-7 of the charter, rules, quorum and roll call, Sec. 2-11 of the charter.

SECTION 2-103      MAYOR'S POWERS AND DUTIES, VICE MAYOR.

The mayor and vice mayor shall have all the powers and duties prescribed by the charter, and state law, and as may be prescribed by ordinance.

Charter Reference: See Section 2-2 of the charter on mayor, vice mayor powers.

SECTION 2-104      CITY MANAGER APPOINTMENT BY COUNCIL, POWERS AND DUTIES.

The city manager is the chief administrative officer of the city. He shall have the powers and duties granted him by the city charter, by ordinance or law. (Prior Code, Sec. 1-3)

Charter Reference: See Secs. 3-1, 3-2 of the city charter on city manager.

SECTION 2-105      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 the charter, by applicable law or ordinance, or by the city manager. (Prior Code, Secs. 1-4, 1-5)

Charter Reference: See Sec. 4-1 of the charter for city clerk duties.

SECTION 2-106      CITY TREASURER APPOINTMENT, DUTIES.

The city treasurer is an officer of the city, appointed by the city manager for an indefinite term, and removable by the city manager. 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 the charter, by applicable law or by ordinance, or by the city manager. (Prior Code, Sec. 1-6, 1-7)

Charter Reference: See Sec 4-2 of the charter for city treasurer duties.

SECTION 2-107      CITY ATTORNEY.

There shall be a department of law, the head of which is the city attorney, appointed by the council for an indefinite term, and removable by the council. 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 the charter, law or ordinances. (Prior Code, Secs. 1-22, 1-23)

SECTION 2-108      ADMINISTRATIVE DEPARTMENTS, OFFICERS AND AGENCIES.

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

Charter Reference: Similar provisions, Sec. 3-3 of the charter.

SECTION 2-109      BONDS FOR CITY OFFICERS AND EMPLOYEES.

The city manager, the clerk, the treasurer, the municipal court 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. (Prior Code, Sec. 1-33)

Charter Reference: Similar provisions, Sec. 8-5 of the charter.

Cross Reference: See also Appendix 2 of this code on Bond Schedule.

SECTION 2-110      DEPARTMENT OF PUBLIC WORKS.

A. There shall be a department of public works, the head of which is the director of public works, appointed by the city manager for an indefinite term, and removable by the city manager. During the absence, disability or suspension of the director of public works, the city manager shall act as such or appoint an acting director. During a vacancy in the director of public works, the city manager shall be the director of public works until and unless he appoints a director. The public works director is an officer of the city and has supervision and control of the department of public works.

B. The public works department shall have the following duties in so far as the city performs these functions by its own forces and not by contract:

1. Construct, improve, maintain and clean streets, including alleys and other public ways, bridges, sidewalks; to install and maintain street light, traffic control signs, markings, signals and devices; to erect and maintain street name signs; and to supervise the use of streets by privately owned utilities;



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2. Maintain and operate the city water system;
3. Construct, improve, maintain and operate storm sewers;
4. Maintain all buildings and grounds used by the city;
5. Maintain and operate all parks, playgrounds, swimming pools and other recreational facilities and programs operated by the city;
6. Maintain and operate all cemeteries administered by the city;
7. Collect and dispose of garbage and other refuse whenever the city provides this service by its own forces rather than by contract; and
8. Perform such other functions relating to the maintenance, repair, improvement and operation of the physical facilities owned or used by the city government as the city manager may prescribe consistent with law and ordinance.

B. There shall be such divisions within the department as the city manager or council may create, with such appropriate titles as street division, water division, park division, cemetery division, or others, and with such powers and duties of the department as may be assigned to the respective divisions. The head of a division may have an appropriate title such as chief, superintendent, sexton, etc. (Prior Code, Secs. 1-20, 1-21)

### SECTION 2-111      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. (Prior Code, Sec. 1-24)

### SECTION 2-112      PERSONNEL DEPARTMENT ESTABLISHED.

There is created a department of personnel which shall be headed by a personnel director. The city manager may serve as personnel director, or the duties may be combined with those of any other office in the event the work involved does not warrant the creation of a special position of a full-time personnel director. The personnel director shall administer all provisions of the rules established hereunder subject to the approval of the city manager and not otherwise specifically reserved to the city council. The personnel director shall perform all duties essential to the effective administration of the personnel system, prepare rules and revisions for the consideration and approval of the city council, certify payrolls, maintain an official roster of officers and employees and such other records as may be required. (Prior Code, Sec. 1-72)

### SECTION 2-113      PERSONNEL REGULATIONS ADOPTED.

The city's personnel regulations, as adopted by prior code Sections 1-58 through 1-89, and as adopted or amended from time to time by resolution or motion of the city council, shall govern

personnel matters. (Prior Code, Secs. 1-58 et seq.)

Ed. Note: See ordinance table for ordinances amending personnel regulations.

SECTION 2-114      RESIDENCY NOT REQUIRED OF BOARD, COMMITTEE MEMBERS, EMPLOYEES; EXCEPTIONS.

Except as otherwise required herein or by the city charter, and except as otherwise now or hereafter provided by the city code regarding a non-lawyer city judge, no person shall be required, directly or indirectly, to be a resident of the city as a qualification or condition, subsequent or precedent, to any:

1. Application for employment, employment, re-employment or continuation in employment by or with the city, in any capacity or position whatsoever, whether full or part-time, salaried or otherwise paid or unpaid, or otherwise; nor
2. Application for, appointment to or as or upon, service upon or continuation or service upon, any committee, trust, commission, agency, board, or other similar body of the city, of whatsoever nature or in whatsoever capacity, whether paid or unpaid, and regardless of the person or body authorized to constitute, appoint, re-appoint, or fill vacancies or otherwise staff or similarly act regarding the same.

The provisions of this section shall not be construed or interpreted as prohibiting the mere consideration of the factor of a person's place of residence, as a part of and together with all other facts and circumstances reasonably taken into consideration, in determining whether or not a particular individual should or should not be employed or continued in such service by the city or appointed or continued in such service with the city. The provisions of this section shall have prospective application only, from and after passage and approval hereof, effective the 13th day of September, 1988, as provided in Section 2-13 or 2-14 of the charter. (Ord. No. NC-377, 2/5/90)

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CHAPTER 2

RETIREMENT AND PENSIONS

ARTICLE A

SOCIAL SECURITY

Section 2-201 City officers and employees under federal social security.

ARTICLE B

FIRE FIGHTERS PENSION AND RETIREMENT SYSTEM

Section 2-211 System created.

Section 2-212 System to be operated in accordance with law.

ARTICLE C

POLICE PENSION AND RETIREMENT SYSTEM

Section 2-221 System created.

Section 2-222 Contributions and appropriations.

Section 2-223 Insufficient funds; proration.

ARTICLE A

SOCIAL SECURITY

SECTION 2-201 CITY OFFICERS AND EMPLOYEES UNDER FEDERAL SOCIAL SECURITY.

A. It is hereby declared to be the policy of the city to extend, at the earliest date, to the employees and officials thereof, not excluded by law or this section, and whether employed in connection with a governmental or proprietary function, the benefits of the system of federal old-age and survivors insurance as authorized by the Federal Social Security Act, and amendments thereto. In pursuance of this policy, the city shall take such action as may be required by applicable state or federal laws or regulations.

B. The mayor is hereby authorized and directed to execute all necessary agreements and amendments thereto with the State Department of Human Services as agent or agency, to secure coverage of employees and officials as provided in Subsection A hereof.

C. Withholdings from salaries or wages of employees and officials for the purpose provided in Subsection A hereof are hereby authorized to be made in the amounts and at such times as may be required by applicable state or federal laws or regulations, and shall be paid over to the state or federal agency designated by the laws or regulations.

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D. There shall be appropriated from available funds such amounts at such times as may be required by applicable state or federal laws or regulations for employer's contributions, which shall be paid over to the state or federal agency designated by said laws or regulations.

E. The city shall keep such records and make such reports as may be required by applicable state or federal laws or regulations.

F. There is hereby excluded from this section any authority to make any agreement with respect to any position or any 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.

G. There is hereby excluded from this section any authority to make an agreement with respect to any position or any employee or official, compensation for which is on a fee basis, or any position or any employee or official not authorized to be covered by applicable state or federal laws or regulations. (Prior Code, Secs. 1-47 to 1-53)

ARTICLE B

FIRE FIGHTERS PENSION AND RETIREMENT SYSTEM

SECTION 2-211      SYSTEM CREATED.

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. (Prior Code, Secs. 1-34 to 1-37)

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

SECTION 2-212      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. The local board of trustees 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. (Prior Code, Secs. 1-34 to 1-37 in part)

ARTICLE C

POLICE PENSION AND RETIREMENT SYSTEM

SECTION 2-221      SYSTEM CREATED.

There is hereby created the "Board of Trustees 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

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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. (Prior Code, Sec. 1-38)

State Law Reference: Police pension system, 11 O.S. Secs. 50-100.1 et seq.

### SECTION 2-222      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.

B.      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. (Prior Code, Secs. 1-39 to 1-40, as amended)

### SECTION 2-223      INSUFFICIENT FUNDS; PRORATION.

In the event the funds in the police pension system are insufficient to make full payment of the amount of the pension or allowances to all persons entitled thereto, then the funds shall be prorated among those entitled thereto as by the board of trustees may be deemed just and equitable. (Prior Code, Sec. 1-41)

Cross Reference: See Section 13-311 et seq on the police board of review of the police pension and retirement system.

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CHAPTER 3

CITY RECORDS

Section 2-301	Appointment of official custodians.
Section 2-302	Designation of additional record custodians.
Section 2-303	Duties of custodians.
Section 2-304	Requests to be directed to custodians.
Section 2-305	Procedures regarding both inspection and copying of open public records.
Section 2-306	Procedures regarding inspection of open public records.
Section 2-307	Procedures regarding copies of open public records.
Section 2-308	No fee for inspection.
Section 2-309	Copying fee.
Section 2-310	Fee for mechanical reproduction.
Section 2-311	Search fee.
Section 2-312	Prepayment of fees.

SECTION 2-301      APPOINTMENT OF OFFICIAL CUSTODIANS.

The following city official is hereby appointed as official custodian for purposes of the Oklahoma Open Records Act and is charged with responsibility for compliance with that act with respect to the following listed public records:

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

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

SECTION 2-302      DESIGNATION OF ADDITIONAL RECORD CUSTODIANS.

A. Each of the official custodians appointed in Section 2-301 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 shall notify the city clerk of such designation and the city clerk shall maintain a register of all such designations.

SECTION 2-303      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 2-304      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 the 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 record 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 2-305      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 fees whenever the estimate for such fees exceeds the amount set out in Section 2-312 of this code;

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9. No record search or copying fee 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 2-306      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 city manager.

### SECTION 2-307      PROCEDURES REGARDING COPIES OF OPEN PUBLIC RECORDS.

The following procedures apply regarding copies of records:

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 custodian;

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



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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 2-308      NO FEE FOR INSPECTION.

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

### SECTION 2-309      COPYING FEE.

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

Cross Reference: See Fee Schedule (Appendix 2) for applicable fees, including fees for accident report copies.

### SECTION 2-310      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.

Cross Reference: See Fee Schedule (Appendix 2) for applicable fees.

### SECTION 2-311      SEARCH FEE.

A search fee shall be charged a requester who is using the record solely for a commercial purpose. Such fee shall be the actual cost to the city of producing the record, including the cost of labor, materials and equipment.

Cross Reference: See Fee Schedule (Appendix 2) for applicable fees.

### SECTION 2-312      PREPAYMENT OF FEES.

A record custodian may demand prepayment of a fee whenever the estimated amount exceeds Twenty Dollars (\$20.00). 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 whenever feasible or delivering the copy or mechanical reproduction of the record.

Cross Reference: See Fee Schedule (Appendix 2) for applicable fees.

Alcoholic Beverages

**PART 3**

**ALCOHOLIC BEVERAGES**

**CHAPTER 1**

**ALCOHOLIC BEVERAGES**

Section 3-101	Definitions.
Section 3-102	Tax and license requirements.
Section 3-103	Application for certificate of zoning, code compliance.
Section 3-104	Violations of state, city law.
Section 3-105	General prohibitions.
Section 3-106	Employment of persons under age of twenty-one (21) prohibited.
Section 3-107	Days and hours of operation.
Section 3-108	Receipt or delivery prohibited on certain days.
Section 3-109	Sale to intoxicated, insane persons; not to permit in restaurants.

**CHAPTER 2**

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**CHAPTER 3**

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Alcoholic Beverages

CHAPTER 1

ALCOHOLIC BEVERAGES

Section 3-101	Definitions.
Section 3-102	Tax and license requirements.
Section 3-103	Application for certificate of zoning, code compliance.
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Section 3-107	Days and hours of operation.
Section 3-108	Receipt or delivery prohibited on certain days.
Section 3-109	Sale to intoxicated, insane persons; not to permit in restaurants.

SECTION 3-101      DEFINITIONS.

A. Definition of terms used in this chapter shall be in conformity with those provided in Section 1-103 of Title 37A of the Oklahoma Statutes.

B. As used herein:

1. “ABLE Commission” means the Alcoholic Beverage Laws Enforcement Commission of the state;

2. “Alcohol” means and includes hydrated oxide of ethyl, ethyl alcohol, ethanol or spirits of wine from whatever source or by whatever process produced. It does not include wood alcohol or alcohol which has been denatured or produced as denatured in accordance with acts of Congress and regulations promulgated thereunder;

3. “Alcoholic beverage” means alcohol, spirits, beer and wine as those terms are defined herein and also includes every liquid or solid, patented or not, containing alcohol, spirits, wine or beer and capable of being consumed as a beverage by human beings;

4. “Beer” means any beverage containing more than one-half of one percent (0.50%) of alcohol by volume and obtained by the alcoholic fermentation of an infusion or decoction of barley, or other grain, malt or similar products. Beer includes, among other things, beer, ale, stout, lager beer, porter and other malt or brewed liquors, but does not include sake, known as Japanese rice wine. Beer may or may not contain hops or other vegetable products;

5. “Beer and wine license” authorizes the licensee to purchase beer and wine in retail containers from a wine and spirits wholesaler or a beer distributor, or as otherwise authorized by state law, and to sell, offer for sale and possess mixed beverages for on-premises consumption only;

6. “Brewer” means and includes any person who manufactures for human consumption by the use of raw materials or other ingredients any beer or cider upon which a license fee and a tax are imposed by any law of this state;

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7. “Brewer license” authorizes the licensee to manufacture, bottle, package and store beer on its premises and to serve, sell and furnish alcoholic beverages as provided by state law;

8. “Brewpub license” authorizes the licensee to manufacture, bottle, package and store beer on its premises; operate an establishment on its premises; and serve, sell and furnish alcoholic beverages as provided by state law;

9. “Bottle club” means any establishment in a county which has not authorized the retail sale of alcoholic beverages by the individual drink, which is required to be licensed to keep, mix and serve alcoholic beverages belonging to club members or club premises; it includes any association, person, firm or corporation, key club, locker club, pool club, or any other kind of club or association, excluding the general public from its premises or place of meeting or congregating or operating or exercising control over any other place where persons are permitted to drink alcoholic beverages other than in a private home;

10. “Bottle service” means the sale and provision of spirits in their original packages by a mixed beverage licensee to be consumed in that mixed beverage licensee’s club suite;

11. “Caterer license” authorizes the licensee to sell mixed beverages for on-premises consumption incidental to the sale or distribution of food at particular functions, occasions or events which are temporary in nature;

12. “Club suite” means a designated area within the premises of a mixed beverage licensee designed to provide an exclusive space which is limited to a patron or patrons specifically granted access by a mixed beverage licensee and is not accessible to other patrons of the mixed beverage licensee or the public. A club suite must have a clearly designated point of access for a patron or patrons specifically granted access by the mixed beverage licensee to ensure that persons present in the suite are limited to patrons specifically granted access by the mixed beverage licensee and employees providing services to the club suite;

13. “Convenience store” means any person primarily engaged in retailing a limited range of general household items and groceries, with extended hours of operation, whether or not engaged in retail sales of automotive fuels in combination with such sales;

14. “Distiller” means any person who produces spirits from any source or substance, or any person who brews or makes mash, wort or wash, fit for distillation or for the production of spirits (except a person making or using such material in the authorized production of wine or beer, or the production of vinegar by fermentation), or any person who by any process separates alcoholic spirits from any fermented substance, or any person who, making or keeping mash, wort or wash, has also in his or her possession or use a still, upon which a license fee and a tax are imposed by any law of this state;

15. “Distiller license” authorizes the licensee to manufacture, bottle, package and store spirits on its premises and to serve, sell and furnish alcoholic beverages as provided by state law;

16. “Drug store” means a person primarily engaged in retailing prescription and

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nonprescription drugs and medicines;

17. “Event license” authorizes the licensee, as provided by state law and including special event, public event, charitable event and charitable auction licenses, to serve, sell and furnish mixed beverages for consumption on the premises for which the license has been issued for a period not to exceed the time period specified in the ABLE Commission license;

18. “Grocery store” means a person primarily engaged in retailing a general line of food, such as canned or frozen foods, fresh fruits and vegetables, and fresh and prepared meats, fish and poultry;

19. “Licensee” means any person holding a license under the Oklahoma Alcoholic Beverage Control Act, and any agent, servant, or employee of such licensee while in the performance of any act or duty in connection with the licensed business or on the licensed premises;

20. “Mixed beverage establishment” means any establishment authorized to sell alcoholic beverages by the individual drink in a sealed or unsealed container of any legal size for consumption on the premises where served or sold by the holder of a mixed beverage, caterer, beer and wine, bottle club, or any event license;

21. “Mixed beverage license” authorizes the licensee to purchase alcoholic beverages in retail containers from a wine and spirits wholesaler, a beer distributor or as otherwise provided by state law and to sell, offer for sale and possess mixed beverages for on-premises consumption only;

22. “Mixed beverages” means one or more servings of a beverage composed in whole or part of an alcoholic beverage in a sealed or unsealed container of any legal size for consumption on the premises where served or sold by the holder of a mixed beverage, beer and wine, caterer, an event license or as otherwise provided by state law;

23. “Occupation” as used in connection with “occupation tax” means the sites occupied as the places of business of the manufacturers, brewers, winemakers, wine and spirits wholesalers, beer distributors, retailers, mixed beverage licensees, on-premises beer and wine licensees, bottle clubs, caterers, and event licensees;

24. “Package store” means any sole proprietor or partnership that qualifies to sell wine, beer and/or spirits for off-premises consumption and that is not a grocery store, convenience store or drug store, or other retail outlet that is not permitted to sell wine or beer for off-premises consumption;

25. “Person” means an individual, any type of partnership, corporation, association, limited liability company or any individual involved in the legal structure of any such business entity;

26. “Premises” means the grounds and all buildings and appurtenances pertaining to

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the grounds including any adjacent premises if under the direct or indirect control of the licensee and the rooms and equipment under the control of the licensee and used in connection with or in furtherance of the business covered by a license;

27. “Private event” means a social gathering or event attended by invited guests who share a common cause, membership, business or task and have a prior established relationship. For purposes of this definition, advertisement for general public attendance or sales of tickets to the general public shall not constitute a private event;

28. “Public event” means any event that can be attended by the general public;

29. “Retail Beer license” authorizes the licensee to purchase beer in retail containers from a beer distributor, or a brewer as provided by state law, and to sell, offer for sale and possess beer for off-premises consumption only.

30. “Retail Wine license” authorizes the licensee to purchase wine in retail containers from a wine and spirits wholesaler, or a winemaker as provided by state law and to sell, offer for sale and possess wine for off-premises consumption only.

31. “Retail Spirits license” authorizes the licensee to purchase alcoholic beverages in retail containers from a wine and spirits wholesaler or a beer distributor and to sell, offer for sale and possess alcoholic beverages for off-premises consumption only.

32. “Retailer” means a package store, grocery store, convenience store, drug store or other business licensed by the ABLE Commission to sell alcoholic beverages for off-premises consumption;

33. “Sale” means any transfer, exchange or barter in any manner or by any means whatsoever, and includes all sales made by any person, whether as principal, proprietor, agent, servant or employee. The term “sale” shall also include the use or consumption of any alcoholic beverage obtained within or imported from without this state upon which the excise tax levied by the laws of the state has not been paid or exempted;

34. “Spirits” means any beverage other than wine or beer, which contains more than one-half of one percent (0.50%) alcohol measured by volume, and obtained by distillation, whether or not mixed with other substances in solution and includes those products known as whiskey, brandy, rum, gin, vodka, liqueurs, cordials and fortified wines and similar compounds, but shall not include any alcohol liquid completely denatured in accordance with the Acts of Congress and regulations pursuant thereto;

35. “Wine” means and includes any beverage containing more than one-half of one percent (0.5%) alcohol by volume and not more than twenty-four percent (24%) alcohol by volume at sixty degrees (60°) Fahrenheit, obtained by the fermentation of the natural contents of fruits, vegetables, honey, milk or other products containing sugar, whether or not other ingredients are added, and includes vermouth and sake, known as Japanese rice wine;

## Alcoholic Beverages

36. “Winemaker” means and includes any person or establishment who manufactures for human consumption any wine upon which a license fee and a tax are imposed by any law of this state; and

37. “Winemaker license” authorizes the licensee to manufacture, bottle, package and store spirits on its premises and to serve, sell and furnish alcoholic beverages as provided by state law.

State Law Reference: Alcoholic Beverage Control Act, 37A O.S. Secs. 1-101 et seq.; city powers generally as to alcoholic beverages, 37A O.S. Sec. 4-101 et.seq..

### SECTION 3-102 TAX AND LICENSE REQUIREMENTS.

A. There is hereby levied and assessed an annual occupation tax on every business or occupation relating to alcoholic beverages. The fee schedule for such occupation taxes are set forth in Atoka Code of Ordinances Appendix 2 “Schedule of Fees and Charges” and are to be paid to the city clerk or its designee prior to the issuance or renewal of any such license permit or the conducting of the business related to alcoholic beverages.

B. The amount of the occupation tax shall be computed pro-rata upon the months remaining in the year ending June 30 following. Such feeon or before the fifteenth (15th) day of any month shall be on the basis of the first (1st) day of the month, and such fee paid after the fifteenth (15th) day of any month shall be on the basis of the first (1st) day of the next succeeding month.

C. The occupation tax levied herein shall be paid in advance to the city clerk who shall issue a receipt therefor.

D. Upon payment of the occupation tax, the city clerk shall issue a receipt, signed by the city clerk, to the person paying such occupational tax. The city clerk shall also record the name of the licensee and the address where the licensee engages in his occupation. Such record shall be duly filed and kept in the permanent files of the city for at least five (5) years. Thereafter, upon resolution by the council, it may be destroyed.

E. Any state licensee shall post the tax receipt in a conspicuous place on the licensed premises.

F. The occupation tax shall cover only the person paying the tax and no other person nor a successor thereof, and shall not be refundable.

G. All licenses issued hereunder shall expire on June 30 of each year.

H. The city clerk shall make and transmit to the ABLE Commission an annual report showing the number and class of licenses subject to the tax and the amount of money received therefrom.

I. All sums due from any person by reason of occupation taxes imposed by this

chapter and all penalties accruing from such person by reason of failure to pay such tax shall be recoverable at the suit of the city, brought against such person in any court of competent jurisdiction. In any suit, in addition to the tax and penalties, the plaintiff shall recover interest, at the rate of ten percent (10%) per annum, upon all sums due by way of tax and penalty from the date of accrual thereof, and all costs of collection, judicial or otherwise, including reasonable attorney's fees, all to be determined by the court. Prosecution for an offense against the city, arising out of the failure to pay a tax levied by this chapter, regardless of the outcome thereof or its continued pendency, shall not constitute a defense or bar in any manner to the collection of the tax and penalties, if any are due, as herein provided. (Prior Code Secs. 2-2 to 2-4, 2-6, 2-8; Ord. No. NC-308, 1/6/86)

State Law Reference: Cities may levy occupation tax not to exceed state fee, 37A O.S. Sec. 4-104; state license fee amounts, 37A O.S. Sec. 2-101.

Cross Reference: See Schedule of Fees and Charges, Appendix 2, for occupational tax fees.

SECTION 3-103      APPLICATION FOR CERTIFICATE OF ZONING AND CODE COMPLIANCE.

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

1. Filing a written application on forms prescribed by that office; and
2. Paying a verification and certification fee in the amount as set by the council at the time of filing.

B. Upon receipt of an application for a certificate of compliance, the city manager 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 or other safety codes applicable to it.

C. Upon finding that the premises of an applicant for a certificate is in compliance with all applicable zoning ordinances, a certificate of compliance shall be issued to the applicant to provide to the ABLE Commission.

D.  
The above certificates of compliance shall be signed by the city manager.

SECTION 3-104      VIOLATIONS OF STATE, CITY LAW.

Any violation of law of the state in connection with any of the matters covered by this chapter shall be construed to be a specific violation of this chapter, whether specifically covered by the provisions of this chapter or not. (Prior Code, Sec. 2-9)



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### SECTION 3-105      GENERAL PROHIBITIONS.

A. No person shall:

1. Purchase any alcoholic beverage at retail or wholesale from any person other than as authorized by the ABLE Commission;

2. 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, nor be intoxicated in a public place. This provision shall be cumulative and in addition to existing law in public except on the premises of a licensee who is authorized to sell or serve alcoholic beverages by the individual drink or be intoxicated in a public place;

3. Open a retail container or consume alcoholic beverages on the premises of a retailer, except as otherwise provided by state law;

4. Possess more than one liter of any alcoholic beverage unless the state tax has been paid thereon, except as may be otherwise provided by law;

5. 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 as defined by state law, any controlled dangerous substance as defined in the Uniform Controlled Dangerous Substances Act, or any combination thereof, in such place.

6. Knowingly transport alcoholic beverages in any vehicle upon any public highway, street or alley unless in the original container which shall not have been opened and the seal upon which shall not have been broken and from which the original cap or cork shall not have been removed, unless the opened container is in the rear trunk or rear compartment, which shall include the spare tire compartment in a vehicle commonly known as a station wagon or panel truck, or in any outside compartment which is inaccessible to the driver or any passenger while the vehicle is in motion;

7. Own, operate, maintain or have any interest in any package store which is located at a place in this city which is forbidden as a location for such store by state laws or city ordinances. The location of a package store or mixed beverage establishment which has as its main purpose the selling or serving of alcoholic beverages for consumption on the premises is specifically prohibited within three hundred (300) feet from any church property primarily and regularly used for worship services and religious activities or any public or private school, except as otherwise expressly permitted by state law. The distance shall be measured from the nearest property line of such church or school to the nearest perimeter wall of the premises of any such package store or mixed beverage establishment.;

8. Maintain, operate, or assist in any manner in the maintenance or operation of a package store upon premises which are not covered by a retail spirits license.;

## Alcoholic Beverages

B. Unless otherwise expressly permitted by state law, no person under twenty-one (21) years of age shall:

1. Enter, remain within or be about the premises of a package store or mixed beverage establishment;
2. Be in possession of any alcoholic beverage while such person is upon any public street, road, highway or in any public place unless otherwise permitted by state law;
3. Be employed in the service or sale of alcoholic beverages;
4. Misrepresent his or her age in writing or by presenting false documentation of age for the purpose of inducing any person to sell, deliver, provide, or otherwise furnish him or her alcoholic beverage or issue a bottle club membership; or
5. Enter or attempt to enter a package store or a separate or enclosed bar area of a mixed beverage establishment as designated by the ABLE Commission.

C. No licensee shall:

1. Do business, or offer to do business in the city until the license levied by this chapter and the state have been approved, issued and paid in full;
2. Permit any person under twenty-one (21) years of age to enter, remain within or be about the premises of a package store or mixed beverage establishment, unless otherwise expressly permitted by state law;
3. Engage in retail sale of alcoholic beverages on such days and times as prohibited by state law or city ordinance;
4. Give any alcoholic beverage as a prize, premium or consideration for any lottery, game of chance or skill or any type of competition;
5. Sell any alcoholic beverage intended for off-premises or on-premises consumption for less than a six percent (6%) markup unless otherwise expressly permitted by state law;
6. Permit any person to be drunk or intoxicated on the licensed premises; or
7. Serve or sell alcoholic beverages with an expired license issued by the ABLE Commission.

D. No mixed beverage or beer and wine licensee shall:

2. Use any of the following means or inducements to stimulate the consumption of alcoholic beverages including but not limited to the following, provided this shall not prohibit the advertising or offering of food, entertainment or bottle service in mixed beverage establishments:

## Alcoholic Beverages

- a. Deliver more than two (2) drinks to one person at one time except as expressly permitted by state law;
- b. Sell or offer to sell to any person an unlimited number of drinks during any set period of time for a fixed price, except at private functions not open to the public;
- c. Sell or offer to sell drinks to any person or group of persons on any one day or portion thereof at prices less than those charged the general public on that day, except at private functions not open to the public;
- d. Increase the volume of alcoholic beverages contained in a drink without increasing proportionately the price regularly charged for such drink during the same calendar week;
- e. Encourage or permit, on the licensed premises, any game or contest which involves drinking or the awarding of drinks as prizes;
- f. Permit or allow any person to exit the licensed premises with an open container of any alcoholic beverage, except as expressly permitted by state law; or
- g. Permit or allow any person to serve or pour himself or herself any alcoholic beverage, except as expressly permitted by state law including bottle service in a club suite.

### E. No licensee shall:

1. Allow any person on the premises where alcoholic beverages are sold or dispensed for consumption on the premises of the licensee where such person is unclothed or in such attire, costume or clothing as to expose to view any portion of the breast below the top of the areola or any portion of the pubic area, buttocks or genitalia;
2. Permit any person to perform acts of, or acts which simulate sexual acts;
3. Permit any person to use artificial devices or inanimate objects to depict any lewd activities; or
4. Permit the showing of films, still pictures, electronic reproduction or other visual reproduction depicting any of the prohibited acts in this section.

F. No licensee shall permit any drink solicitation, or request from a patron to purchase any alcoholic beverage for consumption on the premises of the licensee. (Prior Code, Secs. 2-5, 2-7, 2-10, 2-11, 2-13 to 2-17 in part, 2-18, 2-19, 2-22)

State Law Reference: 37A O.S. 6-101 et seq..

### SECTION 3-106

### EMPLOYMENT OF PERSONS UNDER AGE OF TWENTY-ONE (21) PROHIBITED.

## Alcoholic Beverages

No licensee shall employ, assist or aid in causing the employment of any person under the age of twenty-one (21) years in the selling, manufacture, distribution or other handling of alcoholic beverages, except as otherwise expressly permitted by state law

### SECTION 3-107      HOURS OF OPERATION.

A. No package store licensee shall sell or keep a package store premises open for the purpose of selling any alcoholic beverages at any hour than between the hours of 10:00 A.M. and 9:00 P.M., Monday through Saturday. No sales shall be permitted on Thanksgiving Day or Christmas Day.

B. No retail beer and/or a retail wine licensee shall sell beer or wine between the hours of 6:00am and 2:00 am the following day, Monday through Sunday;

C. No alcoholic beverages may be sold, dispensed, served or consumed on the premises of a mixed beverage, beer and wine, or bottle club licensee between the hours of 2:00 A.M. and 8:00 A.M Monday through Sunday No licensee shall permit any person, who has in his possession an open container, having as its contents an alcoholic beverage, to remain in mixed beverage establishment between the hours of 2:15 A.M. to 8:00 A.M. No person, having in his possession an open container, having as its contents an alcoholic beverage, shall remain in mixed beverage establishment between the hours of 2:15 A.M. to 8:00 A.M. For the purpose of this section, an open container shall mean any receptacle containing an alcoholic beverage, to include the original container of the alcoholic beverage where the original seal has been broken or opened.

D. No alcoholic beverages may be sold, dispensed, served or consumed on the premises of a brewery, brewpub, winemaker, or distiller licensee between the hours of 2:00 A.M. and 8:00 A.M Monday through Sunday (Prior Code, Sec. 2-10, in part)

### SECTION 3-108      RECEIPT OR DELIVERY PROHIBITED ON CERTAIN DAYS.

No wholesale dealer in wine or spirits shall sell or deliver to any retailer and no retailer shall receive any amount of spirits or wine on Sunday of any week or on New Year's Day, the Fourth of July, Thanksgiving Day or Christmas Day. (Prior Code, Sec. 2-10, 2-22)

### SECTION 3-109      SALE TO INTOXICATED, INSANE PERSONS; NOT TO PERMIT IN RESTAURANTS.

A. It is an offense to sell, deliver or furnish any alcoholic beverage to an intoxicated person or to any person who has been adjudged insane or mentally deficient.

B. It is an offense for any person, whether as owner, manager, operator or employee, of any cafe, restaurant, club or other place of recreation within the city, to permit any person to be or to become drunk, intoxicated, or to be under the influence of intoxicating drink at such place. (Prior Code, Secs. 2-10, 2-23; Approved 08/21/23, Ord No. 593)

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**PART 4**

**ANIMALS**

**CHAPTER 1**

**GENERAL PROVISIONS**

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**ANIMAL REGULATIONS**

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Section 4-107	Pasturing in public areas illegal.
Section 4-108	Keeping and/or maintaining Large Animals a nuisance and prohibited; Definitions; Exceptions; Penalties.
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Section 4-110	Riding, walking, leading, hitching, tying-up, and/or standing and/or similar activities of any horse, mule, donkey, ass, jackass or similar quadruped on, in or upon any public sidewalk, roadway, and/or other public right-of-way within the city limits, declared a nuisance and prohibited except when so doing in connection with an approved public parade.

**ARTICLE B**

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Section 4-131	Impoundment, records, disposition of animals.
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ARTICLE D

CRUELTY TO ANIMALS

- Section 4-141 Cruelty to animals.
- Section 4-142 Poisoning animals.
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ARTICLE E

ZONING ORDINANCE

- Section 4-151 Zoning ordinance to prevail.

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- Section 4-161 Animal bites; rabies examination; quarantine.
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- Section 4-171 Keeping unlawful.
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ARTICLE H

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CHAPTER 2

(RESERVED)

CHAPTER 1

Animals

GENERAL PROVISIONS

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ANIMAL REGULATIONS

- Section 4-101 Definitions.
- Section 4-102 Running at large, owners cited, enclosures.
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- Section 4-105 Kennels.
- Section 4-106 Noisy animals; complaint procedure for animals which disturb, are in violation of code.
- Section 4-107 Pasturing in public areas illegal.
- Section 4-108 Keeping and/or maintaining Large Animals a nuisance and prohibited; Definitions; Exceptions; Penalties.
- Section 4-109 Indecent exhibition prohibited.
- Section 4-110 Riding, walking, leading, hitching, tying-up, and/or standing and/or similar activities of any horse, mule, donkey, ass, jackass or similar quadruped on, in or upon any public sidewalk, roadway, and/or other public right-of-way within the city limits, declared a nuisance and prohibited except when so doing in connection with an approved public parade.

ARTICLE B

VACCINATION AND LICENSING

- Section 4-121 Rabies vaccination required; certificate of vaccination; tags.
- Section 4-122 Registration.

ARTICLE C

IMPOUNDMENT REGULATIONS

- Section 4-131 Impoundment, records, disposition of animals.
- Section 4-132 Breaking pound or interfering with impounding officers.
- Section 4-133 Animal shelter fees.
- Section 4-134 Redemption, adoption, of animal.
- Section 4-135 Adoption of impounded animals.

ARTICLE D

CRUELTY TO ANIMALS

- Section 4-141 Cruelty to animals.
- Section 4-142 Poisoning animals.

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Section 4-143 Encouraging animals to fight.

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Section 4-164 Reports of bite cases; report by veterinarian.  
Section 4-165 Investigations for violation of chapter.  
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ARTICLE G

VICIOUS, DANGEROUS AND DISEASED ANIMALS

Section 4-171 Keeping unlawful.  
Section 4-172 Summons and complaint.  
Section 4-173 Impoundment.  
Section 4-174 Hearing.  
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Section 4-181 Penalty.



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ARTICLE A

ANIMAL REGULATIONS

SECTION 4-101      DEFINITIONS.

A. As used in this chapter:

1. “Animal shelter” means any premises designated by action of the council for the purposes of impounding and caring for animals;

2. “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;

3. “At large” or “running at large” means any animal when it is off the property of its owner and not under the control of a competent person. As applied to dogs, “at large” or “running at large” means:

a. Off-premises: any dog which is not restrained by means of a leash or chain of sufficient strength and not more than six (6) feet in length to control the actions of such animal while off the owner’s property; and

b. On-premises: any dog not confined within the owner’s property by a substantial fence of sufficient strength and height to prevent the animal from escaping therefrom, or secured on the premises by a metal chain or leash sufficient in strength to prevent the animal from escaping from the owner’s property and so arranged so that the animal will remain upon the property when the leash is stretched to full length. A dog intruding upon the property of another person other than the owner shall be termed running at large. Any animal within an automobile or other vehicle of its owner or owner’s agent shall not be deemed running at large;

4. “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;

5. “Dangerous animal” means an animal that, without provocation, has chased or approached in either a menacing fashion or in an apparent attitude of attack, or has attempted to bite or otherwise endanger any person or other animal while the animal alleged to be dangerous is off the premises of the owner or while the animal is not physically restrained or confined on the premises. Dangerous animal does not include a police dog while the police dog is being used to assist law enforcement officers in the performance of their duty;

6. “Diseased animal” means an animal believed to be infected with a dangerous or communicable disease;

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7. “Domestic birds” means canaries, parrots, parakeets, myna birds, peacocks, birds of paradise or other birds tamed to the household or pertaining thereto;

8. “Enclosure” means, while on the property of the owner, secure confinement indoors or in a securely enclosed and locked pen or structure, suitable to prevent entry and designed to prevent the animal from escaping;

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

10. “Fowl” means chickens, guineas, geese, ducks and pigeons;

11. “Impoundment” means placing an animal in the animal control vehicle or unit or holding an animal in custody at the animal control shelter;

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

13. “Kennel” means any place defined by the city’s zoning ordinance where dogs more than six (6) months of age are kept, sheltered or fed and watered. Kennel includes any place where more than one litter of puppies born to different female dogs are kept on any lot or premises or kept in any structure;

14. “Large animal” means horse, mule, donkey, cattle, goat, sheep or any other animal of similar size or stature;

15. “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;

16. “Muzzle” means a device constructed of strong, soft material or a metal muzzle such as that used commercially with greyhounds. The muzzle must be made in a manner which will not cause injury to the animal or interfere with its vision or respiration, but must prevent it from biting any person, animal or livestock;

17. “Neuter” means to render a male dog or cat unable to reproduce;

18. “Nuisance” means the conduct or behavior of any small or large animal, cat or dog which molests passersby 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;

19. “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;

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20. “Permit” means the permit issued by the city clerk;
21. “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;
22. “Ratproof” means that state of being constructed so as to effectively prevent entry of rats;
23. “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;
24. “Sanitary” means any condition of good odor and cleanliness which precludes the probability of disease transmission and insect breeding and which preserves the health of the city;
25. “Severe injury” means any physical injury that results in broken bones or disfiguring lacerations requiring multiple sutures or cosmetic surgery;
26. “Small animal” means rabbit, hare, guinea pig, chinchilla, turkey, fowl, hamster, pigeon (except homing pigeons) or any other animal of similar size or stature;
27. “Spay” means to remove the ovaries of a female dog or cat in order to render the animal unable to reproduce;
28. “Vaccination” means an injection of United States Department of Agriculture approved rabies vaccine administered every twelve (12) calendar months by a licensed veterinarian;
29. “Vicious animal” means an animal that, without provocation, has killed or caused physical injury to any person or has killed or caused physical injury to another animal. Vicious animal does not include a police dog while the police dog is being used to assist law enforcement officers in the performance of their official duties and where any injury inflicted by the police dog was reasonably related to the duties being performed;
30. “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. (Prior Code, Secs. 3-1, in part)

State Law Reference: City powers to regulate animals, 11 O.S. Sec. 22-115.

SECTION 4-102      RUNNING AT LARGE, OWNERS CITED, ENCLOSURES.

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Any animal running at large in the city shall be taken up by the animal control officer and impounded at the animal shelter. The animal control officer may, at his discretion, cite the owner of such animal to appear in municipal court to answer charges of violation of this chapter. It is unlawful for any animal to run at large in the city. In order for a licensed cat to be legally at large, it may not be vicious, unvaccinated, or a female cat during the breeding and mating period. (Prior Code, Sec. 3-2, 3-18)

### SECTION 4-103 CONTROL OF ANIMALS REQUIRED, AT LARGE.

It is unlawful for any owner or person to:

1. Fail to prevent any animal from running at large as required within the city;
2. Perform, do or carry out any inhumane treatment against any animal;
3. Keep, possess, own, control, maintain, use or otherwise exercise dominion over any animal or animals which by reason of noise, odor or sanitary conditions become offensive to a reasonable and prudent person of ordinary tastes and sensibilities, or which constitute or become a health hazard as determined by the health officer or animal control officer; or
4. Turn any animal at large or release an animal which is restrained or confined in an enclosure as required by this chapter. (Prior Code, Sec. 3-3 in part)

### SECTION 4-104 BUILDINGS, STRUCTURES FOR ANIMALS, LOCATION, ANIMAL QUANTITY

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. 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 flytight 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. It is unlawful for any fowl, peacock or turkey to be kept or maintained within the City Limits of the City of Atoka; except, chickens and/or laying hens may be kept on single family residential lots so long as:

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1. Such chickens and laying hens are maintained on land upon which the owner or occupant resides.
  2. Roosters are not allowed.
  3. No slaughtering of chickens or laying hens is permitted.
  4. The number of chickens or laying hens allowed on said lot(s) surrounding the owner/occupants home does not exceed four (4).
  5. The chickens or laying hens are kept within a designated coop and run, which shall be located in the rear or backyard of the property. No coop or run shall be located in the side or front yard.
  6. The coop and run shall be attached to one another and shall be located no closer than five (5) feet from any property line and no closer than forty (40) feet from any dwelling unit other than the owner/occupants.
- The above provisions of Paragraph D shall not apply to lands zoned for agricultural purposes.

E. 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 of any such reasonable order. (Prior Code, Secs. 3-8 through 3-12)

### SECTION 4-105      KENNELS.

It is unlawful for any person to have, run, maintain or operate any kennel or any place for the sale, exchange, breeding and training of pet animals within the city which is not in compliance with the city's zoning code or which does not possess a current and valid kennel licensed by the city. (See Sec 12-204 for definition of kennel)

### SECTION 4-106      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 may be 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. (Prior Code, Sec. 3-7, in part)

### SECTION 4-107      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. (Prior Code, Sec. 3-4)

## Animals

### SECTION 4-108 KEEPING AND/OR MAINTAINING LARGE ANIMALS A NUISANCE AND PROHIBITED; DEFINITIONS; EXCEPTIONS; PENALTIES.

Except as otherwise set forth in Subparagraph (4) of this Section 4-108:

1. The keeping and/or maintaining of, and/or the permitting to be kept and/or maintained, any Large Animal, as defined in Subparagraph (3) of this Section 4-108, within the City Limits of the City of Atoka is hereby declared to be a public nuisance.

2. It is unlawful and punishable as a criminal offense (as set forth in Subparagraph (4) of this Section 4-108) for any person to, directly or indirectly, keep and/or maintain, and/or to permit to be kept and/or maintained, any Large Animal (as defined in Subparagraph (3) of this Section 4-108) within the City Limits of the City of Atoka.

3. As used in this Section 4-108, the term, phrase and/or expression “Large Animal” means and includes all and any “Large Animal” as defined in Subparagraph 14 of Section 4-101 of the Atoka City Code, specifically including but not limited to the following types and/or categories of large animals, regardless of the gender and/or age thereof, to wit: horse, mare, filly, gelding, stallion, yearling, pony, colt, foal, stud, mule, donkey, ass, jackass, cow, bull, heifer, yearling, calf, steer, pig, hog, swine, camel, deer, bison, buffalo, goat, sheep, and/or other ruminant, and/or other member of the equidae, bovine, kine, swine, capra, and/or ovis genus and/or family of animal, and/or any other similar quadruped.

4. Provided further, however, that nothing herein shall be interpreted or construed as prohibiting and/or making punishable the keeping and/or maintaining of, and/or the permitting to be kept or maintained, any female horse of any age (e.g. female foal, filly, and/or mare) and/or any gelding horse if, and only if and so long as, such is being so kept and/or maintained:

a. otherwise in compliance with all other applicable laws (other than this Section 4-108);

b. on a tract of real property containing not less than one (1) acre; and

c. which said (not less than one (1) acre) tract either: (1) is zoned as “A-1 General Agricultural District” (more fully described in Section 12-261 of this Code); and/or (2) has been deemed, for purposes hereof, to be the substantial equivalent thereof by or through a variance granted by the City Council.

5. In addition to costs of the action, any person who violates this Section 4-108 shall be punishable by a fine as follows:

a. if the person has not been convicted and/or received a deferred adjudication for a prior violation of this Section 4-108 within the preceding twelve (12) calendar months, a fine of not less than Twenty Five Dollars (\$25.00) and not more than One Hundred Dollars (\$100.00);

b. if the person has been convicted and/or received a deferred adjudication for

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one (1) prior violation of this Section 4-108 within the preceding twelve (12) calendar months, a fine of not less than Seventy Five Dollars (\$75.00) and not more than One Hundred Fifty Dollars (\$150.00); and

c. if the person has been convicted and/or received a deferred adjudication for two (2) or more prior violations of this Section 4-108 within the preceding twelve (12) months, a fine of Two Hundred Dollars (\$200.00).” (Prior Code, Sec 3-5, amended by Ord. No. NC 426, 7/3/95)

### SECTION 4-109      INDECENT EXHIBITION PROHIBITED.

It is unlawful for any person to permit animals to have sexual intercourse in any place except an enclosed place entirely out of the public view. (Prior Code, Sec. 3-6)

### SECTION 4-110      RIDING, WALKING, LEADING, HITCHING, TYING-UP, AND/OR STANDING AND/OR SIMILAR ACTIVITIES OF ANY HORSE, MULE, DONKEY, ASS, JACKASS OR SIMILAR QUADRUPED ON, IN OR UPON ANY PUBLIC SIDEWALK, ROADWAY, AND/OR OTHER PUBLIC RIGHT-OF-WAY WITHIN THE CITY LIMITS, DECLARED A NUISANCE AND PROHIBITED EXCEPT WHEN SO DOING IN CONNECTION WITH AN APPROVED PUBLIC PARADE.

1. Except as otherwise provided in subparagraph 2 of this Section 4-110, it is hereby declared to be a nuisance and unlawful for any person to ride, walk, lead, hitch, tie-up, stand and/or leave standing, whether attended or not, any horse, mule, donkey, ass, jackass or similar quadruped, regardless of the size, gender, age or other descriptive characteristics thereof, upon or on, or in any public sidewalk, public street, alley or other public roadway and/or right-of way within the City.

2. Provided further, however, the provisions of this Section shall not apply to such activity regarding any such quadruped which is being exhibited or otherwise utilized in a public parade which has been approved by the City manager or City Council, during the course of such parade, and for a reasonable period of time immediately preceding and following the same.

3. Any person who violates this Section 4-110 shall be punishable as set forth in Paragraph Five (5) of Section 4-108 (and/or otherwise the same as a person who violates Section 4-108) of the City Code.

## ARTICLE B

### 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 six (6) months of age or older is vaccinated for rabies annually every year before July 1

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thereof, and in any event before the cat or dog becomes six (6) 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.

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. (Prior Code, Sec. 3-14, in part)

Cross Reference: See Fee Schedule (Appendix 2) for applicable fees.

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

### SECTION 4-122      REGISTRATION.

A. A tax as set by the council by motion or resolution is levied for each dog or cat over six (6) months of age in the city. The tax does not apply to any dog or cat temporarily brought and kept within the city, nor to a dog or cat brought within the city to participate in a dog or cat 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 or cat within the city upon which the tax has not been paid for the year in which acquired, or upon bringing a dog or cat into the city after that day.

C. Before the clerk accepts money offered in payment of the tax for a dog or cat 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 or cats showing that the dog or cat has been immunized against rabies during the preceding year.

D. The owner of the dog or cat shall, at the time of paying the tax, register the dog or cat by giving the city clerk the name and address of the owner, the name, breed, color and sex of the dog or cat, 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 or cat. Such tag shall constitute a license for the dog or cat.

F. The owner shall cause the tag received from the city clerk to be affixed to the collar or harness of the dog or cat 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 or cat at all times.



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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 or cat 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 or cat as provided in this chapter, or take from any dog or cat a tag legally placed upon it, or place such tag upon a dog for which the tag was not specifically issued. (Prior Code, Sec. 3-16 to 3-18)

Cross Reference: See Fee Schedule, Appendix 2, for applicable fees.

### ARTICLE C

#### 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 cat 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 there confined in a humane 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. (Prior Code, Secs. 3-24, in part)

##### 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 impounded, he shall be guilty of an offense.

B. No person shall interfere with, or hinder, or molest any agent of the city in the

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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. (Prior Code, Sec. 3-25)

### 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 therefor 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 treasurer 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 cat suffering from rabies or other infectious or dangerous disease may be released from the animal control shelter. (Prior Code, Sec. 3-26, 3-27, in part)

Cross Reference: See Fee Schedule, Appendix 2, for applicable fees.

### 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. (Prior Code, Sec. 3-27, in part)

### 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

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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. (Prior Code, Secs. 3-28, 3-29)

Cross Reference: See Fee Schedule, Appendix 2, for applicable fees.

### ARTICLE D

#### CRUELTY TO ANIMALS

##### 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. (Prior Code, Sec. 3-30)

##### SECTION 4-142 POISONING ANIMALS.

It is unlawful for a person willfully to poison any dog or other animal except a noxious, nondomesticated animal, or to knowingly expose poison so that the same may be taken by an animal. (Prior Code, Sec. 3-31)

##### 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, nondomesticated animal, or to keep a house, pit or other place used for fights between animals. (Prior Code, Sec. 3-32)

### ARTICLE E

#### 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. (Prior Code, Sec. 3-33)

Cross Reference: See Sections 12-201 et seq on the zoning ordinance.

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ARTICLE F

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. (Prior Code, Secs. 3-19, 3-21, as amended)

Cross Reference: See Fee Schedule, Appendix 2, for applicable fees.

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.

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### 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 therefor 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

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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 G

#### VICIOUS, DANGEROUS AND DISEASED ANIMALS

##### SECTION 4-171      KEEPING UNLAWFUL.

The keeping of vicious, dangerous or diseased animals within the city is unlawful except as may be permitted in this article.

State Law Reference: Regulations on vicious animals, city powers, Title 4 of the Oklahoma Statutes.

##### SECTION 4-172      SUMMONS AND COMPLAINT.

A. Any person who witnesses or has personal knowledge that an act or acts made unlawful by this article has been committed may sign a complaint against the alleged violator.

B. Any police officer, animal control officer, or code enforcement officer who is employed by the city is authorized to issue a summons and complaint when the officer personally observes a violation of this article.

C. The complainant must provide a sworn complaint to the officer receiving the complaint containing the following information:

1. Name, address and telephone number of the complainant and other witnesses to the incident;
2. Date, time and location of the incident;
3. Description of the animal;
4. Name, address and telephone number (if known) of the animal owner;
5. A statement that the animal attacked the complainant or some other person or animal as witnessed by the complainant, or such facts as warrant a finding that the animal is vicious, dangerous or diseased; and
6. Other facts and circumstances of the incident.

##### SECTION 4-173      IMPOUNDMENT.

It is the duty of the animal control officer upon receipt of a verified complaint as outlined in this article to cause the animal involved to be impounded pending a determination as required in this

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article. Any and all expenses associated with the impounding, including shelter, food, handling and veterinary care, shall be borne by the owner of the animal during the period of impoundment.

Cross Reference: See Fee Schedule, Appendix 2, for applicable fees.

### SECTION 4-174      HEARING.

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

### SECTION 4-175      DETERMINATION.

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 vicious, dangerous or diseased, in which event the animal control officer shall cause it to be surrendered to the owner of the animal, upon payment by the owner of the expenses outlined in this article;
2. That the animal is in fact vicious, dangerous or diseased, and should be destroyed;
3. That the animal is vicious, dangerous or diseased but that for good cause shown, the animal should not be destroyed, in which event the judge shall order one of the following:
  - a. That the animal be immediately removed from the corporate limits of the city and not to ever be again allowed within the corporate limits of the city, and that the owner shall pay all fees required;
  - b. That the owner be allowed to maintain the vicious animal within the corporate limits of the city under the conditions specified in this paragraph:
    - i. Payment of all fees required in this article;
    - ii. That the animal be leashed and muzzled. No person covered by this requirement shall permit the animal to go outside its kennel or pen unless the animal is securely leashed with a leash no longer than four (4) feet in length. No person shall permit the animal to be kept on a chain, rope or other type of leash outside its kennel or pen unless a person is in physical control of the leash. Such animal may not be leashed to inanimate objects such as trees, posts, buildings, etc. In addition, all animals on a leash outside the animal's kennel must be muzzled by a muzzling device sufficient to prevent such animal from biting persons or other animals;
    - iii. That the animal be confined. All animals covered by this requirement shall be securely confined indoors or in a securely enclosed and locked pen or kennel, except when

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leashed and muzzled as above provided. Such pen, kennel, or structure must have secure sides and a secure top attached to the sides. All structures used to confine such animal must be locked with a key or combination lock when the animal is within the structure. Such structure must have a secure bottom or floor attached to the sides of the pen or the sides of the pen must be embedded in the ground no less than two (2) feet. All structures erected to house the animals must comply with all zoning and building regulations of the city. All such structures must be adequately lighted and ventilated, and kept in a clean and sanitary condition;

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

v. That a warning sign be displayed. All owners, keepers or harborer of animals covered by this requirement shall display in a prominent place on the premises where the animal is kept a sign easily readable by the public using the words "BEWARE OF VICIOUS ANIMAL". In addition, a similar sign is required to be posted on the kennel or pen of such animal.

4. An owner whose animal is adjudged to be vicious at the hearing and sentence is imposed by the judge pursuant to this section, upon written demand, may appeal the judge's decision within ten (10) days to the district court of the county in the same manner as other appeals from actions of the municipal court.

## ARTICLE H

### 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. (Prior Code, Sec. 3-34)



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CHAPTER 2

(RESERVED)

Building Regulations and Codes

**PART 5**

**BUILDING REGULATIONS AND CODES**

**CHAPTER 1**

**LICENSES AND FEES; PERMITS, BOND AND INSURANCE**

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Section 5-102	Fees specified.
Section 5-103	Term of initial license.
Section 5-104	Licensee prohibited from engaging in activities beyond scope of license and restrictions.

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## Building Regulations and Codes

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(RESERVED)

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# Building Regulations and Codes

## CHAPTER 1

### LICENSES AND FEES; PERMITS, BOND AND INSURANCE

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##### LICENSE FEES

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##### PERMITS AND INSPECTIONS

Section 5-121	Building permits.
Section 5-122	Expiration of permits.
Section 5-123	Plumbing, electrical, mechanical, gas and other permits.
Section 5-124	Schedule of permit and inspection fees.
Section 5-125	Display of permits.
Section 5-126	Revocation.

#### ARTICLE C

##### OTHER REGULATIONS

Section 5-141	Right to enforce and stop construction.
Section 5-142	Cases of urgency.
Section 5-143	Power to make rulings.
Section 5-144	Power to call upon police or fire department.
Section 5-145	Power to enter.
Section 5-146	Penalty.
Section 5-147	Relief in the courts.
Section 5-148	Effect of violation by corporate officers and agents.
Section 5-149	Conviction to be deemed cause for revocation of licenses, certificates.
Section 5-150	Inspection no relief from responsibility, liability.

Building Regulations and Codes

ARTICLE A

LICENSES AND FEES, PERMITS, BOND AND INSURANCE

SECTION 5-101      LICENSE REQUIRED FOR CONTRACTORS AND JOURNEYMEN.

All contractors, journeymen and apprentices whose activities are regulated by any of the city's electrical, plumbing and mechanical codes in this Part 5 are hereby required to obtain a license or registration certificate from the city before engaging in regulated activities.

Cross Reference: See also Section 5-301, 5-401, 5-501, 5-601, 5-701 respectively for the city's plumbing, electrical, mechanical, LPG and gas codes. See also Appendix 2 on Fees and Section 8-301 on Dilapidated Buildings, Section 14-201 Street Cuts.

SECTION 5-102      FEES SPECIFIED.

The fees for the registration certificates required shall be as set forth in the fee schedule and may be amended from time to time by motion or resolution of the council.

SECTION 5-103      TERM OF INITIAL LICENSE.

The initial license or registration issued as provided for herein shall be for a term of one year.

SECTION 5-104      LICENSEE PROHIBITED FROM ENGAGING IN ACTIVITIES BEYOND SCOPE OF LICENSE AND RESTRICTIONS.

No licensee shall engage in regulated activities beyond the scope of the license or registration together with any restrictions placed thereon issued to the licensee.

ARTICLE B

PERMITS AND INSPECTIONS

SECTION 5-121      BUILDING PERMITS.

Whenever any building, structure, facility, or other appurtenances, is to be structurally altered, moved or removed as provided in the city's building code, a building permit shall be obtained from the city. (Prior Code, Sec. 4-6)

Cross Reference: Also, Sec. 12-201 on building and occupancy permits; 8-301 dilapidated buildings.

SECTION 5-122      EXPIRATION OF PERMITS.

- A. If the work described in any permit has not begun within one hundred eighty (180)

## Building Regulations and Codes

days from the date of issuance thereof, the permit shall be cancelled by the building official; and written notice thereof shall be given to the persons affected. A new permit must be applied for.

B. If the work described in any permit has not been substantially completed within two (2) years of the date of issuance thereof, the permit shall expire and be cancelled by the building official; and written notice thereof shall be given to the persons affected, together with notice that further work as described in the cancelled permit shall not proceed unless and until a new building permit has been obtained. Completion is determined by issuance of an occupancy permit by the city.

C. Extensions of time may be applied for to the city council for reason of hardship or other cause of delay. Such extensions shall not exceed three (3) months.

### SECTION 5-123 PLUMBING, ELECTRICAL, MECHANICAL, GAS AND OTHER PERMITS.

Permits for plumbing, electrical, mechanical, gas or LPG work, or other permits as required and as defined by this code, shall be obtained in accordance with the terms of the respective city plumbing, electrical, mechanical, gas and LPG codes. (Prior Code Sec. 4-11A, 4-19A, 4-13, 4-15; Ord. No. NC-309, 2/3/86)

Cross Reference: See also Sections 5-301 et seq. for the electrical, plumbing, LPG, gas and mechanical codes.

### SECTION 5-124 SCHEDULE OF PERMIT AND INSPECTION FEES.

Before any permit shall be issued or any inspection shall be made, as required by the city building or technical codes, the recipient of the permit shall make written application or request for the permit, pay a fee in accordance with the schedules adopted by the city council by motion or resolution, and comply with any other requirements established by the city manager which must be met before a permit may be issued. Such permit requirements shall be kept on file in the city clerk's office, along with the fee schedules. All references to inspection fees in the technical codes adopted by the city are deleted when replaced by a fee in the fee schedule. (Prior Code, Secs. 4-11B, 4-11C, 4-19B, 4-19C; Ord. No. NC-309, 2/3/86)

Cross Reference: See Appendix 2 of this code, fee schedule.

### SECTION 5-125 DISPLAY OF PERMITS.

Permits issued shall be posted in a conspicuous place on the face of the structure to be constructed, altered, enlarged, repaired or removed, at all times during the course of work. The building official is hereby authorized to direct the cessation of all work on property upon which such a permit is not posted. Failure to cease work in compliance with the directions of the building official is hereby declared to be and constitute an offense punishable as provided in Section 1-108 of this code for each day construction is continued in violation of such direction.

## Building Regulations and Codes

### SECTION 5-126      REVOCAATION.

If the work in or about any building or structure shall be conducted in violation of the provisions of this code or the official building code, the permit issued shall be revoked. It is unlawful to continue the work until such violations shall have been corrected to the satisfaction of the city.

## ARTICLE C

### OTHER REGULATIONS

### SECTION 5-141      RIGHT TO ENFORCE AND STOP CONSTRUCTION.

The building official shall have the right to stop the construction of any building or structure, or the alteration, repair or wrecking of the same, if same is being done in a careless or reckless manner or in violation of the provisions of this part.

### SECTION 5-142      CASES OF URGENCY.

Decisions of the building official in cases where failure to carry out his orders would endanger life and property shall be absolute and final.

### SECTION 5-143      POWER TO MAKE RULINGS.

The building official shall have power to make rulings and pass upon questions relating to the use of materials and methods of construction to make the same protective of life and property and in conformance with the intent and purpose of this part. (Prior Code, Sec. 4-23, in part)

### SECTION 5-144      POWER TO CALL UPON POLICE OR FIRE DEPARTMENT.

The building official shall have authority to call upon the police or fire department in enforcing this part. It shall be mandatory upon any member thereof to act in compliance with and perform such duties as the building official may require.

### SECTION 5-145      POWER TO ENTER.

The building official may enter any building or structure whether completed or in the course of construction for the purpose of making inspections. (Prior Code, Sec. 4-33, in part)

### SECTION 5-146      PENALTY.

Any person who shall engage in any business, trade, or vocation for which a license, permit, certificate, or registration is required by this part, without having a valid license, permit, certificate, or certificate of registration as required, or who shall fail to do anything required by this part or by any code adopted by this part, or who shall otherwise violate any provision of this part or of any code adopted by this part, or who shall violate any lawful regulation or order made by any of the officers provided for in this part, shall be guilty of an offense, and upon conviction thereof,

## Building Regulations and Codes

shall be subject to punishment as provided in Section 1-108 of this code. (Prior Code, Sec. 4-35)

### SECTION 5-147      RELIEF IN THE COURTS.

No penalty imposed by and pursuant to this part 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 the person violating this part. (Prior Code, Sec. 4-36)

### SECTION 5-148      EFFECT OF VIOLATION BY CORPORATE OFFICERS AND AGENTS.

Violation of any of the terms or provisions of this part by any corporation or association shall subject the officers and agents in charge of the business of such corporation or association to the penalty provided in this part.

### SECTION 5-149      CONVICTION TO BE DEEMED CAUSE FOR REVOCATION OF LICENSES, CERTIFICATES.

Conviction under the provisions of this part shall be deemed just cause for the revocation of any certificate or license which a person may have or hold under the provisions of this part.

### SECTION 5-150      INSPECTION NO RELIEF FROM RESPONSIBILITY, LIABILITY.

This part shall not be construed to affect the responsibility or liability of any party owning, operating, controlling or installing any equipment or structures for damages to persons or to property caused by any defect therein, nor shall the city or any officer or employee of the city be held as assuming such liability by reason of the inspection or permit as herein provided or by reason of the approval or disapproval of equipment or structures herein. (Prior Code, Sec. 4-34, in part)

Building Regulations and Codes

CHAPTER 2

BUILDING CODE AND REGULATIONS

ARTICLE A

BUILDING CODE

Section 5-201	Adoption of building code.
Section 5-202	Amendment to building code.
Section 5-203	Provisions declared to be minimum requirements.
Section 5-204	Enforcement.
Section 5-205	Adoption or property maintenance code.
Section 5-206	Building official.
Section 5-207	Fire limits.

ARTICLE B

MOVING BUILDINGS

Section 5-221	Relocation of buildings.
Section 5-222	Permit required to move building.
Section 5-223	Application for permits.
Section 5-224	Permit fees.
Section 5-225	Bond required.
Section 5-226	Denial of permit.
Section 5-227	Interference with trees and fixtures.
Section 5-228	Interference with poles and wires.
Section 5-229	Safety precautions and protection of property.
Section 5-230	Time limit.

ARTICLE A

BUILDING CODE

SECTION 5-201      ADOPTION OF BUILDING CODE.

For the purpose of establishing rules and regulations for the construction, alteration, removal, demolition, equipment use and occupancy, location and maintenance of buildings and structures within the city, there is hereby adopted that certain code known as the BOCA National Building Code, recommended by the Building Officials and Code Administrators International, Inc., being particularly the latest edition thereof (1990) and the whole thereof, save and except such portions as are hereinafter deleted, modified or amended, of which code not less than one copy has been and now is filed in the office of the clerk. The building code is hereby incorporated as fully as if set out at length herein and shall be considered a part of this code. (Prior Code, Secs. 4-1, 4-2 as amended)

## Building Regulations and Codes

State Law Reference: Power of city to adopt building code, 11 O.S. Sec. 14-107; 74 O.S. Sec. 324.8.

### SECTION 5-202      AMENDMENTS TO BUILDING CODE.

The following additions, amendments or deletions are made to the building code adopted herein:

Section 100.1 Insert: The City of Atoka, Oklahoma;

Section 114.3.1 Insert: Those certain fees adopted by the City of Atoka as reflected in the Fee Schedule Adopted by the City;

Section 117.4 Insert “Offense”: Penalties shall be as set forth in Section 1-108 of the city code;

Section 118.2 Insert: Fine as provided in Section 1-108 of the city code;

Section 120.0 et seq: Dilapidated and unsafe structures. Refer to the city code of ordinances, dilapidated structures, Sections 8-201 et seq;

Section 123.3 Insert: Rate per hour as set by the city;

Section 124.2 Membership of the housing and appeals board. Insert: The board shall be composed of five (5) citizens of the city, appointed by the mayor with the consent of the council, for three-year staggered terms. Vacancy on the board shall be filled by the appointing body for the unexpired term of the vacancy. Members serve until their successors are appointed and qualified, and serve at the pleasure of the governing body. No member shall take part in any hearing or determination where he has a personal or financial interest;

Section 2906.1: \$5,000; \$100,000; \$1,000,000;

Condemnation of dilapidated buildings or structures shall be governed by provisions of the Sections 8-301 et seq. of the city code. (Prior Code, Secs. 4-8; 25-19 to 25-22, in part)

### SECTION 5-203      PROVISIONS DECLARED TO BE MINIMUM REQUIREMENTS.

The provisions of the Building Code in their interpretation and application shall be held to be minimum requirements adopted for the promotion of public health, safety, and general welfare. Wherever any of the provisions or requirements of the code are inconsistent with the provisions of the city code or state statutes presently existing or enacted in the future, the provisions or requirements containing the most restrictive regulation shall apply and govern.

### SECTION 5-204      ENFORCEMENT.

The official designated as being responsible for the enforcement of the city’s building codes shall be the building official. Those things specified in the code shall be performed by the

## Building Regulations and Codes

building official.

### SECTION 5-205      ADOPTION OF PROPERTY MAINTENANCE CODE.

A. There is hereby adopted as the dwelling code for the city “The BOCA National Property Maintenance Code,” latest edition thereof (1990), as published by the Building Officials and Code Administrators, International, Inc. Subsequent revisions, modifications, codifications or editions of the code shall become effective as available. Each and all of the regulations, provisions, penalties, conditions and terms of the code, are hereby referred to, adopted and made a part hereof as if fully set out in this code, with additions, insertions, deletions and changes, if any, prescribed in this chapter.

B. The following sections of the code are hereby revised as follows:

1. Section PM 100.1. Insert: City of Atoka, Oklahoma;  
(Prior Code, Secs. 25-1 et seq, as amended)

### SECTION 5-206      BUILDING OFFICIAL.

The building official of the city shall be appointed by the city manager and shall have the powers and duties prescribed for the building official in the city’s building codes. The terms electrical inspector, plumbing inspector, and gas inspector, wherever used in this code, each refer to and mean the building official unless a separate electrical, plumbing or gas inspector is appointed by the city manager. (Prior Code, Sec. 4-4; 4-19)

### SECTION 5-207      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 a point in the center of the intersection of A street and Mississippi Avenue, thence to the south side of A street to a point in the center of the intersection of Main Street and A Street, thence south on the west side of Main Street to a point in the center of the intersection of First Street and Main Street, continuing on along the west boundary of M.K.T. right-of-way to a point in the center of the intersection of Second Street and the M.K.T. right-of-way, thence west on the north side of Second Street to a point in the center of the intersection of Second Street and Pennsylvania Avenue, thence north on the east side of Pennsylvania Avenue to a point in the center of the intersection of First Street and Pennsylvania Avenue, thence west on the north side of First Street to a point in the intersection of First Street and Mississippi Avenue to a point of beginning at the center of intersection of A Street and Mississippi Avenue. The fire limits comprise all the property in Blocks twenty-four (24), twenty-five (25), twenty-six (26), twenty-seven (27), thirty-two (32), thirty-three (33), thirty-four (34), thirty-five (35), forty (40) and that part of Block forty-one (41) situated west of the M.K.T. tracks. (Prior Code, Sec. 4-5)

## ARTICLE B

### MOVING BUILDINGS



## Building Regulations and Codes

### SECTION 5-221      RELOCATION OF BUILDINGS.

No building or structure shall be removed or relocated unless such building can be and is made to comply with the requirements of codes and regulations governing the erection of new buildings or structures upon the proposed new location.

### SECTION 5-222      PERMIT REQUIRED TO MOVE BUILDING.

No person shall move any building or structure along or across any street, alley or roadway within the city without a permit therefor from the building official issued in accordance with the provisions of the applicable building codes and this chapter. No such permit shall be granted to any person except a bonded house mover. Proof of possession of a valid and current state license, and the number assigned by the Oklahoma Corporation Commission, shall be provided to the building official prior to issuance of a permit.

### SECTION 5-223      APPLICATION FOR PERMITS.

Application for the permit shall contain the following:

1. The location of the building or structure proposed to be moved, its length, width and height, and the principal material of its walls and roof, and shall state definitely the route over which it is to be moved, the length of the time required for the removal, and the proposed new location thereof. The building official shall have authority to require any change in such route which he shall deem proper under the circumstances;

2. The applicant must, simultaneously with the filing of the application, file a set of plans and specifications indicating in detail sufficient to enable the building official to determine compliance, all phases of construction, wiring, plumbing, etc., concerning the building sought to be moved in and to which the building code, plumbing code, gas code and electrical code adopted by the city pertains;

3. The building official shall examine the plans and specifications left with the city clerk and shall, if such plans and specifications comply with such building code and this chapter, endorse his approval thereon as being in full compliance therewith; otherwise, such inspector shall endorse his disapproval thereof and specify in a separate letter to be attached to such plans, the particulars in which such plans and specifications failed to comply with the minimum standards embodied in such building codes hereinabove referred to. In the latter event, no permit shall be issued until amended plans and specifications are filed removing the objectionable features so noted.

### SECTION 5-224      PERMIT FEES.

Before any permit to move a building or structure is granted under the provisions of this section, the applicant for such permit shall pay a fee as provided in the fee schedule.

Cross Reference: See Appendix 2, Fee Schedule.

SECTION 5-225      BOND REQUIRED.

Before any person shall be granted a permit for the moving of any building or structure as provided in this chapter, he shall file with the city a bond in the sum as set in the city's bond schedule which shall run in favor of the city and any private person sustaining damages under the conditions thereof shall be entitled to sue thereon in his own name. The bond shall be conditioned, among other things, that if such permittee is granted the permit he shall promptly pay all damages and for all injuries that may accrue to any person or property, either public or private, within the city when such injury or damages are inflicted by the permittee or his agents, servants, employees, workers, contractors or subcontractors, and such bond shall be conditioned also that the permittee will save, indemnify and protect the city from all liability which may arise, either directly or indirectly from the moving of any building or structure by the permittee, his agents, servants, employees, workers, contractors or subcontractors, and that the permittee will in all respects comply with the ordinances of the city in regard to the moving of buildings or structures and to the use or obstruction of the streets and other public places of the city.

Cross Reference: See Fee Schedule, Appendix 2, for applicable fees.

SECTION 5-226      DENIAL OF PERMIT.

- A. The city shall refuse to issue a permit if:
1. Any application requirement has not been complied with;
  2. The building is too large to move without endangering persons or property in the city;
  3. The building is in such a state of deterioration or disrepair or is otherwise so structurally unsafe that it could not be moved without endangering persons and property in the city;
  4. The building is structurally unsafe or unfit for the purpose for which moved, if the removal location is in the city;
  5. Zoning or other ordinances would be violated by the building in its new location; or
  6. The building is not of a similar structure as houses in the immediate area.
- B. If any mover, his agents or employees, shall, while acting within the scope of this chapter, damage or destroy any public or private property and fail or refuse to repair, renew or pay for the same, or shall fail or refuse to pay for the expense of the raising, cutting or repair of any electric wire or cable or the removal and replacement of any pole bearing the same as required by the terms of this chapter, a written claim containing a statement of such damages or expense may be filed with the building official who shall investigate the same. If the building official finds the same to be just and reasonable, no further permits within the scope of this chapter shall be issued to such mover until the claim is satisfied. Denial of such permit may be appealed to the city council by filing a notice of appeal with the building official and city clerk within ten (10) days of the day

of denial.

SECTION 5-227      INTERFERENCE WITH TREES AND FIXTURES.

No tree on any street shall be removed or the branches of any tree be cut or trimmed in order to facilitate the moving of any building, except with the consent and under the supervision of the city. No fixture on any street or alley shall be removed, displaced or otherwise interfered with to facilitate the moving of any building except with the consent and under the supervision of the building official.

SECTION 5-228      INTERFERENCE WITH POLES AND WIRES.

Whenever for the purpose of facilitating the moving of any building or structure it is necessary to raise or cut any telephone or telegraph wire or cable or any electric wire, or move any pole bearing any such wire or cable, it is the duty of the mover having charge of the moving of such building or structure to give the person owning or operating the poles, wires or cables at least twenty-four-hours notice of the time and place when and where the removal of such poles or the raising or cutting of such wires or cables will be necessary. After the service of the twenty-four-hour notice, it is the duty of the person owning or operating the poles, wires or cables to furnish competent workers or linemen to remove such poles or raise or cut such wires or cables. The regular wages of the workers or linemen while engaged at such work shall be paid by such movers. No mover shall raise, cut or move any such pole, wire or cable unless the persons or authorities owning or having control of the same fail or refuse to do so after such notice. Only competent workers or linemen shall be employed in such work, and the same shall be done in a careful and workmanlike manner, and the poles, wires and cables promptly replaced and damages thereto promptly repaired at the expense of such mover.

SECTION 5-229      SAFETY PRECAUTIONS AND PROTECTION OF PROPERTY.

No building or structure shall be allowed to remain at a standstill in any public street or other public place for a longer period than twenty-four (24) hours without the consent in writing of the building official. When any building or structure is left in any street at night, two (2) or more approved warning lights or signals shall be conspicuously posted at each end of such building or structure so as to give warning in both directions of the street. All other obstructions left in the street shall be safeguarded by similar lights or signals. All such lights and signals shall be in good working order when posted, and shall be securely placed in position. No such building or structure or other obstruction shall be left standing at night in any street intersection. The chief of the fire department and chief of police shall be notified of the location of any such building or structure left standing in the street at night. When necessary to protect pavement or sidewalk, plank of sufficient size and thickness to prevent injury to such pavement or sidewalk shall be laid for the wheels of the moving trucks to travel on. The building official shall have the power to require the use of other precautionary measures than those specifically mentioned in this chapter when necessary or proper to protect life, limb or property.

SECTION 5-230      TIME LIMIT.

## Building Regulations and Codes

At the time of application for a moving permit, it is the duty of the mover of the building or structure to estimate the reasonable time required for the moving of the building from its present location to its proposed location. He shall state in his application for a permit what the applicant deems to be such reasonable time. The route and time allowed for the moving of the building shall be determined and fixed by the city manager. The permit shall especially provide that the building shall be moved within a certain number of days, from the time any part of the street is used for the moving of same, cleared from any and all of the streets of the city within a specified number of days specified therein, Sundays and holidays excepted. The mover shall bind himself to pay the sum as set by the city per day for each and every day all or any part of the building or structure remains on the street in excess of the number of days allowed in the permit, and his cash deposit shall, in addition to his bond, be secondarily liable for the payment of the amount. Nothing but an act of God shall be a defense against the payment of these sums.

Building Regulations and Codes

CHAPTER 3  
PLUMBING CODE AND REGULATIONS

ARTICLE A

GENERAL PROVISIONS

Section 5-301	Plumbing code adopted.
Section 5-302	Amendments to the plumbing code.
Section 5-303	Administration.

ARTICLE B

PLUMBERS' REGISTRATION

Section 5-311	Definitions.
Section 5-312	License and registration required; regulations.
Section 5-313	Registration fee, surety bond.
Section 5-314	Issuance of plumbers' registration certificates.

SECTION 5-301      PLUMBING CODE ADOPTED.

For the purpose of prescribing regulations for the protection of the public health and safety, there is hereby adopted by reference that certain code recommended by the Building Officials and Code Administrators International, Inc., and known as the BOCA National Plumbing Code, being particularly the latest edition thereof (1990), and the whole thereof, save and except such portions as are hereinafter deleted, modified or amended, of which code not less than one copy has been and is now on file in the office of the clerk. The provisions of the BOCA National Plumbing Code, latest edition, herein adopted shall apply to all new construction, relocated buildings, and alterations, repairs or reconstruction, except as provided for otherwise in this code. (Prior Code, Sec. 4-9, as amended)

State Law Reference: Power of city to adopt codes, 11 O.S. Sec. 14-107 and 59 O.S. Secs. 1015, 1020; Plumbers and plumbing generally, 59 O.S. Sec. 1001 et seq.

SECTION 5-302      AMENDMENTS TO THE PLUMBING CODE.

The following additions, insertions and changes are adopted to the plumbing code:

1. Section P-100.1 (page 1, second line). Insert: City of Atoka;
2. Section P-114.2 (page 8, third line). Insert: Fee schedule adopted by the city for inspections;
3. Section P-117.4 (page 9, fifth, sixth and seventh lines). Insert: "Offense, punishable as provided in Section 1-108 of the city's code of ordinances";

## Building Regulations and Codes

4. Section P-118.2 (page 10, fifth line). Insert: “Fine as provided in Section 1-108 of the city’s code of ordinances”;
5. Section P-303.2 (page 26, third line). Insert: “within one hundred fifty feet of water service or two hundred feet of sewer service”;
6. Section P-308.3 (page 27, second line). Insert: “eighteen (18) inches;
7. Section P-308.4 (page 27, second and fourth lines). Insert: “twenty-four (24) inches” in both locations. (Prior Code, Sec. 4-9, 4-10 as amended)

### SECTION 5-303      ADMINISTRATION.

The administration and enforcement of this chapter shall be the responsibility of the plumbing official who shall be the building official, or his designee, unless another official is appointed.

## ARTICLE B

### PLUMBERS’ REGISTRATION

### SECTION 5-311      DEFINITIONS.

As used herein:

1. “Apprentice or plumber’s apprentice” means any person sixteen (16) years of age or over who is engaged in learning and assisting in the installation of plumbing under the direct supervision of a licensed journeyman plumber or plumbing contractor;
2. “Journeyman plumber” means any person who performs the manual work of installing plumbing under the direction of a master plumber or plumbing contractor. This definition may be construed to mean any person who has qualified and is licensed under the Oklahoma State Plumbing Licensing Law to act as a journeyman plumber according to the requirements of the Oklahoma State Plumbing Licensing Law; and
3. “Plumbing contractor” means any person skilled in the planning, superintending and practical installation of plumbing and is familiar with the laws, rules and regulations governing the same. This definition may be construed to mean any person who has qualified and is licensed under the Oklahoma State Plumbing Licensing Law, who may operate as an individual, a firm, partnership or corporation to engage in the business of plumbing, or the business of contracting to do, or furnish labor or labor and materials for, the installation, repair, maintenance or renovation of plumbing, according to the requirements of the Oklahoma State Plumbing Licensing Law.

State Law Reference: State plumbing licensing law, 59 O.S. Secs. 1001 et seq.

### SECTION 5-312      LICENSE AND REGISTRATION REQUIRED; REGULATIONS.

## Building Regulations and Codes

A. No person shall conduct, carry on or engage in the business of plumbing or act in the capacity of a plumbing contractor within the city without first having had issued to him a valid and unrevoked plumbing contractor's license by the Oklahoma State Health Department and a current plumbing contractor's registration certificate issued by the city.

B. No person shall labor at the trade of plumbing in the capacity of a journeyman plumber within the city without first having had issued to him a valid and unrevoked journeyman plumber's license by the Oklahoma State Health Department and a current journeyman plumber's registration certificate issued by the city.

C. No person shall labor at the trade of plumbing in the capacity of an apprentice plumber within the city without first having had issued to him a valid and unrevoked apprentice plumber registration certificate by the Oklahoma State Health Department and a current apprentice plumber registration certificate issued to him by the city.

D. This section shall not apply to the owner of a single-family dwelling performing necessary repairs, additions or alterations to plumbing of such dwelling, excluding any work on connections to meters or mains or work within a public easement or right of way. (Prior Code, Sec. 4-10)

Cross Reference: See Fee Schedule, Appendix 2, for applicable fees.

### SECTION 5-313      REGISTRATION FEE, SURETY BOND.

A. Every person applying for a city plumber's certificate shall, upon acceptance of his qualifications by the city at the time he makes such application, pay to the city the fees as provided in the fee schedule.

B. Before a certificate of registration is issued to and before engaging in the plumbing business within the city and annually thereafter on or before the renewal of the certificate, a plumbing contractor shall have in force a bond as required by state law in such sum as required by state law.

C. Any contractor who refers to the above-mentioned bond in an advertisement and infers that the public is protected by such bond shall be guilty of an offense.

### SECTION 5-314      ISSUANCE OF PLUMBERS' REGISTRATION CERTIFICATES.

The city shall issue plumbing certificates of registration pursuant to the following provisions:

1. A plumbing contractor's certificate shall be issued to every person who makes application for such certificate, pays the required fee, and presents a valid, unrevoked license issued by the Oklahoma State Health Department for contractor status. The applicant shall also post the required bond with the city;

## Building Regulations and Codes

2. A journeyman plumber's certificate shall be issued to every person who makes application for such certificate, pays the required fee, and presents a valid, unrevoked license issued by the Oklahoma State Health Department for journeyman status; and

3. An apprentice plumber's certificate shall be issued to every person who makes application for such certificate, pays the required fee, and presents a valid, unrevoked license issued by the Oklahoma State Department of Health for apprentice plumber status.



Building Regulations and Codes

CHAPTER 4

ELECTRIC CODE

ARTICLE A

GENERAL PROVISIONS

Section 5-401	Adoption of National Electrical Code.
Section 5-402	Provisions declared to be minimum requirements.
Section 5-403	Underwriter's Laboratories, Inc.
Section 5-404	Not to be concealed before inspection, inspection of roughed-in work.
Section 5-405	Permits; denial of permit; certificate of inspection, utility companies.

ARTICLE B

ELECTRICAL CONTRACTORS AND ELECTRICIANS REGISTRATION

Section 5-421	Definitions.
Section 5-422	Registration required.
Section 5-423	Classification of registration certificate.
Section 5-424	Registration fee, annual renewal fee.
Section 5-425	Bond for electrical contractors.
Section 5-426	Journeyman electrician's registration certificate.
Section 5-427	Electrical apprentice's registration certificate.

ARTICLE A

GENERAL PROVISIONS

SECTION 5-401      ADOPTION OF NATIONAL ELECTRICAL CODE.

For the purposes of establishing basic minimum requirements necessary for safety in the use of electricity, and of prescribing rules and regulations governing the installation of electrical wiring and appliances within the city, there is hereby adopted that certain code known as the National Electrical Code, being particularly the latest edition thereof and the whole thereof, save and except such provisions as are hereinafter deleted, modified or amended, of which code not less than one copy has been and now is filed in the office of the clerk. The electrical code is hereby incorporated as fully as if set out at length herein. (Prior Code, Sec. 4-17, 4-21 to 4-23)

State Law Reference: Power of city to adopt electrical code, 11 O.S. Sec. 14-107; Electrical license and requirements of state, 59 O.S. Secs. 1680 et seq.; state adoption of National Electrical Code, 59 O.S. Sec. 1696.

SECTION 5-402      PROVISIONS DECLARED TO BE MINIMUM REQUIREMENTS.

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The provisions of the National Electrical Code, latest edition, in their interpretation and application shall be held to be minimum requirements adopted for the promotion of public health, safety and general welfare. Wherever any of the provisions or requirements of the National Electrical Code are inconsistent with the provisions of the city code or state statutes presently existing or enacted in the future, the provisions or requirements containing the most restrictive regulation shall apply and govern.

### SECTION 5-403      UNDERWRITER'S LABORATORIES, INC.

All electrical equipment installed or used shall be in conformity with the provisions of this chapter, the statutes of the state, and any orders, rules and regulations issued by authority thereof, and with approved electrical standards for safety to persons or to property. Unless by this chapter, state law or otherwise, a specific type or class of electrical equipment is disapproved for installation and use, conformity with the standards or the Underwriter's Laboratories, Inc., shall be prima facie evidence of conformity with approved standards for safety to persons or to property. (Prior Code, Sec. 4-18)

### SECTION 5-404      NOT TO BE CONCEALED BEFORE INSPECTION, INSPECTION OF ROUGHED IN WORK.

A. It is unlawful for any person to conceal or cause to be concealed any electrical equipment used for electrical light, heat or power until the installation has been approved by the electrical inspector. A tag in the switch cabinet or attached to the service equipment properly signed and dated, so stating, will be sufficient notice.

B. In making inspection of new work "rough-in", the electrical inspector shall leave a tag in the cabinet plainly stating whether the work has been approved and is ready to conceal, or that work is not standards and must not be covered until approved by the electrical inspector.

C. It is unlawful for any person to conceal or cause to be concealed any electrical conductors used for electric lights, heat or power until such time as he knows the work has been approved by the electrical inspector. A tag in the cabinet properly signed and dated so stating the inspector's approval will be sufficient notice. (Prior Code, Secs. 4-28 to 4-30)

### SECTION 5-405      PERMITS; DENIAL OF PERMIT; CERTIFICATE OF INSPECTION, UTILITY COMPANIES.

A. The electrical inspector shall have and is hereby given the authority to refuse to issue a permit for the installation of electrical facilities in or on any building when, in his estimation, the wiring done or proposed to be done is unsafe or not in accordance with the provisions of this chapter. If after a permit is issued the work installed under such permit for any reason does not comply with the regulations of this chapter, the inspector shall refuse to issue a certificate of inspection.

B. No electric light or power company shall connect to any electrical facilities of any kind whatsoever until furnished with a certificate of inspection or a permit for such connection

## Building Regulations and Codes

duly executed by the electrical inspector. All electric light or power companies, whether operating under a regular franchise granted by the city or not, shall, upon written notice from the electrical inspector, disconnect from any circuit or service designated by the notice from the inspector.

C. The electrical inspector shall enforce all the provisions of this chapter whenever he shall be notified by any citizen of any violation of this chapter or of the existence of any dangerous or defective electrical facilities, he shall make an investigation thereof without delay.

D. Whenever any electrical facilities are found by the electrical inspector to be unsafe or defective or in an insecure condition, he shall notify the owner or person in control thereof, in writing, to repair or remove the defective facilities, and upon such person's failure to repair or remove same within such time as the inspector may deem necessary, which time shall be stated in such notice, the inspector shall cause the service connected to such facilities to be discontinued.

E. The inspector may require all structures and electrical equipment to be inspected annually in the city's fire zone. (Prior Code, Sec. 4-31, in part)

### ARTICLE B

#### ELECTRICAL CONTRACTORS AND ELECTRICIANS REGISTRATION

##### SECTION 5-421      DEFINITIONS.

As used in this chapter:

1. "Administrative authority" or "electrical inspector" means the electrical inspector, or the building official or his designee if no electrical inspector is appointed;

2. "Electrical apprentice" means any person sixteen (16) years of age or older whose principal occupation is the learning of and assisting in the installation of electrical work under the direct supervision of a licensed journeyman electrician or electrical contractor. Each apprentice shall be in possession of a valid electrical apprentice license issued by the state;

3. "Electrical contractor" means any person skilled in the planning, superintending and practical installation of electrical facilities who is familiar with the laws, rules and regulations governing such work. "Electrical contractor" also means any individual, firm, partnership, corporation or business performing skills of an electrical contractor, of an electrician or the business of contracting or furnishing labor or labor and materials for the installation, repair, maintenance or renovation of electrical facilities according to the provisions of the Electrical License Act, Sections 1680 et seq. of Title 59 of the Oklahoma Statutes. Each electrical contractor shall be in possession of a valid electrical contractor license issued by the state;

4. "Electrical facilities" means all wiring, fixtures, apparatus, appurtenances and appliances for and in connection with a supply of electricity within or adjacent to any building, structure or conveyance on the premises but not including the connection with a power supply meter or other power supply source;

## Building Regulations and Codes

5. “Electrical sign contractor” means any person engaged in the business of manufacturing, assembling, wiring, rewiring, installing, erecting, repairing or altering interior or exterior electric signs;

6. “Electrician” means any person engaged in electrical wiring in the city as defined in this chapter; and

7. “Journeyman electrician” means any person other than an electrical contractor who engages in the actual installation, alteration, repair or renovation of electrical facilities unless specifically exempted by the provisions of the Electrical License Act. Each journeyman electrician shall be in possession of a valid electrical contractor license issued by the state.

### SECTION 5-422      REGISTRATION REQUIRED.

A. No person shall conduct, carry on or engage in the business of electrical installation, maintaining, altering or repairing any wiring, fixtures or equipment for the conducting of electrical current or act in the capacity of an electrical contractor without first having issued to him a valid and unrevoked electrical contractor’s license by the Oklahoma State Health Department and an electrical contractor’s registration certificate issued by the city.

B. No person shall labor at the trade of electrician in the capacity of a journeyman electrician within the city without first having had issued to him a valid and unrevoked journeyman electrician’s license issued by the Oklahoma State Health Department and a journeyman electrician’s registration certificate issued by the city.

C. No person shall labor at the trade of electrician in the capacity of an electrical apprentice within the city without first having had issued to him a valid and unrevoked apprentice electrician registration certificate by the Oklahoma State Health Department and an apprentice electrician certificate issued to him by the city. (Prior Code, Sec. 4-24, in part)

Cross Reference: See Fee Schedule, Appendix 2, for applicable fees.

State Law Reference: Electrical licensing act, 59 O.S. Secs. 1680 et seq.

### SECTION 5-423      CLASSIFICATION OF REGISTRATION CERTIFICATE.

There shall be three (3) classes of electrical registration certificates, which shall be known as follows:

1. Electrical contractor;
2. Journeyman electrician; and
3. Electrical apprentice.

### SECTION 5-424      REGISTRATION FEE, ANNUAL RENEWAL FEE.

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A. The registration and renewal fees and bond requirements of electrical contractors, journeyman electricians and electrical apprentices shall be as provided in the fee and bond schedules.

B. Every person applying for an electrical registration certificate shall, upon acceptance of his qualifications by the city, at the time he makes such application, pay to the city the fees as provided in the fees schedule and post bond as required in this chapter.

C. Applicants for registration shall pay to the city the required registration fees. The fees shall be paid after all requirements are met.

D. Annual renewal of registration certificates shall be accomplished by payment of the renewal fees as provided herein. A receipt and registration certificate for the appropriate year shall be issued by the city upon payment of annual renewal fees. The registration number shall remain the same each year.

E. A registration certificate shall be issued to the person named on the certificate who shall be known as the holder of the certificate.

F. A registration certificate shall expire annually.

G. Renewal applications and fees must be received by the city prior to the expiration of the certificate or else the applicant must proceed in the manner required of a new or initial applicant.

H. This section shall not require a license or registration for installation of bell, telephone or signal systems not using over twelve (12) votes. The installation, however, must comply with the requirements of this chapter. (Prior Code, Sec. 4-24, in part)

### SECTION 5-425      BOND FOR ELECTRICAL CONTRACTORS.

Each electrical contractor registered under this code shall be required to keep in force during the life of his registration certificate a surety bond as required by state law, in such sum as required by state law. (Prior Code, Sec. 4-25)

### SECTION 5-426      JOURNEYMAN ELECTRICIAN'S REGISTRATION CERTIFICATE.

A. No person shall work as a journeyman electrician unless he holds a valid unrevoked license and registration certificate as provided for herein. No journeyman electrician shall perform any electrical wiring installation except through a licensed and registered electrical contractor and shall perform all installations, alterations and repairs of electrical wiring, fixtures and equipment in accordance with this code.

B. A journeyman electrician's registration certificate shall be issued only to an individual and shall not be transferable or assignable.

## Building Regulations and Codes

C. No person shall allow the use of his journeyman electrician's registration certificate, whether directly or indirectly, by any other person for any purpose.

### SECTION 5-427      ELECTRICAL APPRENTICE'S REGISTRATION CERTIFICATE.

A. No person shall act or serve as an electrical apprentice as herein defined for more than ten (10) days before he shall have been issued an electrical apprentice's registration certificate.

B. No electrical apprentice shall permit the use of his registration certificate, either directly or indirectly, by any other person for any purpose.

C. Under no circumstances shall an electrical apprentice perform any duty or phase of electrical installation unless a journeyman electrician or electrical contractor is on the project during such installation and such electrical apprentice is directly supervised by a journeyman electrician or electrical contractor.

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CHAPTER 5  
MECHANICAL CODE

ARTICLE A

GENERAL PROVISIONS

- Section 5-501 Adoption of BOCA National Mechanical Code.
- Section 5-502 Amendments to the Mechanical Code.
- Section 5-503 Provisions declared to be minimum requirements.

ARTICLE B

REGISTRATION

- Section 5-511 Definitions.
- Section 5-512 License and registration required.
- Section 5-513 Registration fee, surety bond.
- Section 5-514 Issuance of registration certificates.

SECTION 5-501      ADOPTION OF BOCA NATIONAL MECHANICAL CODE.

A. There is hereby adopted by reference that certain code known as the BOCA National Mechanical Code, latest edition (1990), and the whole thereof, save and except such portions as are hereinafter deleted, modified or amended of which code not less than one copy has been and is now on file in the office of the city clerk. The mechanical code is hereby adopted and incorporated as if set out at length herein and shall be incorporated and considered as a part of this code.

B. The provisions of the Underwriters Laboratories Inc. as to mechanical equipment and appliances, fuel supply, combustion air, chimneys and vents, duct and piping, kitchen exhaust, ventilation and energy conservation as may hereafter take place will be the standards applicable in the city.

State Law Reference: State Mechanical Licensing Act, 59 O.S. 1850.1 et seq.

SECTION 5-502      AMENDMENTS TO THE MECHANICAL CODE.

A. The code adopted in this article shall be known and cited as the city's mechanical code. All persons shall comply with the provisions of the code.

B. The following sections are hereby revised as follows:

1. M-100.1 Title. Insert: "City of Atoka";
3. Section M-114.2 Insert: "Fee in accordance with city fee schedule";

## Building Regulations and Codes

4. Section M-114.3 Fee Schedule: Insert: As provided in the city's fee schedule;
5. Section M-117.4 Penalties: Insert: Refer to city code, Section 1-108 General Penalty; continuing violations);
6. Section M-118.2 Unlawful continuance: Insert: Not less than \$ 25.00 and not more than Two Hundred Dollars (\$200.00).

Cross Reference: See also Section 5-701 et seq of this code on adoption of National Fuel Gas Code.

### SECTION 5-503      PROVISIONS DECLARED TO BE MINIMUM REQUIREMENTS.

The provisions of the BOCA National Mechanical Code, latest Edition, in their interpretation and application shall be held to be minimum requirements adopted for the promotion of public health, safety and general welfare. Wherever any of the provisions or requirements of this code are inconsistent with the provisions of the city code or state statutes presently existing or enacted in the future, the provisions or requirements containing the most restrictive regulation shall apply and govern.

## ARTICLE B

### REGISTRATION

#### SECTION 5-511      DEFINITIONS.

As used herein, the following terms shall have the meanings respectively ascribed to them in this section:

1. "Apprentice" or "mechanical apprentice" means any person sixteen (16) years of age or older whose principal occupation is learning mechanical work on the job under the direct supervision of a journeyman or contractor;
2. "Mechanical contractor" or "contractor" means any person engaged in the business of planning, contracting, supervising or furnishing labor or labor and materials for mechanical work;
3. "Mechanical journeyman" or "journeyman" means any person other than a contractor or apprentice who engages in mechanical work; and
4. "Mechanical work" means the installation, maintenance, repair, or renovation, in whole or in part, of any heating system, cooling system, mechanical refrigeration system or ventilation system or any equipment or material including process piping used in the installation, maintenance, repair, or renovation of such systems; provided that minor repairs are excluded.

State Law Reference: State Mechanical License Act, 59 O.S. Secs. 1850.1 et seq.



SECTION 5-512      LICENSE AND REGISTRATION REQUIRED.

A. No person shall conduct, carry on or engage in the business of mechanical work or act in the capacity of a mechanical contractor within the city without first having had issued to him a valid and unrevoked mechanical contractor's license by the Oklahoma State Health Department and a current mechanical contractor's registration certificate issued by the city.

B. No person shall labor at the trade of mechanical work in the capacity of a mechanical journeyman within the city without first having had issued to him a valid and unrevoked mechanical journeyman's license by the Oklahoma State Health Department and a current mechanical journeyman registration certificate issued by the city.

C. No person shall labor at the trade of mechanical work in the capacity of a mechanical apprentice within the city without first having had issued to him a valid and unrevoked mechanical apprentice registration certificate by the Oklahoma State Health Department and a current mechanical apprentice registration certificate issued to him by the city.

D. Any city certificate of registration issued to an applicant shall be issued only in the same category as the state license possessed by the applicant. It shall further be subject to all limitations, conditions or restrictions imposed on the state license possessed by the applicant. The category of the city certificate of registration shall be indicated on the face of the certificate. The categories for certificates of registration shall be the following:

1. Unlimited mechanical air conditioning contractor;
2. Limited mechanical air conditioning contractor;
3. Unlimited heating contractor;
4. Limited heating contractor;
5. Refrigeration contractor;
6. Sheet metal contractor;
7. Natural gas piping contractor;
8. Unlimited mechanical air conditioning journeyman;
9. Limited mechanical air conditioning journeyman;
10. Unlimited heating journeyman;
11. Limited heating journeyman;
12. Refrigeration journeyman;

## Building Regulations and Codes

13. Sheet metal journeyman; and
14. Natural gas piping journeyman.

These categories shall have the same meanings ascribed to them by state law and regulations.

E. Unless sooner revoked or suspended as provided for by this chapter, the city certificate of registration shall be for a term of one year from issuance and may be renewed upon expiration in the same manner as originally obtained. All registrations shall expire on the last day of August of each calendar year.

F. A certificate of registration issued to a mechanical contractor or journeyman shall authorize the certificate holder to perform mechanical work only as authorized by state law and regulations adopted pursuant thereto. All mechanical work performed by a mechanical contractor or journeyman shall be strictly limited to the category or categories in which such contractor or journeyman is licensed by the state and registered with the city.

G. This section shall not apply to the owner of a single family residential dwelling performing necessary repairs, additions or alterations to the heat and air or gas service to such dwelling, excluding any work on connections to meters or mains, work within a public easement or right of way.

Cross Reference: See Fee Schedule, Appendix 2, for applicable fees.

### SECTION 5-513 REGISTRATION FEE, SURETY BOND.

A. Every person applying for a city mechanical certificate shall, upon acceptance of his qualifications by the city at the time he makes such application, pay to the city the fees as provided in the fee schedule.

B. Before a certificate of registration is issued to and before engaging in mechanical work within the city and annually thereafter on or before the renewal of the certificate, a mechanical contractor shall keep in force for the ensuing year a bond as required by state law, in such sum as required by state law.

C. Any contractor who refers to the above-mentioned bond in an advertisement and infers that the public is protected by such bond shall be guilty of an offense.

### SECTION 5-514 ISSUANCE OF REGISTRATION CERTIFICATES.

The city shall issue mechanical certificates of registration pursuant to the following provisions:

1. A mechanical contractor's certificate shall be issued to every person who makes application for such certificate, pays the required fee, and presents a valid, unrevoked license

## Building Regulations and Codes

issued by the Oklahoma State Health Department for contractor status. The applicant shall also post the required bond with the city;

2. A mechanical journeyman's certificate shall be issued to every person who makes application for such certificate, pays the required fee, and presents a valid, unrevoked license issued by the Oklahoma State Health Department for journeyman status; and

3. A mechanical apprentice certificate shall be issued to every person who makes application for such certificate, pays the required fee, and presents a valid, unrevoked license issued by the Oklahoma State Department of Health for apprentice status.

# Building Regulations and Codes

## CHAPTER 6

### LIQUEFIED PETROLEUM GAS

Section 5-601 Liquefied petroleum gas code adopted.

SECTION 5-601 LIQUEFIED PETROLEUM GAS CODE ADOPTED.

A. Pamphlet No. 58, Storage and Handling of Liquefied Petroleum Gases, issued by the National Fire Protection Association, the latest edition thereof, is hereby adopted and incorporated herein by reference to govern liquefied petroleum gas.

B. It is unlawful for any person to manufacture, fabricate, assemble, install or repair any system, container, apparatus or appliance to be used for the transportation, storage, dispensing or utilization of liquefied petroleum gas, or to transport, handle, store such gas, unless such person shall comply with all the provisions of state law and this chapter.

C. All persons, firms, corporations or government entities which own or operate underground flammable or combustible liquid tanks and associated underground piping shall test the tanks and piping for tightness at least once per year. The test shall be witnessed and certified by the fire department. The test shall consist of five (5) pounds per square inch of pressure put on the tank and piping for a period of thirty (30) minutes. Any reduction of tank contents or loss of air pressure experienced during the test shall constitute test failure. The fire department shall then order the tank emptied and associated equipment shut down, until such time as the faulty equipment is repaired or replaced and retested. (Prior Code, Sec. 4-14)

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CHAPTER 7

GAS CODE

Section 5-701 Minimum standards for the installation of gas piping and gas appliances adopted.

SECTION 5-701 MINIMUM STANDARDS FOR THE INSTALLATION OF GAS PIPING AND GAS APPLIANCES ADOPTED.

A. There is hereby adopted as minimum standards for the installation of gas piping and gas appliances on consumer's premises. The National Fuel Gas Code Pamphlet No. 54, issued by the National Fire Protection Agency, as contained and set forth in the printed publication thereof.

B. All gas appliances or gas pipes to be utilized in connection therewith that are hereafter sold, installed, maintained or repaired in buildings or on premises as set forth herein, shall conform to the standards, provisions and requirements contained in such printed publication. (Prior Code, Sec. 4-12, in part)

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## CHAPTER 8

### FAIR HOUSING

Section 5-801	Purposes and construction.
Section 5-802	Housing discrimination acts prohibited.
Section 5-803	Exemptions.
Section 5-804	Fair housing board created.
Section 5-805	Duties of fair housing board.
Section 5-806	Procedure for complaints.
Section 5-807	Notices.
Section 5-808	Severability
Section 5-809	Penalty.

#### SECTION 5-801      PURPOSES AND CONSTRUCTION.

The general purposes of this chapter are:

- A. To secure for all people equal access to housing in all neighborhoods; and
- B. To preserve the public safety, health and welfare. (Prior Code, Sec. 13-1, in part)

#### SECTION 5-802      HOUSING DISCRIMINATION ACTS PROHIBITED.

It is unlawful for any person, real estate broker, real estate salesperson, or corporation:

- A. To 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, sex, religion, handicap, family status or national origin;
- B. To 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, sex, religion, handicap, family status or national origin;
- C. To 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, sex, religion, handicap, family status, or national origin, 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 material or making statements designed to induce a residential property owner to sell or lease his property due to such change in neighborhood; or

## Building Regulations and Codes

D. To file a complaint alleging a violation of this chapter, 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.

Nothing herein shall apply to:

A. Any religious organization, association, society or private club; a religious nonprofit organization, operated, supervised or controlled by or in conjunction with a religious organization, association, or society from limiting the sale or rental of dwelling units owned and operated for other than a commercial purpose.

B. Any single-family house sold or rented by an owner, provided that such private individual owner does not own more than three (3) such single family houses and was not the most recent resident of such house prior to such sale with the exception granted to one such sale within a twenty-four (24) month period; provided further that such owner does not own or retain in his behalf title to a portion of the proceeds from the sale or rental of more than three (3) such single family houses at any one time; provided further that such sale or rental of such single family house shall be excepted if such house is sold or rented without the use in any manner of a sale or rental facilities or employee thereof; or

C. Any dwellings containing living quarters occupied or intended to be occupied by no more than four (4) families living independent of each other and the owner actually occupies one such living quarter as his residence.

### SECTION 5-804      FAIR HOUSING BOARD CREATED.

There is hereby created a Fair Housing Board of the City of Atoka, hereinafter referred to as "Board," composed of the members of the City Council.

### SECTION 5-805      DUTIES OF FAIR HOUSING BOARD.

It shall be the duty of the Fair Housing Board to:

1. Initiate, receive, and investigate complaints, charging unlawful housing practices;
2. Seek conciliation of such complaints, hold hearings, make findings of fact, and publish its findings of fact; and
3. Adopt such rules and regulations as may be necessary within the limits of this chapter, and carry out the purposes and provisions of this chapter.

### SECTION 5-806      PROCEDURE FOR COMPLAINTS.

A. Any person aggrieved by discriminatory practice prohibited by this chapter may file

## Building Regulations and Codes

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 (30) days after the alleged violation, and failure to file within the 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 the Board takes no action within ninety (90) days of the filing of the complaint, it shall be considered as dismissed.

C. If conference or conciliation does not result in compliance with this chapter, the Board shall cause to be issued and served in the name of the City of Atoka, 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. If the Board finds at said 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 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 5-807      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.

### SECTION 5-808      SEVERABILITY

If any provisions of this chapter, or the application thereof, to any person or circumstances, is held invalid by Court of Competent jurisdiction, the invalidity shall not effect other provisions of



## Building Regulations and Codes

application of the ordinance which can be given effect without the invalid provision or application, a to this end, the provisions of this chapter are severable.

### SECTION 5-809      PENALTY.

It shall be unlawful and constitute an offense for any person to violate any of the provisions of this chapter. Any person found guilty of violating any provisions shall be deemed guilty of an offense, and is subject, upon conviction, to a fine of not more than \$100.00 including costs, and each day that an act or omission is continued, shall constitute a violation of this ordinance, and be constructed as a separate offense.

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CHAPTER 9

(RESERVED)

## Building Regulations and Codes

### CHAPTER 10

#### FIRE, STRUCTURE, CONSTRUCTION, AND RELATED SAFETY CODES

- Section 5-1001 General Definitions
- Section 5-1002 Superseding Application
- Section 5-1003 Certain ICC Code Provisions Superseded by Specific Provisions of this Chapter.
- Section 5-1004 Adoption of an ICC Code not deemed to be automatic adoption of all Appendices thereof
- Section 5-1005 Copies of Adopted ICC Codes to be maintained; at least one to be made available for outside use - Security Deposit Required - Application of Deposit
- Section 5-1006 Savings Provision
- Section 5-1007 “Current Edition” – Definition and Application
- Section 5-1008 Automatic Adoption of the Current Edition of Each ICC Code Adopted By the City Of Atoka; Certificate of Application; Notice and Effective Dates; Limitations
- Section 5-1009 Errors, Omissions, Conflicts, Ambiguities and Related Matters – Directives of the City Manager; Subsequent Council Action
- Section 5-1010 Fee Schedules
- Section 5-1011 Base (Existing) Fee Schedules
- Section 5-1012 to
- Section 5-1019 Reserved
- Section 5-1020 Penalties for Code Violations
- Section 5-1021 Penalty Amounts limited by State Law – Bail Amounts
- Section 5-1022 General Penalty Provision
- Section 5-1023 Penalty Provisions relating to certain cease and desist circumstances
- Section 5-1024 Penalty Provisions relating to certain other violations of certain Code Provisions.
- Section 5-1025 to
- Section 5-1029 Reserved
- Section 5-1030 Appeals; Unitization, Procedures
- Section 5-1031 Board of Appeals – general; membership; appointment and vacancies; desired qualifications.
- Section 5-1032 Board of Appeals – desired qualifications.
- Section 5-1033 Ex-Officio and alternate members.
- Section 5-1034 Chairman of the Board; alternative authority; majority votes; Secretary of the Board; other officials; rules of procedures
- Section 5-1035 Hearings - Appeals.
- Section 5-1036 Decision binding – exceptions.
- Section 5-1037 to
- Section 5-1049 Reserved
- Section 5-1050 IFC defined.
- Section 5-1051 IFC adopted; exceptions.
- Section 5-1052 Included Appendices adopted.
- Section 5-1053 Modifications and/or specifications.

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Section 5-1054 to  
Section 5-1059 Reserved  
Section 5-1060 IEBC defined.  
Section 5-1061 IEBC adopted; exceptions.  
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Section 5-1063 Modifications and/or specifications.  
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Section 5-1069 Reserved  
Section 5-1070 IBC Defined.  
Section 5-1071 IBC adopted; exceptions.  
Section 5-1072 Included Appendices adopted.  
Section 5-1073 Modifications and/or specifications.  
Section 5-1074 to  
Section 5-1079 Reserved  
Section 5-1080 IRC defined.  
Section 5-1081 IRC adopted; exceptions.  
Section 5-1082 Included Appendices adopted.  
Section 5-1083 Modifications and/or specifications.  
Section 5-1084 to  
Section 5-1089 Reserved  
Section 5-1090 IECAP defined.  
Section 5-1091 IECAP adopted; exceptions.  
Section 5-1092 Included Appendices adopted.  
Section 5-1093 Modifications and/or specifications.  
Section 5-1094 to  
Section 5-1099 Reserved  
Section 5-1100 IPC defined.  
Section 5-1101 IPC adopted; exceptions.  
Section 5-1102 Included Appendices adopted.  
Section 5-1103 Modifications and/or specifications.  
Section 5-1104 to  
Section 5-1109 Reserved  
Section 5-1110 IPSDC defined.  
Section 5-1111 IPSDC adopted; exceptions.  
Section 5-1112 Included Appendices adopted.  
Section 5-1113 Modifications and/or specifications.  
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### SECTION 5-1001    GENERAL DEFINITIONS:

1. As used in this Chapter 10, the following terms, phrases or expressions (and multiples, singles or other derivatives thereof) shall be deemed, construed and/or interpreted as having the meanings as hereinbelow designated:

- a. “ICC” means: the International Code Council;
- b. “ICC Code Enforcement Officer”: means:

1. as to the IFC (International Fire Code) - the Atoka Fire Inspector, or other person(s) (including the City Manager) designated by the City Manager and/or the City Council to serve as such; and

2. as to all other ICC Codes, means: the Atoka Code Enforcement Officer, or other person(s) (including the City Manager) designated by the City Manager and/or the City Council to serve as such;

c. “ICC Codes” means: any one or more of the following identified Fire, Structure, Construction or Related Safety Codes established by the ICC which have been or are hereinafter adopted by the City of Atoka; including (but not limited to) the following ICC Codes: the –

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1. IFC - International Fire Code (c.f. Section 5-1050 et seq.);
2. IEBC - International Existing Building Code (c.f. Section 5-1060 et seq.);
3. IBC - International Existing Building Code (c.f. Section 5-1070 et seq.);
4. IRC - International Residential Code (c.f. Section 5-1080 et seq.);
5. IECAF - International Electrical Code - Administrative Provisions (c.f. Section 5-1090 et seq.);
6. IPC - International Plumbing Code (c.f. Section 5-1100 et seq.);
7. IPSP - International Private Sewage Disposal Code (c.f. Section 5-1110 et seq.);
8. IMC - International Mechanical Code (c.f. Section 5-1120 et seq.);
9. IFGC - International Fuel Gas Code (c.f. Section 5-1130 et seq.);
10. IPMC - International Property Maintenance Code (c.f. Section 5-1140 et seq.);
11. IECC - International Energy Conservation Code (c.f. Section 5-1150 et seq.); and
12. IWOIC - International Wildlands-Urban Interface Code (c.f. Section 5-1160 et seq.).

2. As used in this Chapter 10 and/or in any ICC Codes now or hereafter adopted by the City, the following terms, phrases and/or expressions (and multiples, singles or other derivatives thereof and/or equivalents thereto, unless the context clearly indicates to the contrary), shall be deemed, construed and/or interpreted as having the meanings as hereinbelow designated:

a. “Appeal” means: requested review of an application, decision, determination, conclusion or other similar action of an ICC Code Enforcement Officer, and/or the request for a variance or other exception to the literal application of the provisions if an ICC Code;

b. “Appeal Board” means: the Board established and otherwise set forth in Sections 5-1030 et seq. hereof;

c. “Appropriate Schedule” means: the “Fee Schedule”;

d. “Building Official” means: “ICC Code Enforcement Officer”;

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- e. “Code Official” and/or “Code Officer” means: “ICC Code Enforcement Officer”;
- f. “Dollar Amount In Two Locations” means: the penalty prescribed for a violation of one or more ICC Code provisions, as more fully set forth in Section 5-1020 et seq. hereof;
- g. “Fee Schedule” means: the appropriate schedule or other identification of fees, charges, assessments and the like as more fully set forth in Section 5-1010 et seq. hereof
- h. “Fire Code Official” means: the Atoka Fire Inspector, or other person(s) (including the City Manager) designated by the City Manager and/or the City Council to serve as such;
- i. “Inspector” means: “ICC Code Enforcement Officer”;
- j. “Keeper of the Records” means: the City Clerk;
- k. “Name of Jurisdiction” means: the City of Atoka, Oklahoma;
- l. “Offense, Dollar Amount, Number of Days” means: the penalty prescribed for a violation of more or more ICC Code provisions, as more fully set forth in Section 5-1020 et seq. hereof;
- m. “Schedule of Fees” and/or “Schedule of Fees and Charges” or similar reference means: the “Fee Schedule”;
- n. “Specify Offense, Amount, Number of Days” means: the penalty prescribed for a violation of more or more ICC Code provisions, as more fully set forth in Section 5-1020 et seq. hereof;

3. Other words, phrases or expressions which are defined in any ICC Code shall be so interpreted, construed and applied as though herein and hereat set forth in full, and are accordingly so incorporated herein.

4. Definitions contained and/or referenced in this Chapter 10 shall be deemed to likewise apply to other related provisions of the City Code, unless the context thereof clearly indicates an alternate and/or contrary meaning or usage.

### SECTION 5-1002 SUPERSEDING APPLICATION

Except as otherwise set forth in Section 5-1003 and/or in subparagraphs (a), (b) or (c) of this Section 5-1002, the provisions of the ICC Codes now or hereafter adopted shall supersede and control over any conflicting provisions of the Atoka City Code in effect prior to January 1, 2009, regulating the same subject matter (including previously adopted codes), and shall otherwise be deemed to be in augmentation thereof, and the adoption thereof shall not constitute a repeal by implication. Provided further, however:

- 1. nevertheless, the provisions of the IFC (International Fire Code) shall be deemed and construed as being in augmentation, only, to the City’s Fire Code in effect on and prior to

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January 1, 2009; and

2. the provisions of the IMPC (International Property Maintenance Code) shall be deemed and construed as being in augmentation, only, to the Code provisions relating to like matters in effect on and prior to January 1, 2009; and

3. provided further that no provisions in any such ICC Code shall be deemed to modify any provisions of this City Code relating to nuisances or zoning;

4. and, nothing in this Chapter 10 or in any ICC Codes hereby or herewith adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing prior to January 1, 2009, under act Ordinance or Code provision deemed superseded or repealed by implication hereby, nor otherwise shall any just or legal right or remedy of any character accrued prior to such date be lost, impaired or effected hereby; and

5. The provisions hereof shall be subject to, and/or limited by, any conflicting provisions of the Oklahoma Constitution or State statutes now or hereafter coming into effect, except an unless to the extent that the same is nevertheless inapplicable to this Charter Municipality, by operation of the applicable law, as being “a matter of purely local concern”.

### SECTION 5-1003 CERTAIN ICC CODE PROVISIONS SUPERSEDED BY SPECIFIC PROVISIONS OF THIS CHAPTER.

Any provisions of any ICC Code now or hereafter adopted by the City which appears to be in conflict with any of the provisions below set out in this Section 5-1003 shall be deemed to be subordinate thereto, and lieu thereof, said provisions hereinbelow set forth shall control over such ICC code provisions; namely:

1. Definitions set forth in Section 5-1001 hereof;
2. The limitations set forth in Section 5-1002 hereof;
3. the provisions regarding fees, charges and/or other assessments hereinbelow set forth in Sections 5-1010 through 1019 hereof;
4. the provisions regarding penalties for offenses for violations of provisions of any ICC Code hereinbelow set forth in Sections 5-1020 through 1029 hereof;
5. The provisions regarding Appeals hereinbelow set forth in Sections 5-1030 through 1039 hereof; and
6. any other provisions of this Chapter specifically declaring ineffective, inserting specifications, amending, changing or otherwise specifically and directly modifying and/or limiting the application or any one or more provisions of any one or more ICC Code.



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### SECTION 5-1004      ADOPTION OF AN ICC CODE NOT DEEMED TO BE AUTOMATIC ADOPTION OF ALL APPENDICES THEREOF.

The Adoption of an ICC Code shall not be deemed to automatically also adopt the Appendixes thereof or thereto, but rather any such Appendixes to be also so adopted shall be separately indicated.

### SECTION 5-1005      COPIES OF ADOPTED ICC CODES TO BE MAINTAINED; AT LEAST ONE TO BE MADE AVAILABLE FOR OUTSIDE USE-SECURITY DEPOSIT REQUIRED-APPLICATION OF DEPOSIT.

The City Clerk shall obtain and maintain at least four (4) complete and full copies of any ICC Codes now or hereafter adopted by the City. One (1) set thereof shall be held in reserve (archived); One (1) set thereof shall be for the primary use of the ICC Code Enforcement Officer; One (1) set thereof shall be available for inspection within the City hall as regulated by the City Clerk; and, One (1) set thereof shall be available for being “loaned out” to contractors, builders, engineers and other like persons for their use and examination, upon provision that the same must be returned without damage or markings within three (3) business days, and upon the posting of a cash security deposit of twice the purchase price thereof (rounded up to the nearest five dollars); provided further, if the same is not timely returned to the City Clerk in an appropriate condition, the clerk may apply the security deposit to secure the purchase of a replacement therefor (including shipping and miscellaneous expenses), and refund any remaining balance to the depositor. The City Clerk may consider the use of “c.d.” or other like computer media for one or more sets thereof, and shall be allowed a reasonable period of time within which to acquire and assemble such sets.

### SECTION 5-1006      SAVINGS PROVISION:

In the event that any section, subsection, sentence, clause or phrase of this Chapter, the Ordinance adopting the same and/or any ICC Codes adopted hereby or herewith, or hereafter adopted, or any combination thereof, is, for any reason, held to be unconstitutional or otherwise void, such decision shall not affect the validity of the remaining portions of such Ordinance, Chapter and/or ICC Codes; it being the express declaration of the Atoka City Council that it would have passed such Ordinance, enacted such Chapter, and Adopted such ICC Code, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more thereof be so declared.

### SECTION 5-1007      “CURRENT EDITION” - DEFINITION AND APPLICATION.

As used in this Chapter Ten (10) of Part Five (5) of the Atoka City Code, and effective as to all other portions of the Atoka City Code affected thereby, the term, phrase or expression “CURRENT EDITION” means and includes: the most current, last in time adopted and published edition of each, respectively, ICC code adopted by the City of Atoka, promulgated and adopted by the ICC after the said adoption thereby by the City of Atoka, and for which a Certification Of Application has been issued by the City Clerk, with a copy thereof filed with and/or otherwise appended to the Atoka City Code, as hereinbelow provided in Section 5-1008

hereof; which said CURRENT EDITION shall be deemed to be in effect on and beginning the effective date determined in accordance with the provisions of Section 5-1009 hereof.

SECTION 5-1008      AUTOMATIC ADOPTION OF THE CURRENT EDITION OF EACH ICC CODE ADOPTED BY THE CITY OF ATOKA; CERTIFICATE OF APPLICATION; NOTICE AND EFFECTIVE DATES; LIMITATIONS.

There is hereby, at the present time and from time to time hereafter, adopted, established, placed and put into effect within the City Limits of the City of Atoka, Oklahoma, each and every CURRENT EDITION of each and every one of the ICC codes at any time heretofore or hereby adopted by the City of Atoka, automatically, and without further action by the Atoka City Council, to be effective (that is to say, each being deemed to be in effect), respectively, from and after the “effective date” thereof, as hereinbelow set forth. Furthermore, in regard thereto:

1. Within a reasonable period of time following the request of the City Manager, and being provided with the respective CURRENT ADDITION of the ICC Code to be so automatically placed into effect, and without regard to the number of occasions, if any previously occurring, the City Clerk shall effect compliance with the provisions of Section 5-1005 hereof with respect to said CURRENT EDITION, and cause a notice to be published in the Atoka County Times (or, in the event the same is no longer a legal publication in Atoka County, Oklahoma, then such other legal publication as is acceptable for legal publications within Atoka County, Oklahoma, as directed by the City Attorney) as hereinbelow provided in Subsection (2) hereof; said publication to be made no less than One (1) time per week, for not less than Two (2) consecutive weeks.

2. Said Notice shall include, at a minimum: the “name” or title given to said CURRENT EDITION of said ICC Code, that an notice that interested persons may obtain a copy thereof from the City of Atoka, Oklahoma, or the publisher thereof, and providing information as to said publisher, and, the Clerk’s good faith estimate of the Effective Date of the application thereof within the City of Atoka, as determined in accordance with Subsection (3) hereof. Said publication may include such additional information as may be suggested by the City Manager, or required by the City Council, if any.

3. Said CURRENT EDITION shall become and be applicable and effective (superseding any prior editions thereof) beginning at 12.01 a.m. on the First Day of the month first immediately following the second publication of the aforesaid publication notice.

4. The City Clerk shall execute a Certification Of Application, certifying compliance with the provisions of this Section, and containing the aforesaid effective date of the application of said CURRENT EDITION, and attach a copy of a “proof of publication” thereof, and keep and maintain said Certificate, with like certificates as they come to exist, and file a copy thereof into an appropriately identified and numbered Appendix to the Atoka City Code.

5. The City Clerk shall causing additional copies of said Certificate Of Application to be mailed by first class mail or otherwise distributed to any persons or entities to whom or which the City Clerk provides City Code updates, and, to any person or entity holding a business

license from the City of Atoka in a trade or occupation reasonably likely to be effected by the implementation and/or application of said CURRENT EDITION; provided further, however, that no failure, in whole or in part, of the City Clerk to comply with the provisions of this Subsection (5) shall affect or effect the effective date of, or applicability or legality of, any said CURRENT EDITION otherwise placed or put into effect under the remaining provisions hereof.

6. Provided, further, nothing in this Section, or brought about by application of the balance of this Chapter 10, or one or more of the CURRENT EDITIONS of the ICC Codes adopted or placed into effect under the provisions hereof or thereof shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing prior to respective effective dates, as applicable, of any such CURRENT EDITION of any such ICC codes automatically effectuated hereunder, nor by reason of any Ordinance or Code provision deemed superseded or repealed by implication, nor otherwise shall any just or legal right or remedy of any character accrued prior to the hereby established effective Date for any such CURRENT EDITION be lost, impaired or effected hereby.

SECTION 5-1009      ERRORS, OMISSIONS, CONFLICTS, AMBIGUITIES AND RELATED MATTERS–DIRECTIVES OF THE CITY MANAGER; SUBSEQUENT COUNCIL ACTION.

In the event that any one (or more) actual or perceived errors, omissions, conflicts, ambiguities or related difficulties between or in relation to the application of any such CURRENT ADDITION of an ICC code, and the remaining provisions of this Chapter 10, come to the attention of the City Manager, then the City Manager shall be authorized to resolve the same by a written directive which shall be filed and disseminated by the City Clerk in the same manner, and to the same persons or entities, as above provided regarding Certificates of Applicability issued thereby. Additionally, a copy of said Directive shall be provided to each City Councilmember in their “packet” for the next City Council Meeting thereafter occurring. Said Directives shall be deemed to be dispositive of the matter with which it is concerned, and be in effect the date thereof or otherwise indicated therein, absent subsequent action being taken by the Atoka City Council.

SECTION 5-1010      FEE SCHEDULES.

The provisions regarding fees, charges and/or other assessments hereinbelow set forth in Sections 5-1010 through 1019 hereof shall apply and control in lieu of and in the place of and/or in specification to any and all references thereto contained in any provision of any ICC Codes now or hereafter adopted by the City.

SECTION 5-1011      BASE (EXISTING) FEE SCHEDULES.

Except as otherwise specifically provided in Sections 5-1012 through 5-1019 hereof, any and all Fee Schedules in effect prior to January 1, 2009, shall continue in effect until subsequently modified; and, any and all applicable fees, charges, assessments and the like shall be as is set, in relation thereto, elsewhere in this City Code and/or in Appendices One (1) through

Four (4), inclusive, of the City Code, as the same now, or may hereafter, read and/or provide.

SECTION 5-1012 to SECTION 5-1019 (RESERVED)

SECTION 5-1020      PENALTIES FOR CODE VIOLATIONS.

The provisions regarding penalties for violations set forth in Sections 5-1020 through 5-1029 hereof shall apply and control in lieu of and in the place of and/or in specification to all references thereto contained in any provision of any ICC Codes now or hereafter adopted by the City.

SECTION 5-1021      PENALTY AMOUNTS LIMITED BY STATE LAW–BAIL AMOUNTS.

If any provision of this Code provides for the assessment of a penalty in an amount in excess of any limits thereupon imposed by state law, then such penalty shall be deemed to be not more than such limitation, regardless of any other specific dollar amount hereinbelow set forth. Subject to the authority and discretion of the City Judge and City Attorney, and subject further to the provisions of Appendix Four (4) of the City Code (which shall be deemed to control in the event of any conflict herewith), bail for a person accused of the violation of any provision of an ICC Code shall be the amount which is equal to the sum of: Fifty Dollars (\$50.00), plus the minimum fine provided for penalty upon a conviction therefor.

SECTION 5-1022      GENERAL PENALTY PROVISION.

Except as otherwise provided in Sections 5-1023 to 5-1029 hereof, any person who violates a provision of the ICC Codes shall, upon deferment or conviction, be assessed a fine or assessment of not less than Fifty Dollars (\$50.00), and not more than Two Hundred Dollars (\$200.00).

SECTION 5-1023      PENALTY PROVISIONS RELATING TO CERTAIN CEASE AND DESIST CIRCUMSTANCES.

Any person who violates a provision of the ICC Codes by failing to comply with an directive to cease or desist and/or who otherwise violates any of the ICC Codes provisions hereinbelow enumerated in this Section 5-1023 shall, upon deferment or conviction, be assessed a fine or assessment of not less than Two Hundred Dollars (\$200.00), and not more than Five Hundred Dollars (\$500.00); such specified provisions being, to-wit:

1.      Section 111.4 of the IFC (International Fire Code);
2.      Section 108.5 of the IFGC (International Fuel Gas Code);
3.      Section 108.5 of the IMC (International Mechanical Code);
4.      Section 108.5 of the IPC (International Plumbing Code); and/or

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5. Section 108.5 of the IPSDC (International Private Sewage Disposal Code).

### SECTION 5-1024 PENALTY PROVISIONS RELATING TO CERTAIN OTHER VIOLATIONS OF CERTAIN CODE PROVISIONS.

Except as otherwise provided in Section 5-1023 hereof, any person who violates any other provision contained in any of the specific ICC Codes below set out in this Section 5-1024 shall, upon deferment or conviction, be assessed a fine or assessment of not less than Fifty Dollars (\$50.00), and not more than Five Hundred Dollars (\$500.00); such specified ICC Codes being, to-wit:

1. The IFC (International Fire Code);
2. The IFGC (International Fuel Gas Code);
3. The IMC (International Mechanical Code);
4. The IPC (International Plumbing Code); and/or
5. The IPSDC (International Private Sewage Disposal Code).

SECTION 5-1025 to SECTION 5-1029 (RESERVED)

### SECTION 5-1030 APPEALS; UNITIZATION, PROCEDURES.

Any person aggrieved by an application, decision, determination, conclusion or other similar action of an ICC Code Enforcement Officer, and/or who seeks a variance or other exception to the literal application of the provisions if an ICC Code not granted by the such ICC Code Enforcement Officer, may have an administrative appeal, as provided herein. The first step of the appeals process will be an informal appeal to the City Manager; the Appellant shall give notice to the City Clerk and the Code Enforcement Officer of his desire to appeal to the City Manager within Ten (10) calendar days of the occurrence of the event or matter from which relief by appeal is being sought. The appeal to the City Manager shall be informal and, except in unusual circumstances, shall be disposed of thereby within five (5) business days of the Appellant's filing of his notice to Appeal. If Appellant is not satisfied with the determinations made by the City Manager, the Appellant may appeal the City Manager's decision to the Board of Appeals. Such an appeal must be made upon notice of Appeal, upon a form(s) supplied by the City Clerk, and be filed with the office of the City Clerk within Ten (10) calendar days of the City Manager's decision.

### SECTION 5-1031 BOARD OF APPEALS – GENERAL; MEMBERSHIP; APPOINTMENT AND VACANCIES; DESIRED QUALIFICATIONS.

There is hereby established a Board of Appeals to hear and determine appeals from the decision of the City Manager as provided in Section 5-1030 hereof; more particularly as follows:

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1. The Appeals Board shall consist of Seven (7) voting members (which shall be in addition to ex-officio and alternate members thereof, as below set forth in Section 5-1033 hereof), which shall be nominated by the ICC Code Enforcement Officer, subject to, and being deemed appointed upon, confirmation by a majority vote of the City Council.

2. To the extent that the same are, from time to time available and willing to so serve, it is the intention that the Board Members, as nearly as possible, have the qualifications set forth in Section 5-1032 hereof.

3. Members shall serve at the pleasure of the City Counsel, without remuneration or compensation; however, upon application of the Chairman thereof, and approval of the City Manager, the Board members may be reimbursed actual out of pocket expenses necessarily incurred in carrying out their designated duties.

4. Members may be removed by the City Council, upon majority vote, at the discretion thereof.

5. Vacancies in the Membership, regardless of howsoever occurring, shall be filled in the same manner as provided for initial appointment of Members, as set forth in Subparagraph (1) of this Section, with the goal of retaining the balance of composition of the Members, as set forth in Section 5-1032 hereof.

### SECTION 5-1032 BOARD OF APPEALS – DESIRED QUALIFICATIONS.

To the extent that the same are reasonably or practicably available in the local community and willing to so serve, the sitting, voting Members of the Board should have the following qualifications:

1. One member should be a qualified engineer, technologist, technician or safety professional trained in fire protection engineering, fire science or fire technology. Qualified representatives in this category could include fire protection contractors and certified technicians engaged in fire protection system design.

2. One member should be an industrial or chemical engineer, certified hygienist, certified safety professional, certified hazardous materials manager or comparably qualified specialist experienced in chemical process safety or industrial safety.

3. One member should be a contractor regularly engaged in the construction, alteration, maintenance, repair or remodeling of buildings or building services and systems regulated by the code.

4. One member should be a person skilled and/or regularly engaged in areas requiring a Mechanical License.

5. One member should be a person skilled and/or regularly engaged in areas requiring a Plumbing License.

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6. One member should be a person skilled and/or regularly engaged in areas requiring an Electricians' License.

7. One member should be a representative of business or industry not represented by a member from one of the other categories of board members described above.

### SECTION 5-1033 EX-OFFICIO AND ALTERNATE MEMBERS.

The Atoka Fire Inspector, the Atoka Code Enforcement Officer, and the Atoka Public Works Director shall be Ex-Officio, non-voting members, of the Board, to assist the Board in its procedures. Such Ex-Officio members shall not be entitled to vote upon any Appeal being determined by the Board, neither shall their presence or absence be considered in determining the existence of a quorum. As appropriate, the City Manager may designate alternates for such Ex-Officio members. The City Council shall, likewise, designate not less than Three (3) persons to serve as alternate Board members, to serve as voting Board members in the event of the absence or disqualification of a sitting Board member. Alternate members shall, to the extent reasonably practical, have qualifications similar to those of the Board Members, and have the same responsibilities, and likewise serve at the pleasure of the City Council. Further, they shall be nominated and confirmed (selected) in a manner similar to that established for sitting voting Board Members. Any alternate serving in the place of an otherwise sitting voting Board Member shall have the full authority thereof.

### SECTION 5-1034 CHAIRMAN OF THE BOARD; ALTERNATIVE AUTHORITY; MAJORITY VOTES; SECRETARY OF THE BOARD; OTHER OFFICIALS; RULES OF PROCEDURES

1. The voting Members of the Board, at least annually, shall meet and select one of their number to serve as its chairman, and another as vice chairman. The Vice-Chairman shall have all the responsibility and authority of the Chairman, in the absence of the Chairman.

2. The voting Members of the Board, at least annually, shall select one of their number to serve as secretary for the board, who shall keep a detailed record of all its proceedings, which shall set forth the reasons for its decisions, the vote of each member, the absence of a member and any failure of a member to vote.

3. In the absence of such designations having been made, or in the absence of taking the necessary action by those so selected, the ICC Code Enforcement Officer shall be empowered to function as such secretary, and/or call and schedule meetings, and nominate proposed Chairman, Vice-Chairman and Secretary from the members, to advance the functioning of the board.

4. Additionally, the Board shall meet within Ten (10) Calendar days of the proper and timely lodging of any Appeal therewith, and on such other occasions as called by the Chairman or substitute authority.

5. Four (4) voting members of the Board shall constitute a quorum.

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6. The actions or other decisions of the Board shall be by the affirmative votes of the majority of voting members present; but not less than the affirmative vote of Three (3) voting members shall be required to overturn any decision by the City Manager.

7. Members with a material or financial interest in a matter before the board shall declare such interest and refrain from participating in discussions, deliberations, and voting on such matters; and, in such instances, an Alternate Member shall be designated to suit in the place of such disqualified Member.

8. The Board shall have the authority to establish, from time to time, its own rules of governing their meetings and matters before it, so long as the same are not inconsistent with the provisions hereof.

### SECTION 5-1035      HEARINGS - APPEALS.

It processing and hearing any Appeals from a decision of the City Manager brought before it, the Board shall not be bound by, nor require the application of, the Evidence code, but shall and may consider such information and materials as will enable it, in its judgment, to reach a quick and appropriate determination. Attorneys shall be allowed to appear before the Board on behalf of either Party to such appeal, but only for the purpose of facilitating the Board in carrying out its functions and responsibilities. To the extent reasonably practical, hearings shall be conducted in an informal, friendly and casual method and atmosphere in order to accomplish the intended purposes. Decisions shall be promptly filed in writing in the office of the City Clerk, with a copy to the ICC Code Enforcement Officer, and shall be open to public inspection. A certified copy shall be sent by mail or otherwise to the appellant.

### SECTION 5-1036      DECISION BINDING - EXCEPTIONS.

The decision of the Board of Appeals shall be conclusive and binding on the Parties before it, unless the City Council, in its discretion, grants an application or request from either Party to review the decision of the Board. If such a request is made, by filing for the same with the City Clerk within ten (10) days of the Board's decision, the City Council may, in its discretion, determine to review or not review the matter; and, if it determines to review the same, may conduct such re-examinations, hearings, or summary procedures as it may, from time to time, find appropriate and just under the apparent circumstances.

### SECTION 5-1037 to SECTION 5-1049 (RESERVED)

### SECTION 5-1050      IFC DEFINED.

As used in this Chapter 10 (and elsewhere in this City Code, unless the context clearly indicates otherwise), the term, phrase or expression "IFC" means: The CURRENT EDITION of the ICC International Fire Code.

### SECTION 5-1051      IFC ADOPTED; EXCEPTIONS.



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Except as otherwise set forth in Section 5-1003, the City of Atoka hereby adopts the IFC as the Atoka Fire Code, regulating and governing the safeguarding of life and property from fire and explosions hazards arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life and property in the occupancy of buildings and premises, as therein provided; further providing for the issuance of permits and collections of fees, and related provisions; and, each and all of the provisions, tables, specifications, regulations, prohibitions, conditions and other terms thereof are hereby accordingly referred to, adopted and made a part hereof by incorporation as if hereat and herein fully set forth, together with such Appendices thereof (if any) as may be set forth in Section 5-1052 hereof; and further with such additions, insertions, deletions, changes, specifications, amendments or modifications thereto (if any) as may be set forth in Section 5-1053 hereof.

### SECTION 5-1052 INCLUDED APPENDICES ADOPTED.

Subject to said same exceptions, additionally and as a part thereof, the following identified Appendices to said IFC are likewise and simultaneously adopted and made a part of said ICC Code by incorporation as if hereat and herein fully set forth, to-wit:

1. Appendix B, Fire Flow Requirements for Buildings;
2. Appendix C, Fire Hydrant Locations and Distributions
3. Appendix D, Fire Apparatus Access Roads
4. Appendix E, Hazardous Categories
5. Appendix F, Hazardous Rankings
6. Appendix G, Cryogenic Fluids - Weight and Volume Equivalents.

### SECTION 5-1053 MODIFICATIONS AND/OR SPECIFICATIONS.

Provided further, however, in addition to the provisions of Section 5-1003 hereof, the following identified sections or other provisions of said IFC are hereby modified, amended, or directed to be interpreted by insertion or application of specifications, as follows:

1. IFC Section 3204.3.1.1, the referenced prohibition shall be: prohibited in any area zoned C-3, and prohibited in any area zoned R, except for portions thereof occupied by hospitals, convalescent centers, pharmacies, and other like medical facilities;

2. IFC Section 3404.2.9.5.1, the referenced prohibition shall be: prohibited in any area zoned C-3; provided further that propane tanks shall be limited as follows: Propane tanks of 500 gallons, or less, shall be allowed in any zoned area other than C-3; Propane tanks of more than 500 gallons shall be prohibited in any area zoned C-3, and shall be prohibited in any area zoned R, except that Propane tanks of more than 500 gallons, but less than 6,000 gallons may be allowed for portions thereof occupied by hospitals, convalescent centers, pharmacies, and other

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like medical facilities; Propane tanks of more than 6,000 gallons shall be prohibited in any area other than an area zoned industrial.

3. IFC Section 3406.2.4.4, the referenced prohibition shall be: the same as above set forth for Section 3404.2.9.5.1

4. IFC Section 3804.2 the referenced prohibition shall be: LPG tanks of 500 gallons, or less, shall be allowed in any zoned area other than C-3; LPG tanks of more than 500 gallons shall be prohibited in any area zoned C-3, and shall be prohibited in any area zoned R, except that LPG tanks of more than 500 gallons, but less than 6,000 gallons may be allowed for portions thereof occupied by hospitals, convalescent centers, pharmacies, and other like medical facilities; LPG tanks of more than 6,000 gallons shall be prohibited in any area other than an area zoned industrial.

SECTION 5-1054 to SECTION 5-1059 (RESERVED)

### SECTION 5-1060     IEBC DEFINED.

As used in this Chapter 10 (and elsewhere in this City Code, unless the context clearly indicates otherwise), the term, phrase or expression “IEBC” means: The CURRENT EDITION of the ICC International Existing Building Code.

### SECTION 5-1061     IEBC ADOPTED; EXCEPTIONS.

Except as otherwise set forth in Section 5-1003, the City of Atoka hereby adopts the IEBC as the Atoka Existing Building Code for regulating and governing the repair, alternation, change of occupancy, addition and relocation of existing buildings, including historic buildings, as therein provided, providing for the issuance of permits and collections of fees therefor, and other provisions; and, each and all of the provisions, tables, specifications, regulations, prohibitions, conditions and other terms thereof are hereby accordingly referred to, adopted and made a part hereof by incorporation as if hereat and herein fully set forth, together with such Appendices thereof (if any) as may be set forth in Section 5-1062 hereof; and further with such additions, insertions, deletions, changes, specifications, amendments or modifications thereto (if any) as may be set forth in Section 5-1063 hereof.

### SECTION 5-1062     INCLUDED APPENDICES ADOPTED.

Subject to said same exceptions, additionally and as a part thereof, the following identified Appendices to said IEBC are likewise and simultaneously adopted and made a part of said ICC Code by incorporation as if hereat and herein fully set forth, to-wit:

1. None

### SECTION 5-1063     MODIFICATIONS AND/OR SPECIFICATIONS.

Provided further, however, in addition to the provisions of Section 5-1003 hereof, the

## Building Regulations and Codes

following identified sections or other provisions of said IEBC are hereby modified, amended, or directed to be interpreted by insertion or application of specifications, as follows:

1. In IEBC Section 1301.2, the date referenced is: January 1, 1009.

SECTION 5-1064 to SECTION 5-1069 (RESERVED)

SECTION 5-1070 IBC DEFINED.

As used in this Chapter 10 (and elsewhere in this City Code, unless the context clearly indicates otherwise), the term, phrase or expression “IBC” means: The CURRENT EDITION of the ICC International Building Code.

SECTION 5-1071 IBC ADOPTED; EXCEPTIONS.

Except as otherwise set forth in Section 5-1003, the City of Atoka hereby adopts the IBC as the Atoka Building Code for regulating and governing the condition and maintenance of all property, buildings and structures; for 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 as therein provided, providing for the issuance of permits and collections of fees therefor, and other provisions; and, each and all of the provisions, tables, specifications, regulations, prohibitions, conditions and other terms thereof are hereby accordingly referred to, adopted and made a part hereof by incorporation as if hereat and herein fully set forth, together with such Appendices thereof (if any) as may be set forth in Section 5-1072 hereof; and further with such additions, insertions, deletions, changes, specifications, amendments or modifications thereto (if any) as may be set forth in Section 5-1073 hereof.

SECTION 5-1072 INCLUDED APPENDICES ADOPTED.

Subject to said same exceptions, additionally and as a part thereof, the following identified Appendices to said IBC are likewise and simultaneously adopted and made a part of said ICC Code by incorporation as if hereat and herein fully set forth, to-wit:

1. Appendix C, Agricultural Buildings
2. Appendix F, Rodent-proofing
3. Appendix G, Flood Resistant Construction
4. Appendix I, Patio Covers
5. Appendix J, Grading
6. Appendix K, ICC Electrical Code.

SECTION 5-1073 MODIFICATIONS AND/OR SPECIFICATIONS.

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Provided further, however, in addition to the provisions of Section 5-1003 hereof, the following identified sections or other provisions of said IBC are hereby modified, amended, or directed to be interpreted by insertion or application of specifications, as follows:

1. IBC Section 1612.3 shall be deemed and construed as not being mandatory upon the City, but rather discretionary, and to reference provision of such maps as may, from time to time, be possessed thereby.
2. IBC Section 3410.2, the date reference shall be January 1, 2009

SECTION 5-1074 to SECTION 5-1079 (RESERVED)

SECTION 5-1080    IRC DEFINED.

As used in this Chapter 10 (and elsewhere in this City Code, unless the context clearly indicates otherwise), the term, phrase or expression “IRC” means: The CURRENT EDITION of the ICC International Residential Code.

SECTION 5-1081    IRC ADOPTED; EXCEPTIONS.

Except as otherwise set forth in Section 5-1003, the City of Atoka hereby adopts the IRC as the Atoka Residential Code 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 not more than three stories in height with separate means of egress as therein provided, providing for the issuance of permits and collections of fees therefor, and other provisions; and, each and all of the provisions, tables, specifications, regulations, prohibitions, conditions and other terms thereof are hereby accordingly referred to, adopted and made a part hereof by incorporation as if hereat and herein fully set forth, together with such Appendices thereof (if any) as may be set forth in Section 5-1082 hereof; and further with such additions, insertions, deletions, changes, specifications, amendments or modifications thereto (if any) as may be set forth in Section 5-1083 hereof.

SECTION 5-1082    INCLUDED APPENDICES ADOPTED.

Subject to said same exceptions, additionally and as a part thereof, the following identified Appendices to said IRC are likewise and simultaneously adopted and made a part of said ICC Code by incorporation as if hereat and herein fully set forth, to-wit:

1. Appendix A, Sizing and capacity of Gas Piping
2. Appendix B, Sizing of venting systems serving appliances equipped with draft hoods, category 1 appliances, and appliances listed for use with type B vents.
3. Appendix C, Exit terminals of Mechanical draft and direct vent venting systems
4. Appendix D, Recommended procedure for safety inspection of an existing

appliance installation;

5. Appendix E, Manufactured Homes used as dwellings;
6. Appendix G, Swimming pools, spas, and hot tubs;
7. Appendix H, Patio Covers
8. Appendix J, Existing Buildings and Structures;
9. Appendix M, Home Day Care – R3 Occupancy
10. Appendix N, Venting Methods; and
11. Appendix Q, ICC International Code Electrical Provisions/National Electric Code Cross Reference.

SECTION 5-1083     MODIFICATIONS AND/OR SPECIFICATIONS.

Provided further, however, in addition to the provisions of Section 5-1003 hereof, the following identified sections or other provisions of said IRC are hereby modified, amended, or directed to be interpreted by insertion or application of specifications, as follows:

1. IRC Table R301.2 (1), shall be designated as: the minimum design loads for buildings and other structures (ASCE-7);
2. IRC Section P2603.6.1, the reference dimension shall be, for both (each) of the inserts (number of inches): 12 inches (305mm);
3. IRC Section P3103.1, the reference dimension shall be, for both (each) of the inserts (number of inches): 12 inches (305mm);

SECTION 5-1084 to SECTION 5-1089 (RESERVED)

SECTION 5-1090     IECAP DEFINED.

As used in this Chapter 10 (and elsewhere in this City Code, unless the context clearly indicates otherwise), the term, phrase or expression “IECAP” means: The CURRENT EDITION of the ICC International Electrical Code.

SECTION 5-1091     IECAP ADOPTED; EXCEPTIONS.

Except as otherwise set forth in Section 5-1003, the City of Atoka hereby adopts the IECAP as the Atoka Electrical Code - Administrative Provisions, Code for regulating and governing the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of electrical systems as therein

## Building Regulations and Codes

provided, providing for the issuance of permits and collections of fees therefor, and other provisions; and, each and all of the provisions, tables, specifications, regulations, prohibitions, conditions and other terms thereof are hereby accordingly referred to, adopted and made a part hereof by incorporation as if hereat and herein fully set forth, together with such Appendices thereof (if any) as may be set forth in Section 5-1092 hereof; and further with such additions, insertions, deletions, changes, specifications, amendments or modifications thereto (if any) as may be set forth in Section 5-1093 hereof.

### SECTION 5-1092     INCLUDED APPENDICES ADOPTED.

Subject to said same exceptions, additionally and as a part thereof, the following identified Appendices to said IECAP are likewise and simultaneously adopted and made a part of said ICC Code by incorporation as if hereat and herein fully set forth, to-wit:

1.     None

### SECTION 5-1093     MODIFICATIONS AND/OR SPECIFICATIONS.

Provided further, however, in addition to the provisions of Section 5-1003 hereof, the following identified sections or other provisions of said IECAP are hereby modified, amended, or directed to be interpreted by insertion or application of specifications, as follows:

1.     None

### SECTION 5-1094 to SECTION 5-1099 (RESERVED)

### SECTION 5-1100     IPC DEFINED.

As used in this Chapter 10 (and elsewhere in this City Code, unless the context clearly indicates otherwise), the term, phrase or expression “IPC” means: The CURRENT EDITION of the ICC International Plumbing Code.

### SECTION 5-1101     IPC ADOPTED; EXCEPTIONS.

Except as otherwise set forth in Section 5-1003, the City of Atoka hereby adopts the IPC as the Atoka Plumbing Code 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 therein provided, providing for the issuance of permits and collections of fees therefor, and other provisions; and, each and all of the provisions, tables, specifications, regulations, prohibitions, conditions and other terms thereof are hereby accordingly referred to, adopted and made a part hereof by incorporation as if hereat and herein fully set forth, together with such Appendices thereof (if any) as may be set forth in Section 5-1102 hereof; and further with such additions, insertions, deletions, changes, specifications, amendments or modifications thereto (if any) as may be set forth in Section 5-1103 hereof.

### SECTION 5-1102     INCLUDED APPENDICES ADOPTED.

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Subject to said same exceptions, additionally and as a part thereof, the following identified Appendices to said IPC are likewise and simultaneously adopted and made a part of said ICC Code by incorporation as if hereat and herein fully set forth, to-wit:

1. Appendix E, Sizing of water piping systems
2. Appendix F, Structural safety

### SECTION 5-1103      MODIFICATIONS AND/OR SPECIFICATIONS.

Provided further, however, in addition to the provisions of Section 5-1003 hereof, the following identified sections or other provisions of said IPC are hereby modified, amended, or directed to be interpreted by insertion or application of specifications, as follows:

1. IPC Section 106.6.3, the percentages to be utilized shall be 80%, for each reference thereto;
2. IPC Section 305.6.1, the reference dimension shall be, for both (each) of the inserts (number of inches): 12 inches (305mm);
3. IPC Section 904.1, the reference dimension shall be (number of inches): 12 inches (305mm).

### SECTION 5-1104 to SECTION 5-1109 (RESERVED)

### SECTION 5-1110      IPSDC DEFINED.

As used in this Chapter 10 (and elsewhere in this City Code, unless the context clearly indicates otherwise), the term, phrase or expression “IPSDC” means: The CURRENT EDITION of the ICC International Private Sewage Disposal Code.

### SECTION 5-1111      IPSDC ADOPTED; EXCEPTIONS.

Except as otherwise set forth in Section 5-1003, the City of Atoka hereby adopts the IPSDC as the Atoka Private Sewage Disposal Code for regulating and governing the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of individual sewage disposal systems as therein provided, providing for the issuance of permits and collections of fees therefor, and other provisions; and, each and all of the provisions, tables, specifications, regulations, prohibitions, conditions and other terms thereof are hereby accordingly referred to, adopted and made a part hereof by incorporation as if hereat and herein fully set forth, together with such Appendices thereof (if any) as may be set forth in Section 5-1112 hereof; and further with such additions, insertions, deletions, changes, specifications, amendments or modifications thereto (if any) as may be set forth in Section 5-1113 hereof.

### SECTION 5-1112      INCLUDED APPENDICES ADOPTED.

## Building Regulations and Codes

Subject to said same exceptions, additionally and as a part thereof, the following identified Appendices to said IPSDC are likewise and simultaneously adopted and made a part of said ICC Code by incorporation as if hereat and herein fully set forth, to-wit:

1. Appendix A, system layout illustration
2. Appendix B, Tables for pressure distribution systems

### SECTION 5-1113    MODIFICATIONS AND/OR SPECIFICATIONS.

Provided further, however, in addition to the provisions of Section 5-1003 hereof, the following identified sections or other provisions of said IPSDC are hereby modified, amended, or directed to be interpreted by insertion or application of specifications, as follows:

1. IPSDC Section 106.4.3, the referenced percentages, in each referenced area, shall be 80%
2. IPSDC Section 405.2.5, in each of the 3 placers referencing a date or time period, the time period is 5 days.
3. IPSDC Section 405.2.6, in each of the 2 placers referencing a date or time period, the date is: date of initiation.

### SECTION 5-1114 to SECTION 5-1119 (RESERVED)

### SECTION 5-1120    IMC DEFINED.

As used in this Chapter 10 (and elsewhere in this City Code, unless the context clearly indicates otherwise), the term, phrase or expression “IMC” means: The CURRENT EDITION of the ICC International Mechanical Code.

### SECTION 5-1121    IMC ADOPTED; EXCEPTIONS.

Except as otherwise set forth in Section 5-1003, the City of Atoka hereby adopts the IMC as the Atoka Mechanical Code 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 therein provided, providing for the issuance of permits and collections of fees therefor, and other provisions; and, each and all of the provisions, tables, specifications, regulations, prohibitions, conditions and other terms thereof are hereby accordingly referred to, adopted and made a part hereof by incorporation as if hereat and herein fully set forth, together with such Appendices thereof (if any) as may be set forth in Section 5-1122 hereof; and further with such additions, insertions, deletions, changes, specifications, amendments or modifications thereto (if any) as may be set forth in Section 5-1123 hereof.

### SECTION 5-1122    INCLUDED APPENDICES ADOPTED.



## Building Regulations and Codes

Subject to said same exceptions, additionally and as a part thereof, the following identified Appendices to said IMC are likewise and simultaneously adopted and made a part of said ICC Code by incorporation as if hereat and herein fully set forth, to-wit:

1. Appendix A, Combustion air openings and chimney connector pass throughs.

### SECTION 5-1123      MODIFICATIONS AND/OR SPECIFICATIONS.

Provided further, however, in addition to the provisions of Section 5-1003 hereof, the following identified sections or other provisions of said IMC are hereby modified, amended, or directed to be interpreted by insertion or application of specifications, as follows:

1. IMC Section 106.5.3, the referenced percentages, in each referenced area, shall be 80%.

### SECTION 5-1124 to SECTION 5-1129 (RESERVED)

### SECTION 5-1130      IFGC DEFINED.

As used in this Chapter 10 (and elsewhere in this City Code, unless the context clearly indicates otherwise), the term, phrase or expression "IFGC" means: The CURRENT EDITION of the ICC International Fuel Gas Code.

### SECTION 5-1131      IFGC ADOPTED; EXCEPTIONS.

Except as otherwise set forth in Section 5-1003, the City of Atoka hereby adopts the IFGC as the Atoka Fuel Gas Code for regulating and governing fuel gas systems and gas fired appliances as therein provided, providing for the issuance of permits and collections of fees therefor, and other provisions; and, each and all of the provisions, tables, specifications, regulations, prohibitions, conditions and other terms thereof are hereby accordingly referred to, adopted and made a part hereof by incorporation as if hereat and herein fully set forth, together with such Appendices thereof (if any) as may be set forth in Section 5-1132 hereof; and further with such additions, insertions, deletions, changes, specifications, amendments or modifications thereto (if any) as may be set forth in Section 5-1133 hereof.

### SECTION 5-1132      INCLUDED APPENDICES ADOPTED.

Subject to said same exceptions, additionally and as a part thereof, the following identified Appendices to said IFGC are likewise and simultaneously adopted and made a part of said ICC Code by incorporation as if hereat and herein fully set forth, to-wit:

1. Appendix A, Sizing and capacity of Gas Piping
2. Appendix B, Sizing of venting systems serving appliances equipped with draft hoods, category 1 appliances, and appliances listed for use with type B vents.

## Building Regulations and Codes

3. Appendix C, Exit terminals of Mechanical draft and direct vent venting systems
4. Appendix D, Recommended procedure for safety inspection of an existing appliance installation;

### SECTION 5-1133 MODIFICATIONS AND/OR SPECIFICATIONS.

Provided further, however, in addition to the provisions of Section 5-1003 hereof, the following identified sections or other provisions of said IFGC are hereby modified, amended, or directed to be interpreted by insertion or application of specifications, as follows:

1. IFGC Section 106.503, the referenced percentages, in each referenced area, shall be 80%.

### SECTION 5-1134 to SECTION 5-1139 (RESERVED)

### SECTION 5-1140 IPMC DEFINED.

As used in this Chapter 10 (and elsewhere in this City Code, unless the context clearly indicates otherwise), the term, phrase or expression “IPMC” means: The CURRENT EDITION of the ICC International Property Maintenance Code.

### SECTION 5-1141 IPMC ADOPTED; EXCEPTIONS.

Except as otherwise set forth in Section 5-1003, the City of Atoka hereby adopts the IPMC as the Atoka Property Maintenance Code for regulating and governing the condition and maintenance of all property, buildings, and structures; by supplying 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 existing structures, as therein provided, providing for the issuance of permits and collections of fees therefor, and other provisions; and, each and all of the provisions, tables, specifications, regulations, prohibitions, conditions and other terms thereof are hereby accordingly referred to, adopted and made a part hereof by incorporation as if hereat and herein fully set forth, together with such Appendices thereof (if any) as may be set forth in Section 5-1142 hereof; and further with such additions, insertions, deletions, changes, specifications, amendments or modifications thereto (if any) as may be set forth in Section 5-1143 hereof.

### SECTION 5-1142 INCLUDED APPENDICES ADOPTED.

Subject to said same exceptions, additionally and as a part thereof, the following identified Appendices to said IPMC are likewise and simultaneously adopted and made a part of said ICC Code by incorporation as if hereat and herein fully set forth, to-wit:

1. None

SECTION 5-1143     MODIFICATIONS AND/OR SPECIFICATIONS.

Provided further, however, in addition to the provisions of Section 5-1003 hereof, the following identified sections or other provisions of said IPMC are hereby modified, amended, or directed to be interpreted by insertion or application of specifications, as follows:

1. IPMC Section 302.4, the referenced plant height specification is 12 inches (305mm)
2. IPMC Section 304.14, the referenced time period (2 references) is: from March, through November;
3. IPMC Section 602.3, the referenced time period (2 references) is: from October, through May;
4. IPMC Section 602.4, the referenced time period (2 references) is: from November, through April.

SECTION 5-1144 to SECTION 5-1149 (RESERVED)

SECTION 5-1150     IECC DEFINED.

As used in this Chapter 10 (and elsewhere in this City Code, unless the context clearly indicates otherwise), the term, phrase or expression “IECC” means: The CURRENT EDITION of the ICC International Energy Conservation Code.

SECTION 5-1151     IECC ADOPTED; EXCEPTIONS.

Except as otherwise set forth in Section 5-1003, the City of Atoka hereby adopts the IECC as the Atoka Energy Conservation Code for regulating and governing energy efficient building envelopes and installation of energy efficient mechanical, lighting and power systems as therein provided, providing for the issuance of permits and collections of fees therefor, and other provisions; and, each and all of the provisions, tables, specifications, regulations, prohibitions, conditions and other terms thereof are hereby accordingly referred to, adopted and made a part hereof by incorporation as if hereat and herein fully set forth, together with such Appendices thereof (if any) as may be set forth in Section 5-1152 hereof; and further with such additions, insertions, deletions, changes, specifications, amendments or modifications thereto (if any) as may be set forth in Section 5-1153 hereof.

SECTION 5-1152     INCLUDED APPENDICES ADOPTED.

Subject to said same exceptions, additionally and as a part thereof, the following identified Appendices to said IECC are likewise and simultaneously adopted and made a part of said ICC Code by incorporation as if hereat and herein fully set forth, to-wit:

1. None

SECTION 5-1153     MODIFICATIONS AND/OR SPECIFICATIONS.

Provided further, however, in addition to the provisions of Section 5-1003 hereof, the following identified sections or other provisions of said IECC are hereby modified, amended, or directed to be interpreted by insertion or application of specifications, as follows:

1.     None

SECTION 5-1154 to SECTION 5-1159 (RESERVED)

SECTION 5-1160     IWUIC DEFINED.

As used in this Chapter 10 (and elsewhere in this City Code, unless the context clearly indicates otherwise), the term, phrase or expression “IWUIC” means: The CURRENT EDITION of the ICC International Wildland-Urban Interface Code.

SECTION 5-1161     IWUIC ADOPTED; EXCEPTIONS.

Except as otherwise set forth in Section 5-1003, the City of Atoka hereby adopts the IWUIC as the Atoka Wildland-Urban Interface Code for regulating and governing the mitigation to hazard to life and property from the intrusion of fire from wildland exposures, fire from adjacent structures, and prevention of structure fires from spreading to wildland fuels as therein provided, providing for the issuance of permits and collections of fees therefor, and other provisions; and, each and all of the provisions, tables, specifications, regulations, prohibitions, conditions and other terms thereof are hereby accordingly referred to, adopted and made a part hereof by incorporation as if hereat and herein fully set forth, together with such Appendices thereof (if any) as may be set forth in Section 5-1162 hereof; and further with such additions, insertions, deletions, changes, specifications, amendments or modifications thereto (if any) as may be set forth in Section 5-1163 hereof.

SECTION 5-1162     INCLUDED APPENDICES ADOPTED.

Subject to said same exceptions, additionally and as a part thereof, the following identified Appendices to said IWUIC are likewise and simultaneously adopted and made a part of said ICC Code by incorporation as if hereat and herein fully set forth, to-wit:

1.     Appendix A, General requirements;
2.     Appendix B, Vegetation Management plan code official
3.     Appendix C, Fire hazard severity form
4.     Appendix D, Fire hazard rating system
5.     Appendix F, Characteristics of fire resistive vegetation

SECTION 5-1163     MODIFICATIONS AND/OR SPECIFICATIONS.

## Building Regulations and Codes

Provided further, however, in addition to the provisions of Section 5-1003 hereof, the following identified sections or other provisions of said IWUIC are hereby modified, amended, or directed to be interpreted by insertion or application of specifications, as follows:

1. The City reserves the occasion to develop, and change from time to time, designated Wildland-Urban interface areas on a map for such purposes, to be used in conjunction herewith.

SECTION 5-1164 to SECTION 5-1169 (RESERVED)

Court

**PART 6**

**COURT**

CHAPTER 1

COURT PROCEDURE

Section 6-101	Definitions.
Section 6-102	Purpose.
Section 6-103	Jurisdiction.
Section 6-104	Change of venue; disqualification of judge.
Section 6-105	Chief of police as principal officer of court.
Section 6-106	Clerk of court; duties.
Section 6-107	City attorney; powers and duties.
Section 6-108	Bond.
Section 6-109	Authority of judge to prescribe rules.
Section 6-110	Ordinance violations bureau created; payment of fines, fines in lieu of appearance.
Section 6-111	Designation of fines, ordinance violations bureau.
Section 6-112	Prosecutions; filing of complaint, defects raised only prior to trial.
Section 6-113	Ordinance violations; procedures for issuing citations; custody, arrest.
Section 6-114	Traffic bail bond procedures.
Section 6-115	Issuance of summons; failure to appear.
Section 6-116	Failure to appear according to terms of bond, bond forfeiture, bench warrant.
Section 6-117	Complainant, witnesses, failure to appear.
Section 6-118	Issuance of warrant.
Section 6-119	Procedures for bail or bond, bond schedule.
Section 6-120	Arraignment.
Section 6-121	Postponement of trial.
Section 6-122	Defendant's presence required at trial.
Section 6-123	Procedure for trials not within scope of chapter.
Section 6-124	Judgment.
Section 6-125	Judgment of imprisonment.
Section 6-126	Suspension or deferment of judgment, powers.
Section 6-127	Payment of costs by defendant.
Section 6-128	Witness fees.
Section 6-129	Enforcement of fines and costs, imprisonment, work and community service.
Section 6-130	Same offense punishable by different sections of the code.
Section 6-131	Contempt of court.
Section 6-132	Penalty assessments.
Section 6-133	Fines, recoverable by civil action; failure to pay separate offense, imprisonment.
Section 6-134	Dishonored check or instrument.

## Court

### CHAPTER 2

#### JUDGE

Section 6-201	Judge; created; qualifications.
Section 6-202	Term of office of judge.
Section 6-203	Appointment of judge, alternate judge.
Section 6-204	Acting judge.
Section 6-205	Compensation.
Section 6-206	Removal of judge from office.
Section 6-207	Vacancy.

### CHAPTER 3

#### JURY TRIALS

Section 6-301	Right to trial by jury, waiver.
Section 6-302	Selection of jurors.
Section 6-303	Summons of jurors; form; service.
Section 6-304	Composition of jury; duty of jurors.
Section 6-305	Determination of questions of law.
Section 6-306	Verdict.
Section 6-307	Juror's fees.
Section 6-308	Cost bond for jury trial.
Section 6-309	Misconduct of jurors generally.
Section 6-310	Responsibility of officer in charge of jury.

### CHAPTER 4

#### PROCEEDING AGAINST CORPORATIONS

Section 6-401	Summons; issuance to corporations.
Section 6-402	Form of corporation summons.
Section 6-403	Service of summons.
Section 6-404	Trial.
Section 6-405	Collection of fines.

## Court

### CHAPTER 1

#### COURT PROCEDURE

Section 6-101	Definitions.
Section 6-102	Purpose.
Section 6-103	Jurisdiction.
Section 6-104	Change of venue; disqualification of judge.
Section 6-105	Chief of police as principal officer of court.
Section 6-106	Clerk of court; duties.
Section 6-107	City attorney; powers and duties.
Section 6-108	Bond.
Section 6-109	Authority of judge to prescribe rules.
Section 6-110	Ordinance violations bureau created; payment of fines, fines in lieu of appearance.
Section 6-111	Designation of fines, ordinance violations bureau.
Section 6-112	Prosecutions; filing of complaint, defects raised only prior to trial.
Section 6-113	Ordinance violations, procedures for issuing citation; custody, arrest.
Section 6-114	Traffic bail bond procedures.
Section 6-115	Issuance of summons; failure to appear.
Section 6-116	Failure to appear according to terms of bond, bond forfeiture, bench warrant.
Section 6-117	Complainant, witnesses, failure to appear.
Section 6-118	Issuance of warrant.
Section 6-119	Procedures for bail or bond, bond schedule.
Section 6-120	Arraignment.
Section 6-121	Postponement of trial.
Section 6-122	Defendant's presence required at trial.
Section 6-123	Procedure for trials not within scope of chapter.
Section 6-124	Judgment.
Section 6-125	Judgment of imprisonment.
Section 6-126	Suspension or deferment of judgment, powers.
Section 6-127	Payment of costs by defendant.
Section 6-128	Witness fees.
Section 6-129	Enforcement of fines and costs, imprisonment, work and community service.
Section 6-130	Same offense punishable by different sections of the code.
Section 6-131	Contempt of court.
Section 6-132	Penalty assessments.
Section 6-133	Fines, recoverable by civil action; failure to pay separate offense, imprisonment.
Section 6-134	Dishonored check or instrument.

#### SECTION 6-101    DEFINITIONS.

As used in this chapter:

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



## Court

2. “Clerk” means the court clerk as appointed by the city manager, 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 criminal court of this city;
4. “Judge” means the judge of the municipal criminal court, including any acting judge or alternate judge thereof as provided for by the statutes of this state and this chapter; and
5. “This judicial district” means the district court judicial district of the state wherein the government of this city is situated. (Prior Code, Sec. 14-2)

State Law Reference: Municipal courts generally, 11 O.S. Secs. 27-101 et seq.

### SECTION 6-102      PURPOSE.

This chapter shall govern the organization and operation of the municipal criminal court of the city, as put into operation by resolution duly passed and filed in accordance with law, as authorized by state statutes. To the extent of conflict between any provisions of this chapter and the provisions of any other ordinance of this city, the provisions of this chapter shall control. (Prior Code, Sec. 14-1)

### SECTION 6-103      JURISDICTION.

The court shall exercise original jurisdiction to hear and determine all prosecutions wherein a violation of any ordinance of this city is charged, including any such prosecutions transferred to the court in accordance with applicable law. (Prior Code, Sec. 14-3)

### SECTION 6-104      CHANGE OF VENUE; DISQUALIFICATION OF JUDGE.

In prosecutions before the court, no change of venue shall be allowed. The judge before whom the case is pending may certify his disqualification or he may be disqualified from sitting under the terms, conditions and procedure provided by law for courts of record. If a judge is disqualified, the matter shall be heard by an acting judge, appointed as provided in this chapter. (Prior Code, Sec. 14-12)

### SECTION 6-105      CHIEF OF POLICE AS PRINCIPAL OFFICER OF COURT.

All writs or processes of the court shall be directed, in his official title, to the chief of police, who shall be the principal officer of the court. (Prior Code, Sec. 14-13)

### SECTION 6-106      CLERK OF COURT; DUTIES.

- A. The clerk or a deputy designated by him shall be the clerk of the court.
- B. The clerk shall:

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1. Assist the judge in recording the proceedings of the court and in preparing writs, processes and other papers;
2. Administer oaths required in proceedings before the court;
3. Enter all pleadings, processes and proceedings in the dockets of the courts;
4. Perform such other clerical duties relating to the proceedings of the court as the judge shall direct; and
5. Receive any receipt for forfeitures, fees, deposits and sums of money payable to the court and as may be established by the court or the city council.

C. The clerk shall pay to the clerk of the city all money so received by him, except such special deposits or fees as shall be received to be disbursed by him for special purposes. All money paid to the clerk shall be placed in the general fund of the city, or in such other fund as the council may direct. (Prior Code, Sec. 14-14)

### SECTION 6-107 CITY ATTORNEY; POWERS AND DUTIES.

The city attorney or his duly designated assistant may be the prosecuting officer of the court. He may prosecute, in his discretion, all alleged violations of the ordinances of the city. He shall be authorized, in his discretion, to prosecute and resist appeals, proceedings in error and review from this court to any other courts of the state, and to represent this city in all proceedings arising out of matters in this court. (Prior Code, Sec. 14-15)

### SECTION 6-108 BOND.

The clerk of the court shall give bond in such sum as set by the council, in the form provided by state law. When executed, the bond shall be submitted to the council for approval. When approved, it shall be filed with the clerk and retained in the municipal archives. (Prior Code, Sec. 14-16; Ord. No. NC 317, 2/18/86)

Ed. Note: Prior ordinance set bond at \$10,000.

### SECTION 6-109 AUTHORITY OF JUDGE TO PRESCRIBE RULES.

The judge may prescribe rules, consistent with the laws of the state and with the ordinances of this city, for the proper conduct of the business of the court. (Prior Code, Sec. 14-17)

### SECTION 6-110 ORDINANCE VIOLATIONS BUREAU CREATED; PAYMENT OF FINES, FINES IN LIEU OF APPEARANCE.

A. An ordinance 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 ordinances of this city, other than a second offense within

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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 violations bureau according to a schedule of fines prescribed from time to time by the judge with approval of the city council. 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 so to do, prosecution shall proceed under the provisions of this chapter.

### SECTION 6-111      DESIGNATION OF FINES, ORDINANCE VIOLATIONS BUREAU.

The city council shall from time to time adopt a schedule of fines and bail applicable in the city court for violations of traffic ordinances and the city code. The minimum fine schedule when established shall provide for a minimum amount which a person may pay upon a plea of guilty or nolo contendere to the listed offenses. The minimum fine schedule shall include fine, court costs and any assessments set by state law within the specified amount. Upon plea of guilty or nolo contendere and payment of the required minimum fine prior to the date scheduled for court appearance, no further court appearance shall be required. The judge shall authorize the court clerk to accept pleas of guilty and nolo contendere where the amount of the minimum fine is paid at the time of such plea and prior to the scheduled court appearance date. (Ord. No. 359, 9/19/88; Ord. No. 316, 2/18/86; Ord. No. NC-382, 4/2/90)

Cross Reference: See Appendix 4 of this code for schedule of fines and penalties. See also ordinance table for additional ordinances setting fine or bond amounts.

### SECTION 6-112      PROSECUTIONS; FILING OF COMPLAINT, FEES, DEFECTS RAISED PRIOR TO TRIAL.

A. All prosecutions for violation of ordinances of this city shall be styled "The City of Atoka, Oklahoma vs. (naming defendant or defendants)." Except as provided hereinafter, prosecutions shall be initiated by the filing of a written complaint, subscribed and verified by the person making the complaint, and setting forth concisely the offense charged.

B. There is no duty on the part of the city or any of its officers or employees to formally prosecute actions in the court. In the absence of a prosecuting officer, the judge shall proceed with the case and hear evidence and examine witnesses in such manner as he may deem necessary to effect justice.

C. Any person, except a police officer or other employee of the city, filing a criminal offense complaint in the municipal court shall deposit with the clerk of the court, unless waived by order of the court, the court cost fee as provided in this chapter. The court costs so deposited by such a complainant shall be refunded to the complainant or person depositing same upon conviction or acquittal of the defendant; the court costs shall not be refunded if the charges are dismissed at the request of the complainant who made the deposit because the complainant fails or refuses to appear in court to testify or aid in the prosecution of the charge filed by such complainant.

D. All defects in the form or substance apparent on the face of a complaint charging a violation of an ordinance of this city, and being grounds for motion or demur, may only be raised by an accused in writing and prior to trial.

E. A complaint may be amended in matter of substance or form at any time before the defendant pleads, without leave, and may be amended after plea or order of the court where the same can be done without material prejudice to the rights of the defendant. No amendment shall cause any delay of the trial, unless good cause is shown by affidavit. (Prior Code, Secs. 14-16, 14-19, as amended)

Cross Reference: See Fee Schedule, Appendix 2, for applicable fees.

SECTION 6-113      ORDINANCE VIOLATIONS; PROCEDURES FOR ISSUING CITATION; CUSTODY, ARREST.

A. If a resident of this city is arrested by a law enforcement officer for the violation of any traffic ordinance for which other provisions of this chapter do not apply, or is arrested for the violation of a nontraffic ordinance, the officer may immediately release the person if the person acknowledges receipt of a citation by signing it. However, the arresting officer need not release the person if it reasonably appears to the officer that the person may cause injury to himself or others or damage to property if released, that the person will not appear in response to the citation, or the person is arrested for an offense against a person or property. If the person fails to appear in response to the citation, a warrant shall be issued for his arrest and his appearance shall be compelled.

B. If the arrested resident is not released by being permitted to sign a citation as provided in this subsection, he shall be admitted to bail either before or after arraignment, or shall be released on personal recognizance.

C. If a nonresident of this city is arrested by a law enforcement officer for a violation of any ordinance for which Section 6-114 of this code does not apply, the defendant shall be eligible to be admitted to bail either before or after arraignment.

D. If the alleged offense be a violation of an ordinance restricting or regulating the parking of vehicles, including any regulations issued under such an ordinance, and the operator be not present, the police officer shall place a citation on the vehicle, at a place reasonably likely to come to the notice of the operator. The operator of this vehicle shall be under the same obligation to respond to the citation as if it had been issued to him personally under Subsection A of this section. (Prior Code, Sec. 14-20, as amended)

SECTION 6-114      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:

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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 party to 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 personal recognizance as provided for in subsection A of this section, then the arresting officer shall:
1. Designate the traffic charge;
  2. Record information from the arrested person's driver'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

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5. Permit the arrested person to sign a written promise to appear as provided for in the citation.

The arresting officer shall then release the person upon personal recognizance based upon the signed promise to appear. The citation shall contain a written notice to the arrested person that release upon personal recognizance based upon a signed written promise to appear for arraignment is conditional and that failure to timely appear for arraignment shall result in the suspension of the arrested person's drivers license in this state, or in the nonresident's home state pursuant to the Nonresident Violator Compact.

C. Procedures for arraignment, continuances and scheduling, timely appearances, pleas of guilty or nolo contendere, posting bail, payment of fines and costs, issuance of arrest warrants, and requests for suspension of drivers license, shall be as required in 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. The defendant shall not use currency for payment by mail. If the defendant has entered a plea of guilty or nolo contendere as provided for in this subsection, such plea shall be accepted by the court and the amount of the fine and costs shall be as prescribed by ordinance for the violation charged or as 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 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

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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 the defendant personally appears, or shall mail such proof by first class mail, postage prepaid, to the defendant at the address noted on the citation or at such other address as is furnished by the defendant. Additionally, the court or court clerk shall notify the home jurisdiction of the defendant as listed on the citation, if such jurisdiction is a member of the Nonresident Violator Compact, 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.

G. In addition to the provisions of Section 6-134 of this code, if, pursuant to the provisions of Subsection D hereof, the defendant does not timely elect to enter a plea of guilty or nolo contendere and fails to timely appear for arraignment, there shall be assessed, taxed as additional costs and collected from the defendant a processing and mailing fee in the sum of Twenty-five Dollars (\$25.00) per citation coming under the provisions hereof, which shall be in addition to any other costs of the action or fine therefor. The municipal court clerk shall assess the same upon processing the notification and request provided for in Subsection E hereof, and shall include and collect the same as such additional fees under Subsection F hereof.

H. If the defendant is not eligible for release upon personal recognizance as provided for in this section, 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 jailer, to be held until a judge is available or bail is posted.

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I. 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. The arresting officer shall not be required to:

1. Place a juvenile into custody as provided for in this section;
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 take place.

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. (Ord. No. NC-345, 7/6/87)

### SECTION 6-115 ISSUANCE OF SUMMONS; FAILURE TO APPEAR.

A. Upon the filing of a complaint charging violation of an ordinance, the judge, unless he determines to issue a warrant of arrest, or unless the defendant previously has been issued a citation or has been arrested and has given bond for appearance, shall issue a summons, naming the person charged, specifying his address or place of residence, if known, stating the offense with which he is charged and giving him notice to answer the charge in the court on a day certain, containing a provision for the official return of the summons, and including such other pertinent information as may be necessary.

B. The summons shall be served by delivering a copy to the defendant personally or by certified mail. 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.

C. Any person who has been duly served with a summons or traffic or other citation and who has signed a written promise to appear in court as directed in the summons or the citation or as subsequently directed by the court, or who has been released and been allowed to remain on personal recognizance, and who fails to appear pursuant to his written promise or as directed by the court shall be deemed guilty of an offense, which shall be punishable as provided in Section 1-108 of this code. (Prior Code, Sec. 14-21, 14-42)

### SECTION 6-116 FAILURE TO APPEAR ACCORDING TO TERMS OF BOND, BOND FORFEITURE, BENCH WARRANT.

A. If, without sufficient excuse, a defendant fails to appear according to the terms or conditions of his bond, either for hearing, arraignment, trial or judgment, or upon any other



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occasion when his presence in court or before the judge may be lawfully required or ordered, the judge may direct that fact to be entered upon the court minutes, thereby declaring the bond to be forfeited. The judge may also order a bench warrant to be issued for the defendant as provided in this chapter.

B. The judge, without advancing court costs, may also cause the forfeiture to be certified to the district court of the county, where it shall be entered upon the judgment docket and shall have the full force and effect of a district court judgment. At such time as the forfeiture is entered upon the district court judgment docket, the district court clerk shall proceed in accordance with the provisions of Sections 1330, 1332, 1333 and 1335 of Title 5 of the Oklahoma Statutes, and a surety shall have all remedies available under the provisions of Sections 1108 of Title 22 of the Oklahoma Statutes and Sections 1301 through 1340 of Title 5 of the Oklahoma Statutes.

C. Court costs shall be collectible from the proceeds of the bond.

State Law Reference: Similar provisions, 11 O.S. Sec. 27-118.

SECTION 6-117 COMPLAINANT, WITNESSES, FAILURE TO APPEAR.

Once having signed a complaint in the municipal court of the city alleging the violation of an ordinance or any other person in response to an order of the court, a complainant shall not fail, refuse or neglect to appear for the purpose of testifying as a witness at the trial of the case, after having been notified of the time, date and place at which the case is set for trial.

SECTION 6-118 ISSUANCE OF WARRANT.

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

The City of Atoka, Oklahoma to any police officer of the City of Atoka, Oklahoma.

Complaint upon oath having been made before \_\_\_\_\_ Municipal Judge of the City of Atoka, by \_\_\_\_\_ (naming complainant) that the offense of \_\_\_\_\_ (naming the offense in general terms) has been committed by \_\_\_\_\_ (name of defendant). Therefore, you are commanded forthwith to arrest the above named \_\_\_\_\_ (name of defendant) and bring \_\_\_\_\_ (insert him, her or them, as appropriate) before me at my office in Atoka to be dealt with according to law.

Witness my official hand this \_\_ day of \_\_\_\_\_, \_\_\_\_.

\_\_\_\_\_  
Judge of the Municipal Court  
Atoka, Oklahoma

B. It is the duty of the police chief personally, or through a duly constituted member of

the city police force or through any other person lawfully authorized so to act, to execute the warrant as promptly as possible. (Prior Code, Sec. 14-22)

SECTION 6-119      PROCEDURES FOR BAIL OR BOND, BOND SCHEDULE.

A.      Upon arrest, or upon appearance without arrest in response to citation or summons, or at any time before trial, before or after arraignment, the defendant may be eligible to be released upon giving bail for his appearance in an amount and upon conditions fixed by this chapter or the judge, who shall prescribe appropriate rules of court for the receipt of bail and release of the defendant. In case of arrests made at night, emergencies or under other conditions when the judge is not available, a court official, the chief of police, or his designated representative may be authorized by the judge, subject to such conditions as shall be prescribed by the judge, to accept a temporary cash bond to secure the appearance of the accused. The cash bond shall not exceed the maximum monetary penalty provided by ordinance for the offense charged, in addition to costs. The court official, police chief or his designee is authorized, subject to conditions as may be prescribed by the judge, to release a resident of the municipality on personal recognizance.

B.      The city's bail bond schedule setting forth specific offenses and bail bond amounts and procedures therefor, as amended from time to time, is hereby adopted and incorporated herein by reference, and may be included in the city's schedule of fines and penalties (Appendix 4). (Prior Code, Sec. 14-23; Ord. No. NC-345, 7/6/87)

State Law Reference: Acceptable methods of bail, 11 O.S. Sec. 27-117 (cash, guaranteed arrest bond certificate).

SECTION 6-120      ARRAIGNMENT.

Upon making his appearance before the court, the defendant shall be arraigned. The judge, or the city attorney, shall read the complaint to the defendant, inform him of his legal rights, including the right of trial by jury, if available, and of the consequences of conviction, and ask him whether he pleads guilty or not guilty. 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. (Prior Code, Sec. 14-24)

SECTION 6-121      POSTPONEMENT OF TRIAL.

Before trial commences, either party, upon good cause shown, may obtain a reasonable postponement thereof. (Prior Code, Sec. 14-25)

SECTION 6-122      DEFENDANT'S PRESENCE REQUIRED AT TRIAL.

The defendant must be present in person at the trial of his case in court except as otherwise directed by the court for good cause. (Prior Code, Sec. 14-26)

SECTION 6-123      PROCEDURE FOR TRIALS NOT WITHIN SCOPE OF CHAPTER.

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In all trials, as to matters not covered in this chapter, by the statutes relating to municipal criminal courts, or by rules duly promulgated by the state Supreme Court, the procedure applicable in trials of misdemeanors in the district courts shall apply to the extent that they can be made effective. (Prior Code, Sec. 14-27)

### SECTION 6-124      JUDGMENT.

At the close of trial, judgment must be rendered without undue delay by the judge, who shall cause it to be entered in his docket:

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

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

3. A judgment that the defendant pay a fine may direct also that he be imprisoned until the fine is satisfied, as provided in Section 6-128 of this code. (Prior Code, Secs. 14-28, 14-30)

### SECTION 6-125      JUDGMENT OF IMPRISONMENT.

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

### SECTION 6-126      SUSPENSION OR DEFERMENT OF JUDGMENT, POWERS.

A. The judge of the court 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 part thereof and to authorize the person to be released upon his own recognizance for a period not to exceed six (6) months from the date of the sentence, under such terms or conditions as the judge may specify. The judge may, with the consent of the defendant, defer further proceedings, after a verdict, finding or plea of guilty, but before passing a judgment of guilt and imposing a fine, and place the defendant on probation for a period not to exceed six (6) months, under such terms and conditions as prescribed by the court, which may include, but not be limited to, work on the streets, parks or other city-owned or maintained projects, with proper supervision.

B. A defendant is not entitled to a deferred sentence if the defendant has been previously convicted of a felony.

C. Upon a finding of the court that the conditions of release have been violated, the municipal judge may enter a judgment of guilty and may cause a warrant to be issued for the defendant.

D. Upon the issuance of the warrant or judgment of guilty being entered, the person

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shall be delivered forthwith to the place of confinement to which he is sentenced and shall serve out the full term or pay the full fine for which he was originally sentenced as may be directed by the judge.

E. 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 the sentence. At the expiration of such period, the judge may allow the city attorney to amend the charge to a lesser offense.

F. If a deferred sentence is imposed, an administrative fee of not more than the fine and costs assessable had the deferral not been granted may be imposed as costs in the case. The court may make payment of the fee a condition of granting or continuing the imposition of a sentence, if the defendant is able to pay.

G. The court may also require restitution and in the event there was damage done to public or private property during the commission of the offense, the court may require the defendant to repair or replace such damaged property as a condition to a deferred sentence as may be directed by the court.

Cross Reference: See Fee Schedule, Appendix 2, for applicable fees.

State Law Reference: Similar provisions, 11 O.S. Sec. 27-123.

### SECTION 6-127 PAYMENT OF COSTS BY DEFENDANT.

A. If judgment of conviction is entered, the clerk of the court shall tax the costs to the defendant in the sum of Thirty Dollars (\$30.00), or the maximum sum permitted by state law, whichever is greater, plus the fees and mileage of jurors and witnesses, all of which the defendant shall pay, in addition to any fine that may be imposed.

B. A Municipal Court Technology Fee shall be and is hereby established in the amount of twenty-five dollars (\$25.00). The fee shall be in addition to and not in substitution for any and all costs, fees, fines or penalties otherwise provided for by law 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 revenue generated by this fee shall be used solely and exclusively for the acquisition, operation, maintenance, repair, lease and replacement of hardware, software, peripheral technological equipment used in the operation, prosecution and administration of the municipal court of the city, which shall include, but is not limited to, computer hardware and software needs of the municipal court; audio, video and other electronic technologies to assist with the municipal court proceedings, maintenance of said municipal court electronics and electronic ticket equipment, supplies required by the Police Department to generate citations, and electronic preservation and updates to the City Code. (Approved 11/07/2022, Ord No. 589)

State Law Reference: Maximum amount of court costs, 11 O.S. Sec. 27-126; Penalty on assessment for police training, 20 O.S. Sec. 1313.1.

### SECTION 6-128 WITNESS FEES.

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A. Witnesses in any proceeding in the court, other than police or peace officers who shall be employed by the city, shall be entitled, upon timely and proper request therefor, to a witness fee as established by the city council by motion or resolution per each day of attendance, plus mileage per mile actually and necessarily traveled in going to and returning from the place of attendance, if the residence is more than ten (10) miles distant from the place of trial. No witness, however, shall receive fees or mileage in more than one case for the same period of time or for the same travel. A defendant seeking to subpoena witnesses must deposit with the court clerk a sum sufficient to cover fees and mileage for one day of attendance for each witness to be summoned, but such deposit shall not be required from an indigent defendant who files an affidavit setting forth:

1. The names of no more witnesses than the municipal judge for the city shall determine to be just, necessary and reasonable for the proper defense of such indigent's case;

2. That the defendant by reason of his poverty is unable to provide the fees and mileage allowed by law;

3. That the testimony of such witness is material; and

4. That the attendance at the trial is necessary to his proper defense.

B. In any case where an indigent defendant has properly filled out and filed with the city an affidavit setting forth the above mentioned information, then the fees for such witnesses shall be paid for by the city. (Prior Code, Sec. 14-33)

Cross Reference: See Fee Schedule, Appendix 2, for applicable fees.

### SECTION 6-129      ENFORCEMENT OF FINES AND COSTS, IMPRISONMENT, WORK AND COMMUNITY SERVICE.

A. If a defendant who is financially able refuses or neglects to pay a fine or costs or both, payment may be enforced by imprisonment until the same shall be satisfied at the rate of not less than Five Dollars (\$5.00) per day.

B. 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 where it shall be entered upon the district court docket and shall have the full force and effect of a district court judgment. Thereupon the same remedies shall be available for the enforcement as are available to any other judgment creditor.

C. All prisoners confined to jail on conviction or on plea of guilty may be compelled, if their health permits, to work on community projects, the public streets, avenues or ways, public buildings or other public premises or property. For each day of such work, the prisoner or defendant shall be credited for two (2) days of imprisonment toward any fine or costs or witness or juror fees or mileage until the same are satisfied.

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D. The city shall direct where the work shall be performed. The appropriate officer shall oversee the work. If a guard is necessary, the chief of police shall make provision therefor.

E. The provisions of this section shall be effective only so long as they are mandated by state law.

State Law Reference: Similar provisions, 11 O.S. Sec. 27-122; Community service, powers to direct, liability of city limited, 57 O.S. Secs. 227, 228.

### SECTION 6-130      SAME OFFENSE PUNISHABLE BY DIFFERENT SECTIONS OF THE CODE.

In all cases where the same offense is made punishable or is created by different sections of this code, the city attorney may elect under which to proceed, but not more than one recovery shall be had against the same person for the same offense.

### SECTION 6-131      CONTEMPT OF COURT.

Obedience to the orders, rules and judgments made by the court may be enforced by the judge, who may fine or imprison for contempt committed as to him while holding court, or committed against process issued by him, in the same manner and to the same extent as the district courts of this state. (Prior Code, Sec. 14-18)

### SECTION 6-132      PENALTY ASSESSMENTS.

A. Any person:

1. Convicted of an offense punishable by a fine of Ten Dollars (\$10.00) or more or by imprisonment, excluding parking and standing violations; or

2. Forfeiting bond when charged with such an offense under paragraph one hereof, shall pay a sum as set by state law as a separate penalty assessment for law enforcement training, and as a separate fingerprinting fee, which shall be in addition to and not in substitution for any and all fines and penalties and costs otherwise provided for such offense. The court shall provide for separate bail for the assessments; however, a defendant admitted to bail on an undertaking by a surety may include the amount of the assessment in the undertaking.

B. Upon conviction or bond forfeiture, the court shall collect the assessment and deposit the monies for payment as required by state law.

C. At the end of every quarter the city shall deposit with the Oklahoma State Treasury the funds deposited in the law enforcement training funds and the A.F.I.S. (automated fingerprint identification) Fund as required by law. The court clerk shall also furnish to the State Treasury reports required on the funds collected and penalty assessments imposed each quarter.

D. For the purpose of this section, "conviction" means any final adjudication of guilt,

whether pursuant to a plea of guilty or nolo contendere or otherwise, and any deferred or suspended sentence or judgment.

E. The provisions of this section shall be applicable only so long as mandated by state law.

State Law Reference: Similar provisions, 20 O.S. Sec. 1313.1 through 1313.3.

SECTION 6-133      FINES RECOVERABLE BY CIVIL ACTION; FAILURE TO PAY SEPARATE OFFENSE, IMPRISONMENT.

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

B. The failure to pay a fine levied pursuant to this code shall constitute a separate offense against the city, subject to a fine as provided in Section 1-108 of this code.

C. If a fine is not paid by the defendant, the fine may be collected by committing the defendant to the city jail, where he shall remain until his fine and any costs assessed against him are discharged, either by payment or by confinement in jail, or by working in accordance with other provisions of this code or state law.

SECTION 6-134      DISHONORED CHECK OR INSTRUMENT.

A. 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 charge specified.

B. In the event of an occurrence as described in this section, in addition to the provisions thereof, there shall be assessed, taxed as costs, and collected, a dishonored check or instrument return and processing fee per check or instrument. This fee to be taxed and assessed in the action shall be in addition to any other costs, including but not limited to the costs set forth in Subsection G of Section 6-114. In the event that Subsection F of Section 6-114 is applicable to the action, the dishonored check or instrument return and processing fee shall be included as costs, and collected as such additional costs under Subsection F of Section 6-114. (Ord. No. NC-345, 7/6/87)

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CHAPTER 2

JUDGE

Section 6-201	Judge; created; qualifications.
Section 6-202	Term of office of judge.
Section 6-203	Appointment of judge, alternate judge.
Section 6-204	Acting judge.
Section 6-205	Compensation.
Section 6-206	Removal of judge from office.
Section 6-207	Vacancy.

SECTION 6-201      JUDGE; CREATED; QUALIFICATIONS.

A.      There shall be one judge of the court.

B.      To be considered as being qualified for appointment as judge, or to serve or continue to serve as judge, the following minimum requirements must be met:

1.      If the person is not licensed to practice law in the state, then the person shall be a resident of the city, a high school graduate, of good moral character, and twenty-five (25) years of age or older;

2.      If the person is licensed to practice law in the state, then the person shall be a member of the Oklahoma Bar in good standing, of good moral character, and a resident of the state. Such an attorney shall not be considered unqualified merely because the attorney is employed by or otherwise serves any other town, city or other political subdivision of the state or otherwise, nor because the attorney may be actively engaged in the practice of law. However, such an attorney should not, while serving as city judge, accept any employment creating a conflict of interest as between the same and the attorney's duties as city judge, nor which may arise from or directly relate to a justiciable issue pending or likely to be pending in the municipal court. (Prior Code, Sec. 14-4; Ord. No. NC-378, 1/16/90)

SECTION 6-202      TERM OF OFFICE OF JUDGE.

The official term of the judge shall be as prescribed by state law and the city charter. Each judge, unless sooner removed for proper cause, shall serve until his successor is appointed and qualified. (Prior Code, Sec. 14-5)

Charter Reference: See Section 5-1 of the charter.

SECTION 6-203      APPOINTMENT OF JUDGE, ALTERNATE JUDGE.

A.      Any proposed appointment for judge shall be submitted in writing to the city council at the next to the last regularly scheduled meeting prior to the day upon which the appointment is to take effect, and shall be acted upon at the next regularly scheduled meeting. The



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city council may decide upon the proposed appointment by a majority vote of all the members of the council. Failure of decision upon a proposed appointment shall not prevent action thereon at a later regularly scheduled meeting of the council.

B. There may be appointed for each judge of the court an alternate judge possessed of the same qualifications as the judge. His appointment shall be for the same term and made in the same manner as the judge. He shall sit as judge of the court in any case if the judge is absent from court, unable to act as judge, or disqualified from acting as judge in the case. (Prior Code, Secs. 14-6, 14-8)

Charter Reference: Appointment of judge, Sec. 5-1 of the charter.

### SECTION 6-204 ACTING JUDGE.

If at any time there is no judge duly appointed and qualified available to sit as judge, a person possessing the qualifications required by this chapter for the judge shall be appointed as acting judge. The acting judge shall preside as acting judge over the court in the disposition of pending matters until such time as a judge or alternate judge shall be available. (Prior Code, Sec. 14-7)

### SECTION 6-205 COMPENSATION.

A. A judge shall receive such salary as may be established by the city council.

B. An alternate judge or an acting judge shall be paid per day for each day devoted to the performance of his duties except that, in any one month period of time, the total payments thereto, so calculated, shall not exceed the salary of the judge in whose stead he sits. An alternate or acting judge who so sits for an entire month shall receive the amount specified by the city council as the salary of the judge in whose stead he sits for that month. (Prior Code, Sec. 14-9; Ord. No. NC-315, 2/18/86; Ord. No. NC-379, 1/16/90)

### SECTION 6-206 REMOVAL OF JUDGE FROM OFFICE.

A. Judges shall be subject to removal from office by the council for the causes prescribed by the constitution and laws of this state for the removal of public officers. Proceedings for removal shall be instituted by the filing of a verified written petition, setting forth facts sufficient to constitute one or more legal grounds for removal. Petitions may be signed and filed by the mayor, or twenty-five (25) or more qualified electors of this city. In the latter event, verification may be executed by one or more of the petitioners.

B. The council shall set a date for hearing the matter and shall cause notice thereof, together with a copy of the petition, to be served personally upon the judge at least ten (10) days before the hearing. At the hearing, the judge shall be entitled to representation by counsel, to present testimony and to cross-examine the witnesses against him, and to have all evidence against him presented in open hearing.

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C. So far as can be made applicable, the provisions of the Oklahoma Administrative Procedure Act governing individual proceedings (Title 75, Oklahoma Statutes, Sections 30-317 and any amendments or additions thereto in effect at the time of the hearing) shall govern removal proceedings hereunder.

D. Judgment of removal shall be entered only upon individual votes, by a majority of all members of the council, in favor of such removal. (Prior Code, Sec. 14-10)

### SECTION 6-207      VACANCY.

A. A vacancy in the office of judge shall occur if the incumbent:

1. Dies;
2. Resigns;
3. Ceases to possess the qualifications for the office; or
4. Is removed.

B. Upon the occurrence of a vacancy in the office of judge, the council shall appoint a successor to complete the unexpired term, upon the same procedure as an original appointment is made. (Prior Code, Sec. 14-11)

CHAPTER 3

JURY TRIALS

Section 6-301	Right to trial by jury, waiver.
Section 6-302	Selection of jurors.
Section 6-303	Summons of jurors; form; service.
Section 6-304	Composition of jury; duty of jurors.
Section 6-305	Determination of questions of law.
Section 6-306	Verdict.
Section 6-307	Juror's fees.
Section 6-308	Cost bond for jury trial.
Section 6-309	Misconduct of jurors generally.
Section 6-310	Responsibility of officer in charge of jury.

SECTION 6-301      RIGHT TO TRIAL BY JURY, WAIVER.

A.      In all prosecutions for violations of ordinances punishable by fine of more than One Hundred Dollars (\$100.00), or by imprisonment, or by both fine and imprisonment, trial shall be by jury unless waived by the defendant. If trial by jury is waived, trial shall be by the court.

B.      At arraignment, the defendant shall be asked whether he demands or waives trial by jury. His election shall be recorded in the minutes of the arraignment and entered on the docket of the court respecting proceedings in the case.

C.      An election waiving jury trial, made at arraignment, may be changed by the defendant at any time prior to the day for which trial by the court is set. An election demanding jury trial may be changed at any time prior to the commencement of proceedings to impanel the jury for the trial; but if that change occurs after the case has been set for jury trial, it may not thereafter be rechanged so as again to demand trial by jury.

SECTION 6-302      SELECTION OF JURORS.

Whenever a calendar has been made up for the trial of cases by jury, the judge shall request, in writing, the presiding judge of the district court for this judicial district to cause the names of a stated number of jurors, deemed sufficient to dispose of the cases on the calendar, to be drawn from the jury wheel in accordance with the governing statutes of the state and to be certified by the clerk of the district court to the judge of the municipal criminal court. The request shall be made in time for the list to be certified and the jurors to be summoned legally before the trial begins. If it is anticipated that the completion of the calendar will require more than two (2) weeks, the request for jurors shall specify the number required for each two-week period, as provided by law. Other names also may be requested by the judge, when necessary, in accordance with the law for such additional drawings in the district court. Additional drawing of other names also may be requested by the judge, when necessary, in accordance with the law for such additional drawings in the district court. If, in the future, provisions of the law respecting the drawing of jury lists for the district court are changed, the judge shall take such steps, in requesting jury lists for the court, as

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are necessary to comply with the state law.

SECTION 6-303      SUMMONS OF JURORS; FORM; SERVICE.

A. Upon receipt of the jury list, the clerk of the court shall cause a summons substantially in the following form to be issued and served upon each person on the list:

State of Oklahoma                    )  
  )  
County of Atoka                        )           ss.

To (name of juror) Greetings: You hereby are summoned to appear in the Municipal Court for the City of Atoka, Oklahoma, to be held at (specify the address, room number, etc.) on the \_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, at the hour of (specify hour) to serve as a juror in the Court, and to continue in such service until discharged by the Court.

Hereof fail not, under penalty of law.

Issued under the authority of the Court, this \_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Clerk of the Municipal  
Court of Atoka, Oklahoma

Seal of the Court

B. Service shall be made, as the judge may prescribe by rule or direct by order, either in person upon the juror by the marshal of the court or by any member of the police force of this city, or the clerk of the court, through certified mail, directed to the juror at his address as given in the jury list, with request for a personally signed return receipt. In any proceeding wherein service of summons by mail is in issue, evidence of the due mailing of the summons by the clerk or a member of his staff and the presentation of an official postal return receipt purportedly signed by the addressee shall be prima facie evidence that the summons was duly received by the addressee and, therefore that he was properly served therewith.

C. Failure to comply with the summons for jury duty shall be an offense, punishable as provided in Section 1-108 of this code for each day of noncompliance.

SECTION 6-304      COMPOSITION OF JURY; DUTY OF JURORS.

A. A jury in the court shall consist of six (6) jurors, good and lawful men or women, citizens of the city possessing the qualifications of jurors in district court.

B. After the jurors are sworn, they must sit together and hear the proofs and oral arguments of the parties, which must be delivered in public and in the presence of the defendant.

C. A verdict of the jury may be rendered by the vote of five (5) jurors.

SECTION 6-305      DETERMINATION OF QUESTIONS OF LAW.

In all actions tried before a jury, the judge shall determine all questions of law, including questions as to the introduction of evidence, arising during the trial. He also shall instruct the jury as to the law.

SECTION 6-306      VERDICT.

A.      The verdict of the jury, in all cases, must be general. When the jury has arrived at its verdict, it must deliver the verdict in the docket or cause it to be so entered.

B.      The jury must not be discharged after the cause is submitted to it until a verdict is rendered unless the judge, for good cause discharges it sooner, in which event the court may proceed again to trial until a verdict is rendered.

SECTION 6-307      JUROR'S FEES.

Jurors shall receive for their services the sum as set by the council per day, plus mileage at a rate per mile for each mile necessarily traveled by the most direct route in going to and from the court one time each day from their respective places of residence. The claims for such compensation shall show the location of the juror's residence and the route and miles traveled, and must be verified as other claims against the city are verified.

SECTION 6-308      COST BOND FOR JURY TRIAL.

When an accused requests a jury trial in the municipal court, the court may fix a reasonable sum as a cost bond and require the accused to deposit the same prior to trial.

SECTION 6-309      MISCONDUCT OF JURORS GENERALLY.

A.      No juror or person drawn or summoned as a juror in the municipal court shall either make any promise or agreement to give a verdict for or against the city, permit any communication to be made to him, or receive any book, paper, instruments or information relative to any cause pending before him, except in the regular course of proceedings and the trial of the case.

B.      No juror summoned by the court shall ask, receive or agree to receive, any bribe upon any understanding concerning his vote or decision upon any case in which he may be selected as a juror in the court.

C.      No person shall attempt to influence a juror summoned to appear in the court, or any person summoned as a juror, in respect to his verdict, either by means of communication, oral or written, had by him, except in the regular course of proceedings; by means of any books, paper or instruments, exhibited otherwise than in the regular course of proceedings, by any means of threat or intimidation; by means of any assurance, promise of any pecuniary or other advantage, by publishing any statement, argument, or observation relating to the case; or by talking with such juror concerning the case in any way.

SECTION 6-310      RESPONSIBILITY OF OFFICER IN CHARGE OF JURY.

No officer to whose charge any jury is committed by the municipal court shall neglect or willfully permit such juror or any of them, either to receive any communication from any person, to make any communication to any person; to obtain or to receive any book, paper, or refreshment; or to leave the jury room without leave of the court being first obtained.

CHAPTER 4

PROCEEDING AGAINST CORPORATIONS

- Section 6-401 Summons; issuance to corporations.
- Section 6-402 Form of corporation summons.
- Section 6-403 Service of summons.
- Section 6-404 Trial.
- Section 6-405 Collection of fines.

SECTION 6-401      SUMMONS; ISSUANCE TO CORPORATIONS.

Upon complaint against a corporation being filed with the municipal court, the judge shall issue a summons signed by him with his title of office, requiring a duly authorized officer of the corporation to appear before him at a specific time and place to answer the complaint. The time for such appearance shall not be less than five (5) days after issuance of summons.

SECTION 6-402      FORM OF CORPORATION SUMMONS.

The summons authorized by Section 6-401 of this code must be in substantially the following form:

In the name of the City of Atoka, Oklahoma.

To \_\_\_\_\_.

You are hereby summoned to appear before me at \_\_\_\_\_ (place) on \_\_\_\_\_ (date and hour) to answer the complaint made against you upon the complaint of \_\_\_\_\_ for the offense of \_\_\_\_\_ (designating offense generally).

Dated at the City of Atoka, Oklahoma, this \_\_\_\_\_.

\_\_\_\_\_  
Municipal Judge

SECTION 6-403      SERVICE OF SUMMONS.

The summons authorized by Section 6-401 of this code must be served by certified mail, personally delivering a copy to, or other means authorized by state law on the registered agent of the corporation at least ten (10) days before the day of appearance fixed therein, and may also be served by certified mail or other means to the president or head of the corporation, or to the secretary, cashier or managing agent thereof.

SECTION 6-404      TRIAL.

At the time appointed in the summons authorized by Section 6-401 of this code, the municipal judge shall try the complaint in the same manner as in the case of a natural person

brought before him.

SECTION 6-405      COLLECTION OF FINES.

When a fine is imposed upon a corporation, upon conviction, it may be collected by the municipal judge making a transcript of his proceedings thereof, together with the judgment of the court duly certified and filed with the clerk of the district court of the county. Execution shall be issued thereon and served by the sheriff of the county as in cases of execution generally.



**PART 7**

**FINANCE AND TAXATION**

**CHAPTER 1**

**FINANCES GENERALLY**

- Section 7-101 Depositories designated, deposit of funds.
- Section 7-102 Funds secured by unit collateral system.

**CHAPTER 2**

**PURCHASES BY CITY**

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- Section 7-202 Authorization, applicability and requirement for bidding.
- Section 7-203 Authority for acquisition, how made.
- Section 7-204 Exception to requirements.
- Section 7-205 Formal competitive bidding.
- Section 7-206 Disposition of surplus or obsolete materials, bidding.
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**SALES TAX**

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- Section 7-302 Definitions.
- Section 7-303 Classification of taxpayers.
- Section 7-304 Subsisting state permits.
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- Section 7-309 Exemptions; general.
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CHAPTER 1

FINANCES GENERALLY

- Section 7-101      Depositories designated, deposit of funds.  
Section 7-102      Funds secured by unit collateral system.

SECTION 7-101      DEPOSITORIES DESIGNATED, DEPOSIT OF FUNDS.

All banks and financial institutions as are designated by the city council shall be designated as depositories for the funds of the city. The city treasurer shall deposit daily all public funds received by him in these banks. Funds may be transferred from one depository to another upon direction of the treasurer. (Prior Code, Sec. 7-27)

SECTION 7-102      FUNDS SECURED BY UNIT COLLATERAL SYSTEM.

The deposits of the city shall be secured by the unit collateral system provided by state law. The provisions of the state law on the unit collateral system, Sections 516.1 through 516.10 of Title 62 of the Oklahoma Statutes, are hereby adopted insofar as they are applicable to the city. (Prior Code, Sec. 7-2)

CHAPTER 2

PURCHASES BY CITY

Section 7-201	Definitions.
Section 7-202	Authorization, applicability and requirement for bidding.
Section 7-203	Authority for acquisition, how made.
Section 7-204	Exception to requirements.
Section 7-205	Formal competitive bidding.
Section 7-206	Disposition of surplus or obsolete materials, bidding.
Section 7-207	Surplus materials, when competitive bidding not required.

SECTION 7-201      DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

1. “Acquisition” means every purchase, lease or contract for goods or services;
2. “Acquisition cost” means the cost of an acquisition viewed as a single transaction as a whole or its necessarily related or constituent parts;
3. “Bidding documents” means the bid notice, plans, specifications, bidding form, bidding instructions, special provisions, and all other written instruments prepared by or on behalf of the city for use by prospective bidders;
4. “Construction contract” means contracts awarded by the city for the purpose of making any public improvements, or constructing any public building, or making repairs to the same;
5. “Contractual Services” includes, but is not limited to, all telephone, gas, water, electric light and power service; and the rental, repair, or maintenance of equipment, machinery, and other city-owned personal property.
6. “Prior council approval” means the approval of the taking of action (e.g., acquisitions/contracts) by a majority of the council, obtained prior to (before) the taking of such action;
7. “Professional Services” includes services to support or improve municipal policy development, decision-making, management, administration, or the operation of management systems. Professional services include those as defined in 18 O.S. § 803, those which are in their nature unique and not subject to competition, nor shall it include services or maintenance authorized and provided for an improvement district pursuant to 11 O.S. § 39-103.1.

SECTION 7-202      AUTHORIZATION, APPLICABILITY AND REQUIREMENT FOR BIDDING.

A. This chapter shall be known as the Atoka Competitive Bidding ordinance.

B. Except as otherwise herein provided, all acquisitions and construction contracts shall be subject to, and obtained pursuant to, the provisions of this chapter, including but not limited to its provisions for prior council approval and competitive bidding.

C. Any acquisition or construction contract obtained otherwise than in compliance with this chapter shall be null, void and without authority, and the city shall have no liability upon, for or with respect thereto.

SECTION 7-203      AUTHORITY FOR ACQUISITIONS, HOW MADE.

A. The city manager, or his designee, is hereby authorized to purchase supplies, equipment, materials and/or services in the amount not to exceed twenty thousand dollars (\$20,000.00) in a single transaction.

B. The city manager shall develop such administrative policies as necessary for said purchases to ensure efficient and economical purchasing practices.

C. Expenditures for goods, services, or construction where the estimated cost exceeds twenty thousand dollars (\$20,000), but does not exceed fifty thousand dollars (\$50,000) shall only be made after obtaining prior council approval and a minimum of three (3) written price quotations. Quotes must be received on the quoting vendor's letter head with a signature, or must be received in an e-mail from the vendor. Quotes shall be for similar items that reflect the same quantity, and quality of item(s) specified. Quotes obtained from vendors whose pricing is under contract let by the State of Oklahoma are not subject to the three (3) quote minimum.

SECTION 7-204      EXCEPTION TO REQUIREMENTS.

The following contract for or purchase of supplies, materials, equipment, or contractual services shall not require bidding or prior approval:

1. Contractual services, including, but not limited to, natural gas, electricity, or telephone purchased from a public utility at a price rate determined by the State Corporation Commission or other governmental authority;

2. Taxes, including, but not limited to, withholding social security and unemployment compensation taxes;

3. Retirement, pension fund, insurance, and similar payments or contributions which are payable pursuant to a resolution, ordinance, contract, policy, or other appropriate agreement which has been approved by the City Council.

SECTION 7-205      FORMAL COMPETITIVE BIDDING.

Until such time as provision herein is made otherwise, all formal competitive bidding shall be conducted and carried out as provided and set forth in the Oklahoma Competitive Bidding Act (Sections 101 et seq. of Title 61 of the Oklahoma Statutes).

SECTION 7-206      DISPOSITION OF SURPLUS OR OBSOLETE MATERIALS, BIDDING.

No surplus or obsolete supplies, materials or equipment of a value of more than five hundred dollars (\$500.00) may be sold until the procedures outlined in this chapter have been followed. Before the city manager sells any surplus or obsolete supplies, he shall advertise them for sale in a newspaper of general circulation in the city or give notice in such other manner as he deems necessary adequately to reach prospective buyers to give them an opportunity to make bids. All bids shall be sealed and shall be opened in public at a designated time and place, except when the sale is by auction. The city manager may repeatedly reject all bids and advertise or give notice again. He may sell such supplies, materials, or equipment only to the highest responsible bidder for cash. In case of a tie, he may sell to either of the bidders tying, or may divide the sale among two (2) or more tying, always selling to the highest responsible bidder or bidders for cash.

SECTION 7-207      SURPLUS MATERIALS, WHEN COMPETITIVE BIDDING NOT REQUIRED.

The city manager may sell the following without giving an opportunity for competitive bidding:

1. Surplus or obsolete supplies, materials or equipment whose total value does not exceed five hundred dollars (\$500.00) in a single transaction; or
2. Supplies, materials or equipment when sold at a price at least as great as that paid by the city for the same; or
3. Where the council has authorized the sale of surplus property at public auction under such terms, conditions and notice as the council may prescribe or as the city manager deems appropriate.

CHAPTER 3

SALES TAX

Section 7-301	Citation of chapter.
Section 7-302	Definitions.
Section 7-303	Classification of taxpayers.
Section 7-304	Subsisting state permits.
Section 7-305	Purpose of revenues; disposition of proceeds.
Section 7-306	Tax rate; sales subject to tax.
Section 7-307	Exemptions; sales subject to other tax.
Section 7-308	Exemptions; governmental and nonprofit entities.
Section 7-309	Exemptions; general.
Section 7-310	Exemptions; agriculture.
Section 7-311	Exemptions; manufacturers.
Section 7-312	Exemptions; corporations and partnerships.
Section 7-313	Tax due and payable.
Section 7-314	Payment of tax; brackets.
Section 7-315	Tax constitutes prior claim.
Section 7-316	Vendor's duty to collect tax.
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SECTION 7-301      CITATION OF CHAPTER.

This chapter shall be known and may be cited as the City Sales Tax Ordinance. (Prior Code, Sec. 7-1, 7-36)

State Law Reference: State sales tax provisions, 68 O.S. Secs. 1350, et seq.; City powers, procedures to levy, 68 O.S. Secs. 2701 et seq.



Ed. Note: Ordinance No. 114, effective April 1, 1969, levied a one cent sales tax. Ordinance No. 182, effective April 1, 1978, levied a second cent sales tax.

SECTION 7-302      DEFINITIONS.

A.      The definitions of words, terms and phrases contained in the Oklahoma Sales Tax Code, 68 O.S. Section 1352, and Sections 596 and 793 of Title 37 of the Oklahoma Statutes, are hereby adopted by reference and made a part of this chapter.

B.      The term “tax collector,” as used herein, shall mean the department of the city 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. (Prior Code, Sec. 7-14, 7-15, 7-49, 7-50 in part)

SECTION 7-303      CLASSIFICATION OF TAXPAYERS.

For the purpose of this chapter, the classification of taxpayers hereunder shall be as prescribed by state law for purposes of the Oklahoma Sales Tax Code. (Prior Code, Sec. 7-11, 7-46)

SECTION 7-304      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 chapter, hereby ratified, confirmed and adopted in lieu of any requirement for an additional city permit for the same purpose. (Prior Code, Sec. 7-2, 7-37)

SECTION 7-305      PURPOSE OF REVENUES; DISPOSITION OF PROCEEDS.

A.      It is hereby declared to be the purpose of the revenues generated by the first cent sales taxes levied herein to provide revenues for the support of the functions of the municipal government of the city.

B.      It is declared to be the purpose of the second cent sales tax levied by this chapter to provide revenues for the purpose of building, construction, repairing, widening and maintaining streets and roadways within the corporate limits of the city, as now or may in the future exist, to acquire right-of-way therefor, to relocate utilities from under existing streets and those located in the way of street improvements, to purchase and maintain equipment for the purposes outlined heretofore, and to make capital expenditures for the purchase of a new fire truck and acquisition and replacement of fire equipment. (Prior Code, Sec. 7-4, 7-39)

SECTION 7-306      TAX RATE; SALES SUBJECT TO TAX.

There is hereby levied an excise tax of two percent (2%) 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;

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2. Natural or artificial gas, electricity, ice, steam, or any other utility or public service except water and those specifically exempt by this chapter;
3. Transportation for hire of persons by common carriers, including railroads, both steam and electric, motor transportation companies, taxicab companies, pullman car companies, airlines and all other means of transportation for hire;
4. Service by telephone and telegraph companies to subscribers or users, including transmission of messages, whether local or long distance. This shall include all services and rental charges having any connection with transmission of any message;
5. Printing or printed matter of all types, kinds, and characters and the service of printing or over-printing, including the copying of information by mimeograph or multigraph or by otherwise duplicating written or printed matter in any manner, or the production of microfiche containing information on magnetic tapes furnished by customers;
6. Service of furnishing rooms by hotel, apartment hotel, public rooming house, motel, public lodging house or tourist camps;
7. Service of furnishing storage or parking privileges by auto hotels and parking lots;
8. Selling, renting or otherwise furnishing computer hardware or software or coding sheets, cards or magnetic tapes on which prewritten programs have been coded, punched or otherwise recorded;
9. Food, 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 character, including any and all devices used for advertising purposes and the servicing of any advertising devices, except those specifically exempt by this chapter;
11. Dues or fees to clubs including free or complimentary dues or fees which shall have the 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. Sales of tickets, fees or other charges made 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 shall have the 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, when no admission is charged spectators, such as tennis, racket ball or hand ball courts;
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 and athletic equipment;

16. The gross receipts from sales through 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. 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. Provided 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. Any licensing agreement, rental, lease or other device or instrument whereby rights to possess or exhibit motion pictures or filmed performances or rights to receive images, pictures or performances for telecast by any method are transferred. Provided, persons regularly engaged in the business of exhibiting motion pictures for which the sale of tickets or admissions is taxed under this chapter shall not be deemed to be consumers or users in respect to the licensing or exhibiting of copyrighted motion picture features, shorts, cartoons and scenes from copyrighted features and the sale or licensing of such films shall not be considered a sale within the purview of this chapter;

19. Flowers, plants, shrubs, trees and other floral items, whether or not same was 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. Provided, all orders taken outside this state for delivery within this state shall not be subject to the tax levied by this chapter;

20. Tangible personal property sold to persons, peddlers, solicitors or other salesmen, for resale where there is likelihood that this state will lose tax revenue due to the difficulty of enforcing this chapter 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 persons are minors or transients;
- g. The persons are engaged in service businesses; or
- h. Any other reasonable reason;

21. 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 such real estate is intended for resale as real property are hereby declared to be sales to consumers or users and taxable; and

22. Any taxable services and tangible personal property sold to persons who are primarily engaged in selling their services, such as repairmen, are hereby declared to be sales to consumers or users and taxable. (Prior Code, Sec. 7-5, 7-40, as amended to reflect state sales tax law), (amended by Ord. No. N.C. 420 10/10/94)

SECTION 7-307      EXEMPTIONS; SALES SUBJECT TO OTHER TAX.

There is hereby specifically exempted from the tax levied by this chapter 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 or motor fuel on which the motor fuel tax, gasoline excise tax or special fuels tax levied by state law has been 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 by state law has been paid;
- 3. Sale of crude petroleum or natural or casinghead gas and other products subject to gross production tax under state law. This exemption shall not apply when such products are sold to 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; and
- 4. Sale of aircraft on which the tax levied pursuant to Sections 6001 through 6004 of Title 68 of the Oklahoma Statutes has been paid. (Prior Code, Sec. 7-6, 7-41, as amended to reflect state sales tax law)

SECTION 7-308      EXEMPTIONS; GOVERNMENTAL AND NONPROFIT ENTITIES.

There are hereby specifically exempted from the tax levied by this chapter:

- 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 the 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 this chapter, except as hereinafter provided;

2. Sales of property to agents appointed or contracted with by agencies or instrumentalities of the United States Government if ownership and possession of such property transfers immediately to the United States Government;

3. 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;

4. Sale of food in cafeterias or lunch rooms 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;

5. 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;

6. 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 similar business;

7. 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 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 effect the capital improvements hereinbefore described;

8. 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 Girls shall be exempt from sales tax;

9. Sale of tangible personal property or services to any county, municipality, public school district, the institutions of the Oklahoma system of higher education and the Grand River Dam 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 or 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 subdivision 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 the sales tax involved or incarcerated for not more than sixty (60) days or both;

10. 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 Section 501(c)(3) of the Internal Revenue Code, 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 of sales ticket the nature of the purchases, and violation of this act shall be a misdemeanor as set forth in Paragraph (9) of this section;

11. 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 Section 501(c) (3) of the Internal Revenue Code; and

12. Sales of tangible personal property made by public or private school for grade levels kindergarten through twelfth grade, a public school district, public school board, public school student group or organization or public school district personnel for purposes of raising funds for the benefit of such school, school district, school board, student group or organization. For purposes of this paragraph, "public or private school" shall mean any public or private institution of education 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 not include sale of admission tickets or concessions at athletic events. (Prior Code, Sec. 7-6, 7-41, as amended to reflect state sales tax law)

SECTION 7-309      EXEMPTIONS; GENERAL.

There are hereby specifically exempted from the tax levied by this chapter:

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 taxicab;

3. Carrier sales of newspapers and periodicals made directly to consumers. Other sales of newspapers and periodicals where any individual transaction does not exceed seventy-five cents (\$0.75). A carrier is a person who regularly delivers newspapers or periodicals to subscribers on an assigned route;

4. 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 this chapter. 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 salesmen who do not have an established place of business and a sales tax permit;

5. Sales of advertising space in newspapers and periodicals and billboard advertising service, and any advertising through the electronic media, including radio, television and cable television;

6. 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 he 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;

7. Sales of medicine or drugs prescribed for the treatment of human beings by a person licensed to prescribe the medicine or drugs. This exemption shall not apply to proprietary or patent medicines as defined by Section 353.1 of Title 59 of the Oklahoma Statutes;

8. Transfers of title or possession of empty, partially filled, or filled returnable oil 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;

9. 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 of Oklahoma in the federal food stamp program; and

10. Nothing herein shall be construed as limiting or prohibiting the city from levying and collecting taxes on the sale of natural or artificial gas and electricity, whether sold for residential or commercial purposes. Any sales tax levied by the city on natural or artificial gas and electricity shall be in effect regardless of ordinance or contractual provisions referring to previously imposed state

sales tax on such items. (Prior Code, Sec. 7-6, 7-41, as amended to reflect state sales tax law; Ord. No. NC 313, 2/18/86)

SECTION 7-310      EXEMPTIONS; AGRICULTURE.

There are hereby specifically exempted from the tax levied by this chapter:

1. Sales of agricultural products produced in this state by the producer thereof directly to the consumer or user when such articles are sold at or from a farm and not from some other place of business, as follows:

- a. Farm, orchard or garden products;
- b. Dairy products sold by a dairyman or farmer who owns all the cows from which the dairy products offered for sale are produced;
- c. Livestock sold by the producer at a special livestock sale; and
- d. The provisions of this paragraph shall not be construed as exempting sales by florists, nurserymen or chicken hatcheries, or sales of dairy products by any other business except as set out herein;

2. Livestock, including cattle, horses, mules, or other domestic or draft animals, sold by the producer by private treaty or at a special livestock sale;

3. Sale of baby chicks, turkey poults and starter pullets used in the commercial production of chickens, turkeys and eggs, provided that the purchaser certifies, in writing, on the copy of the invoice or sales ticket to be retained by the vendor that the pullets will be used primarily for egg production;

4. Sale of salt, grains, tankage, oyster shells, mineral supplements, limestone and other generally recognized animal feeds for the following purposes and subject to the following limitations:

- a. Feed which is fed to poultry and livestock, including breeding stock and wool-bearing stock, for the purpose of producing eggs, poultry, milk or meat for human consumption;
- b. Feed purchased in Oklahoma for the purpose of being fed to and which is fed by the purchaser to horses, mules or other domestic or draft animals used directly in the producing and marketing of agricultural products;
- c. Any stock tonics, water purifying products, stock sprays, disinfectants or other such agricultural supplies;
- d. Poultry shall not be construed to include any fowl other than domestic fowl kept and raised for the market or production of eggs;



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e. Livestock shall not be construed to include any pet animals such as dogs, cats, birds or such other fur-bearing animals; and

f. This exemption shall only be granted and extended where the purchaser of feed that is to be used and in fact is used for a purpose that would bring about an exemption hereunder executes an invoice or sales ticket in duplicate on a form to be prescribed by the Tax Commission. The purchaser may demand and receive a copy of the invoice or sales ticket and the vendor shall retain a copy;

5. Sales of items to be and in fact used in the production of agricultural products. Sale of the following items shall be subject to the following limitations:

a. Sales of agricultural fertilizer to any person regularly engaged, for profit, in the business of farming or ranching. Each such purchaser shall certify, in writing, on the copy of the invoice or sales ticket to be retained by the vendor, that he is so engaged in farming or ranching and that the material purchased will be used only in such business;

b. Sales of agricultural fertilizer to any person engaged in the business of applying such materials on a contract or custom basis to land owned or leased and operated by persons regularly engaged, for profit, in the business of farming or ranching. Each such purchaser shall certify, in writing, on the copy of the invoice or sales ticket to be retained by the vendor that he is engaged in the business of applying such materials to lands owned or leased and operated by persons regularly engaged, for profit, in the business of farming or ranching, and shall show in the certificate the name or names of such owner or lessee and operator, the location of the lands on which the materials are to be applied to each such land, and he shall further certify that his contract price has been reduced so as to give the farmer or rancher the full benefit of this exemption;

c. Sales of agricultural fertilizer, pharmaceuticals and biologicals to persons engaged in the business of applying such materials on a contract or custom basis shall not be considered to be sales to contractors under this chapter, and the sales shall not be considered to be taxable sales within the meaning of the Oklahoma Sales Tax Code. As used in this section, "agricultural fertilizer" "pharmaceuticals" and "biologicals" mean any substance sold and used for soil enrichment or soil corrective purposes or for promoting the growth and productivity of plants or animals;

d. Sales of agricultural seed or plants to any person regularly engaged, for profit, in the business of farming or ranching. This section shall not be construed as exempting from sales tax, seed which is packaged and sold for use in noncommercial flower and vegetable gardens;

e. Sales of agricultural chemical pesticides to any person regularly engaged, for profit, in the business of farming or ranching. For the purposes of this act, agricultural chemical pesticides shall include any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any insect, snail, slug, rodent, bird, nematode, fungus, weed or any other form of terrestrial or aquatic plant or animal life or virus, bacteria or other microorganism, except viruses, bacterial or other microorganisms on or in living man, or any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant; and

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f. This exemption shall only be granted and extended to the purchaser where the items are to be used and in fact are used in the production of agricultural products. Each purchaser shall certify, in writing, on the copy of the invoice or sales ticket to be retained by the vendor, that the material purchased will only be used in his farming occupation. The vendor shall certify to the Oklahoma Tax Commission that the contract 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, and, upon violation and conviction for a second offense the Oklahoma Tax Commission shall revoke the vendor's sales tax permit; and

6. Sale of farm machinery, repair parts thereto or fuel, oil, lubricants and other substances used for operation and maintenance of the farm machinery to be used directly on a farm or ranch in the production, cultivation, planting, sowing, harvesting, processing, spraying, preservation or irrigation of any livestock, poultry, agricultural or dairy products produced from such lands. Each purchaser of farm machinery, repair parts thereto or fuel must certify, in writing, on the copy of the invoice or sales ticket to be retained by the vendor, that he is engaged in farming or ranching and that the farm machinery, repair parts thereto or fuel will be used only in farming or ranching. The exemption provided for herein shall not apply to motor vehicles. Each purchaser shall certify, in writing, on the copy of the invoice or sales ticket to be retained by the vendor, that the material purchased will only be used in his farming occupation. 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, and, upon violation and conviction for a second offense the Oklahoma Tax Commission shall revoke the vendor's sales tax permit. (Prior Code, Sec. 7-6, 7-41, as amended to reflect state sales tax law)

### SECTION 7-311      EXEMPTIONS; MANUFACTURERS.

There are hereby specifically exempted from the tax levied by this chapter:

1. Goods, wares, merchandise and property purchased for the purpose of being used or consumed in the process of manufacturing, compounding, processing, assembling or preparing for sale a finished article and such goods, wares, merchandise or property become integral parts of the manufactured, compounded, processed, assembled or prepared products or are consumed in the process of manufacturing, compounding, processing, assembling or preparing products for resale. The term "manufacturing plants" shall mean those establishments primarily engaged in manufacturing or processing operations, and generally recognized as such;

2. Ethyl alcohol when sold and used for the purpose of blending same with motor fuel on which motor fuel tax is levied by state law;

3. Sale of machinery and equipment purchased and used by persons establishing new manufacturing plants in Oklahoma, and machinery and equipment purchased and used by persons in the operation of manufacturing plants already established in Oklahoma. 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 this chapter. The term "manufacturing plants" shall mean those establishments primarily engaged in manufacturing or processing operations, and

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generally recognized as such;

4. Sales of containers when sold to a person regularly engaged in the business of reselling empty or filled containers or when purchased for the purpose of packaging raw products of farm, garden or orchard for resale to the consumer or processor. This exemption shall not apply to the sale of any containers used more than once and which are ordinarily known as returnable containers, except returnable soft drink bottles. Each and every transfer of title or possession of such returnable containers in this state to any person who is not regularly engaged in the business of selling, reselling or otherwise transferring empty or filled containers shall be taxable under this code. And, this exemption shall not apply to the sale of labels or other materials delivered along with items sold but which are not necessary or absolutely essential to the sale of the sold merchandise;

5. Sale of tangible personal property manufactured in Oklahoma when sold by the manufacturer to a person who transports it to another state for immediate and exclusive use in some other state; or

6. Machinery, equipment, fuels and chemicals incorporated into and directly used or consumed in the process of treatment to substantially reduce the volume or harmful properties of controlled industrial waste at treatment facilities specifically permitted pursuant to the Controlled Industrial Waste Disposal Act and operation at the place of waste generation, or facilities approved by the State Department of Health for the cleanup of a site of contamination. The term controlled industrial waste may include low-level radioactive waste for the purpose of this subsection. (Prior Code, Sec. 7-6- 7-41, as amended to reflect state sales tax law)

### SECTION 7-312 EXEMPTIONS; CORPORATIONS AND PARTNERSHIPS.

There are hereby specifically exempted from the tax levied in this chapter:

1. The transfer of tangible personal property, as follows:
  - a. From one corporation to another corporation pursuant to a reorganization. As used in this subparagraph the term “reorganization” means a statutory merger or consolidation or 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;
  - b. 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;
  - c. 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 his interest in the property prior to the transfer;
  - d. 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

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interest in the partnership, received by each, is substantially in proportion to his interest in the property prior to the transfer; or

e. From a partnership to the members thereof when made in kind in the dissolution of such partnership; and

2. Sale of an interest in tangible personal property to a partner or other person who after such sale owns a joint interest in such tangible personal property where the state sales or use tax has previously been paid on such tangible personal property. (Prior Code, Sec. 7-7, 7-42)

### SECTION 7-313 TAX DUE AND PAYABLE.

The tax levied under this chapter 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. (Prior Code, Sec. 7-8, 7-43)

### SECTION 7-314 PAYMENT OF TAX; BRACKETS.

A. The tax herein levied shall be paid to the tax collector at the time in form and manner provided for payment of state sales tax under the sales tax law of the state.

B. The bracket system for the collection of the city sales tax by the tax collector shall be as the same is hereafter adopted by the agreement of the city and the tax collector, in the collection of both the city sales tax and the state sales tax. (Prior Code, Sec. 7-9, 7-44)

### SECTION 7-315 TAX CONSTITUTES PRIOR CLAIM.

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. (Prior Code, Sec. 7-10, 7-45)

### SECTION 7-316 VENDOR'S DUTY TO COLLECT TAX.

A. The tax levied hereunder shall be paid by the consumer or user to the vendor; and each and every vendor shall collect from the consumer or user the full amount of the tax levied, or an amount equal as nearly as possible or practicable to the average equivalent thereof.

B. 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 at law in the same manner as other debts.

C. No vendor shall willfully or intentionally fail, neglect or refuse to collect the full amount of the tax levied; or willfully or intentionally fail, neglect or refuse to comply with the provisions of this chapter; or remit or rebate to a consumer or user, either directly or indirectly, and by whatsoever means, all or any part of the tax herein levied; or make in any form of advertising,

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verbally or otherwise, any statement which infers that he is absorbing the tax, or paying the tax for the consumer or user by an adjustment of prices or at a price including the tax, or in any manner whatsoever. (Prior Code, Sec. 7-12, 7-48)

State Law Reference: Vendor's duty to collect tax, 68 O.S. Sec. 1310.

### SECTION 7-317      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; and remittances of tax collected hereunder shall be subject to the same discount as may be allowed by the code for collection of state sales taxes. (Prior Code, Sec. 7-13, 7-48)

### SECTION 7-318      INTEREST AND PENALTIES; DELINQUENCY; DISCOUNT FORFEITURE.

A.      Section 217 of Title 68 of the Oklahoma Statutes is adopted and made a part of this chapter.

B.      Interest and penalties at the rates and in amounts specified in the state statute cited in Subsection A herein are hereby levied and shall be applicable in cases of delinquency in reporting and paying the tax levied by this chapter.

C.      The failure or refusal of any taxpayer to make and transmit the reports and remittances of tax in the time and manner required by this chapter shall cause such tax to be delinquent.

D.      If such delinquency continues for a period of five (5) days, the taxpayer shall forfeit his claim to any discount allowed under this chapter. (Prior Code, Sec. 7-16, 7-51)

### SECTION 7-319      WAIVER OF INTEREST AND PENALTIES.

A.      The interest or penalty or any portion thereof accruing by reason of a taxpayer's failure to pay the city tax herein levied may be waived or remitted in the same manner as provided for the waiver or remittance as applied in administration of the state sales tax provided in Section 220 of Title 68 of the Oklahoma Statutes.

B.      To accomplish the purposes of this section, the applicable provisions of Section 220 of Title 68 of the Oklahoma Statutes are adopted by reference and made a part of this chapter. (Prior Code, Sec. 7-17, 7-52)

### SECTION 7-320      ERRONEOUS PAYMENTS; CLAIM FOR REFUND.

A.      Refund or erroneous payment of the city sales tax herein levied may be made to any

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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 Section 227 of Title 68 of the Oklahoma Statutes.

B. To accomplish the purposes of this section, the applicable provisions of Section 227 of Title 68 of the Oklahoma Statutes are adopted by reference and made a part of this chapter. (Prior Code, Sec. 7-18, 7-53)

### SECTION 7-321      FAILURE TO FILE; FRAUDULENT RETURNS; PENALTIES.

A. No person shall:

1. Intentionally fail or refuse to make tax reports and remittances as required under this chapter; or

2. Intentionally make false and fraudulent tax reports for the purpose of avoiding or escaping payment of any tax or portion thereof due under this chapter.

B. Any person required to collect and remit sales tax pursuant to the state sales tax code or the city code, and engaging in any of the callings, trades, avocations, professions, businesses or occupations for which a license is required by the city, and applying for such license, must submit proof as a condition precedent to issuing such license of a valid sales tax permit number issued by the State of Oklahoma.

C. Any license issued by the city to any person engaging in any of the callings, trades, avocations, businesses, professions or occupations for which a license is required by the city code may be suspended or revoked for failure to maintain a lawful sales tax license or collect and remit sales tax if and as required by the state sales tax code or the city code.

D. In addition to all civil penalties provided by this chapter, any violation of this section shall subject the offending taxpayer to the penalty set forth in Section 1-108 of this code. Each day of such violation shall be considered a separate offense and charged separately. (Prior Code, Sec. 7-19, 7-54, in part)

### SECTION 7-322      TAX RECORDS CONFIDENTIAL.

The confidential and privileged nature of the records and files concerning the administration of the city sales tax is legislatively recognized and declared; and to protect the same the provisions of Section 205 of Title 68 of the Oklahoma Statutes of the state sales tax code, and all subsections thereof, are hereby adopted by reference and made fully effective and applicable to administration of the city sales tax as if here set forth in full. (Prior Code Sec. 7-23, 7-59)

### SECTION 7-323      PROVISIONS CUMULATIVE.

The provisions of this chapter shall be cumulative and in addition to any and all other taxing provisions of city ordinances. (Prior Code, Sec. 7-26)

SECTION 7-324      AMENDMENTS TO CHAPTER.

The council, by ordinance duly enacted, is authorized to make such administrative and technical changes or additions in the method and manner of administration and enforcing this chapter as may be necessary or proper for efficiency and fairness except that the rate of the tax herein provided shall not be changed without approval of the qualified electors of the city as provided by law. (Prior Code, Sec. 7-25)

SECTION 7-325      ADDITIONAL INDUSTRIAL/ECONOMIC DEVELOPMENT SALES TAX

In addition to all other taxes levied and/or assessed prior to January 1, 2015 (excepting, only, the prior “Industrial/Economic Development Sales Tax” scheduled to expire on January 1, 2020):

A.      Tax rate; Sales subject to tax. There is hereby levied an excise tax of One-Half Cent (\$0.005) [also known as One-half of One Percent (.005%)] upon the gross proceeds or gross receipts derived from all sales taxable under the Oklahoma Sales Tax Code, including but not exclusive of the items, things, services and matters set forth in Section 7-306 hereof, for a period of five (5) years, commencing on January 1, 2020.

B.      Purpose of revenues; Disposition of proceeds. It is declared to be the purpose of such tax levy to provide for the citizens of Atoka funds as follows:

1.      an industrial development and/or economic development tax levy of \$0.00375;
2.      a levy for the purpose of construction and operation of a city owned water recreational facility of \$0.00125;
3.      the revenues generated thereby shall be used for, and only for, such developments and/or functions.

C.      Permissive transfers/distributions to public trust. The City Council shall be authorized, in its discretion, from time to time, to transfer or distribute all or any portion of the revenues generated by such tax levy to the Atoka City Industrial Development Authority Trust, a Public Trust of which the City of Atoka is sole beneficiary, and has accepted the beneficial interest, for purposes of such “industrial development” and/or “industrial functions”, as defined therein; such being synonymous with the term, phrase or expression “industrial development and/or economic development and/or related functions” as used herein.

D.      All other provisions applicable. All other Sections of this Chapter 3 (Sections 7-301 et seq.) of the Atoka City Code shall apply to such tax levy as though passed as a part hereof. (Ord. No. NC 553)

SECTION 7-326      ADDITIONAL WATER PLANT UTILIZATION SALES TAX

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In addition to all other taxes levied and/or assessed prior to January 1, 2006:

A. Tax rate; Sales subject to tax. There is hereby levied an excise tax of One-half of One Percent ( $\frac{1}{2}$  %) [also known as One-Half Cent (\$0.005)] upon the gross proceeds or gross receipts derived from all sales taxable under the Oklahoma Sales Tax Code, including but not exclusive of the items, things, services and matters set forth in Section 7-306 hereof.

B. Purpose of revenues; Disposition of proceeds. It is hereby declared that:

1. the purpose hereof, and of such tax levy, is to generate revenues to be used exclusively for the repairing, renovating, constructing, equipping, maintaining, and operation of the present and/or a new future water treatment plant;

2. The revenues generated thereby shall be used for, and only for, such uses and/or purposes;

3. further in that regard, except as below provided in subparagraph 4 of this subparagraph B, not less than Seventy Five Percent (75%) of the revenues generated thereby shall be used for payments on the new debts which will be incurred for a new water plant (hereinbelow referred to as new water plant debts); and until the time for first payment upon such debt has come, said portion (75%) of said revenues shall be set aside and held for such purposes;

4. however, said Seventy-Five percent (75%) limitation shall not be in effect during the following (brief) period of time: the time period between the first to occur of either of the events described in Subparagraph D (1) and/or (2) hereof, and the first (1<sup>st</sup>) day of the second (2<sup>nd</sup>) month next immediately following such occurrence of such event (so described in Subparagraph D (1) and/or (2) hereof).

C Effective Date. Said tax shall be in effect on and after January 1, 2006 (the imposition, and collection, thereof shall begin on such effective date).

D. Termination of Tax at Certain Point in Time. Said tax shall thereafter remain effect (from and after such effective date) until the first (1<sup>st</sup>) day of the second (2<sup>nd</sup>) month next immediately following the first to occur of either of the following events:

1. The payment in full of said new water plant debts referred to in subparagraph B (3) hereof, or

2. Terminated of said tax by the majority vote of the qualified electors of the City at an election called for such purposes.

E. Permissive Transfers/Distributions to Public Trust. The City Council shall be authorized, in its discretion, from time to time, to transfer or distribute all or any portion of the revenues generated by such tax levy to the Atoka Municipal Authority ( a Public Trust of which the City of Atoka is sole beneficiary), or any similar public trust.



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F. All other provisions applicable. All other Sections of this Chapter 3 (Sections 7-301 et seq.) of the Atoka City Code shall apply to such tax levy as though passed as a part hereof.

### SECTION 7-327      ADDITIONAL ONE PERCENT SALES TAX

1. Definitions. The definitions of words, terms, and phrases contained in the Oklahoma Sales Tax Code; Title 68, O.S., 2011, Section 1350 et seq., as amended from time to time (hereinafter referred to as the “Oklahoma Sales Tax Code”) are hereby adopted by reference and made a part of this Ordinance.

2. Effective Date. Subject to approval of a majority of the registered voters of the City of Atoka, Oklahoma, voting on same as prescribed by law, to be held on February 9, 2016, the Ordinance shall commence and be effective July 1, 2016.

3. Purpose of Revenues. The City of Atoka, Oklahoma hereby provides that Section 7, Chapter 3 of the Atoka City Code pertaining to municipal sales tax, the same including Ordinance No. 114, as amended by Ordinance No. N.C. 183, as amended by Ordinance No. N.C. 510, as amended by Ordinance No. N.C. 539 (collectively the “Sales Tax Ordinance”), is hereby amended by adding the following language to said City Code, for the following purpose:

**PURPOSE OF ADDITIONAL ONE PERCENT SALES TAX.** It is hereby declared that the additional one percent (1.00%) sales tax levied by this Ordinance shall be in addition to the other sales tax levied by said Sales Tax Ordinance as may be hereafter amended from time to time, and the proceeds of such sales tax, or proceeds of borrowings by the City or any public trust of which the City is beneficiary payable from the sales tax, shall be expended for any lawful purpose, as annually appropriated by the City Council, including, to the extent legal and practical, the following projects:

a. Expenditures to build new sports complex facilities to be located in the City of Atoka, Oklahoma and provide other improvements related thereto for the City of Atoka and/or Independent School District No. 15, Atoka County (Atoka Public Schools) as authorized by Title 11, Oklahoma Statutes, Section 22-159. Additional sales tax revenue in excess of that which is reasonably required for debt service on the above stated purposes, shall be available to the City for any lawful purpose.

b. Beginning July 1, 2016, the proceeds of this additional one percent (1.00%) sales tax shall be used as set forth in Section 3(a); and, upon retirement of any indebtedness incurred for said expenditures, thereafter, said proceeds shall be expended for any lawful purpose as annually appropriated by the City Council, including, but not limited to, allocating and distributing up to Twenty-Five percent (25.00%) thereof to Independent District No. 15, Atoka County, Oklahoma (Atoka Public Schools), to be used thereby for any lawful purpose.

4. Levy of Tax-This Tax In ADDITION - Administration Procedures; Exemptions. There is hereby levied an excise tax of one percent (1.00%) upon the gross proceeds or gross receipts derived from all sales taxable under the Oklahoma Sales Tax Code, as set out therein. There is hereby specifically exempted from the tax levied by this Ordinance the gross receipts or gross proceeds exempted from the Oklahoma Sales Tax Code, as set out therein.

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5. Total Effective Excise Tax. The rate of tax set forth in the Sales Tax Ordinance of the City of Atoka, Oklahoma, is hereby increased to four percent (4.00%).

6. Amendments. The people of the City of Atoka, Oklahoma, by their approval of this Ordinance at the election hereinabove provided, hereby authorize the City Council by Ordinance duly enacted to make such administrative and technical changes or additions in the method and manner of administration and enforcing this Ordinance as may be necessary or proper for efficiency and fairness except that the rate and limitation of time for collection of the tax herein provided shall not be changed without approval of the registered voters of the City as provided by law.

7. Provisions Severable. The provisions hereof are hereby declared to be severable, and if any section, paragraph, sentence or clause of this Ordinance 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.

8. Provisions Cumulative. The provisions hereof shall be cumulative, and in addition to any and all other taxing provisions of the Sales Tax Ordinance.

9. Incorporation of Ordinance. The provisions of this Ordinance shall be included and incorporated into Section 7 of Chapter 3 of the Atoka City Code, including the Sales Tax Ordinance of the City of Atoka, Oklahoma, as an addition or amendment thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the Code of Ordinances of the City of Atoka, Oklahoma.

### SECTION 7-328      ADDITIONAL LODGING TAX

In addition to all other taxes levied and/or assessed prior to October 1, 2008, there is hereby levied and assessed an excise tax, hereinafter referred to as "Lodging Tax", more particularly as follows:

A. Lodging Activities defined. As used herein and/or as otherwise applicable to such Lodging Tax, the term, phrase or expression "Lodging Activities" means: all means and manners of the making available for hire, provision of, furnishing of, and/or the act or service of furnishing and/or providing, renting, leasing, hiring-out or otherwise making available any room(s) and/or other area(s) of lodging and/or accommodation(s) by, in and/or of any hotel, motel, inn, lodge, public lodging house, tourist court, apartment hotel, public rooming house, tourist camp, or similar activity of similar businesses and/or establishments.

B. Tax rate; Activities subject to tax: There is hereby levied an excise tax of Five Percent (5%) of, and upon, all proceeds and/or gross receipts received, generated and/or derived from any and all Lodging Activities (as hereinabove defined) within the City of Atoka.

C. Restricted expenditures of revenues. The revenues generated therefrom shall be expended exclusively for exposition-events center, sports complexes, and parks and/or recreation uses and/or purposes; and may additionally be expended for the purposes of reimbursing, paying and/or defraying all and/or part of the costs and expenses relating to the election held to adopt such

tax.

D. Permissive transfers/distributions to public trust. The City Council shall be authorized, in its discretion, from time to time, to transfer or distribute all or any portion of the revenues generated by such Lodging Tax to any Public Trust of which the City of Atoka is the primary or sole beneficiary, and with respect to which it has accepted the beneficial interest thereof, whether now existing or hereafter coming into existence, subject, nevertheless, to the limitations imposed by subparagraph C hereof.

E. Effective Date and Duration: Said Lodging Tax shall be imposed and effective on and beginning 12:01 a.m. on October 1, 2008 (whether or not the collection thereof is or has been established or effected by such time by the Oklahoma tax Commission), and shall continue perpetually thereafter in effect until repealed in the manner provided by law.

F. All other provisions applicable. All other Sections of this Chapter 3 (Sections 7-301 et seq.) of the Atoka City Code shall apply to such tax levy as though passed as a part hereof.

SECTION 7-329      LODGING TAX - ADDITIONAL DEFINITIONS; UNLAWFUL ACTS; OPERATOR RESPONSIBLE FOR COLLECTION; LODGING TAX TO BE SEPARATELY STATED ON BILLS; REQUIRED RECORDS; CONFIDENTIALITY OF INFORMATION.

In further regard to the Lodging Tax (Atoka City Code Sections 7-328 et. sec.):

A. Additional Definitions. The following words, terms and phrases, shall have the meanings ascribed to them in this Subsection, except where the context clearly indicates a different meaning:

1. “Occupancy” means: the use or possession, or the right of use or possession, of any Room in a Place of Lodging, 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.

2. “Occupant” means: a person who, for a consideration, uses, possesses, or has the right to use or possess any Room in a Place of Lodging under any lease, concession, permit, right of access, license to use, or other agreement.

3. “Operator” means: any person operating a Place of Lodging in this City, including, but not limited to, the owner, proprietor, lessee, sub-lessee, mortgagee in possession, licensee, manager or similar agent.

4. “Person” means: any individual, corporation, company, partnership, voluntary association, firm, club, society, organization or any other entity of whatever kind or nature.

5. “Place of Lodging” means: any hotel, motel, inn, lodge, motor lodge, public lodging house, tourist court, apartment hotel, public rooming house, tourist camp, or similar businesses and/or establishments.

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6. “Rent” means: the consideration received for Occupancy, valued in money, whether received in money or otherwise, including all receipts, cash, credits, and property or services of any kind or nature, and also any amount for which credit is allowed by the Operator to the Occupant, without any deduction(s) whatever.

7. “Required Records” means: the following records, items, documents and/or things, each being hereby required to be kept and maintained as further set forth in Sub-Paragraph E hereof, namely documentation establishing every Occupancy and all Rent paid, charged, or due thereon, and of the Lodging Tax payable thereon; and

8. “Room” means: any room or rooms of any kind in any part or portion of a Place of Lodging that are available for lodging purposes or let out for use or possessed for any purpose other than an Assembly Area.

B. Unlawful Acts. It shall be unlawful for any person to refuse, fail or neglect to comply with any of the provisions of the Atoka City Code pertaining to such Lodging Tax applicable thereto, including but not limited to: the failure or refusal of any Operator to file any required returns, reports and/or remittances, or the making or giving of any false and fraudulent report or other information for the purpose of avoiding or escaping payment of any Lodging Tax or portion thereof rightfully due. Each day a violation exists shall constitute a separate offense.

C. Operator Responsible For Collection. The Operator of a Place of Lodging shall be responsible for the collection of the Lodging Tax from its Occupants, and for otherwise complying with the provisions of the Atoka City Code relating and/or pertaining thereto,

D. Tax To Be Separately Designated On Bills. The Operator shall separately designate, charge and show the Lodging Tax on all bills, statements, receipts or other evidence of charges or payments of Rent for Occupancy issued or delivered by the Operator.

E. Required Records. Operators shall maintain copies of all Required Records at the business premises of the Place of Lodging as may be required by the Oklahoma State Statutes.

G. Confidentiality of Information. The confidential and privileged nature of the records and files concerning the administration of the Lodging Tax is legislatively recognized and declared, and to protect the same the provisions of 68 O.S. § 205, and each Subsection thereof, are hereby adopted by reference and made fully effective and applicable to administration of the Lodging Tax as if herein set forth.

### SECTION 7-330      LODGING TAX - EXEMPTIONS AND RELATED PROVISIONS

In further regard to the Lodging Tax (Atoka City Code Sections 7-328 et. sec.):

A. Exemptions From Lodging Tax. The following shall be deemed to be exempt from the obligation to pay the Lodging Tax:

1. Any individual, organization, business, or governmental agency that qualifies for an

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exemption through the Oklahoma Tax Commission from paying sales tax per Oklahoma State Statutes; documentation for said qualified exemption shall be provided to the operator at the time of payment.

### SECTION 7-331      LODGING TAX - REPORTING AND PAYING TAXES

In further regard to the Lodging Tax (Atoka City Code Sections 7-328 et. sec.):

A.      Monthly Reporting. Every Operator shall file the documentation required by the Oklahoma State Statutes regarding the details of the of Occupancy and Rents, and Lodging Taxes payable thereon with the Oklahoma Tax Commission, for the monthly period ending the last day of every month of each year; such reports to be filed no later than the twentieth (20th) day of the month immediately following such reporting period.

B.      Payment of Lodging Tax. At the time of the filing the return, each Operator shall pay to the Oklahoma Tax Commission the Lodging Taxes due 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 relating thereunto. All Lodging Taxes for the reporting period for which a return is required to be filed shall be due from the Operator and payable to the Oklahoma Tax Commission on or before the date fixed for the filing of the return for such period, without regard to whether a return is actually filed, or whether the monthly return which is filed correctly shows the amount of Rents and/ the Lodging Taxes due thereon.

C.      Notices. Notices provided for under in this Section 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.

CHAPTER 4

USE TAX

Section 7-401	Citation and codification.
Section 7-402	Definitions.
Section 7-403	Excise tax on storage, use or other consumption of intangible, personal property levied.
Section 7-404	Purpose of revenues.
Section 7-405	Exemptions.
Section 7-406	Time when due, returns, payment.
Section 7-407	Tax constitutes debt.
Section 7-408	Collection of tax by retailer or vendor.
Section 7-409	Collection of tax by retailer or vendor not maintaining a place of business within state or both within and without state, permits.
Section 7-410	Revoking permits.
Section 7-411	Remunerative deductions allowed vendors or retailers of other states.
Section 7-412	Interest and penalties, delinquency.
Section 7-413	Waiver of interest and penalties.
Section 7-414	Erroneous payments, claim for refund.
Section 7-415	Fraudulent returns.
Section 7-416	Records confidential.
Section 7-417	Classification of taxpayers.
Section 7-418	Subsisting state permits.
Section 7-419	Provisions cumulative.
Section 7-420	Additional Industrial/Economic Development Use Tax
Section 7-421 to	
Section 7-429	Reserved
Section 7-430	Additional Use Tax

SECTION 7-401      CITATION AND CODIFICATION.

This chapter shall be known and may be cited as “City of Atoka Use Tax.” (Ord. No. NC 371, 6/5/89)

SECTION 7-402      DEFINITIONS.

The definitions of words, terms and phrases contained in the Oklahoma Use Tax Code, Section 1401 of Title 68 of the Oklahoma Statutes, are hereby adopted by reference and made a part of this chapter. In addition thereto, the following words and terms shall be defined as follows: (Ord. No. NC 371, 6/5/89)

1. “Tax collector” means the department of the city government or the official agency of the state, duly designated according to law or contract authorized by law, to administer the collection of the tax herein levied; and

2. “Transaction” means sale.

SECTION 7-403      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 city tangible, personal property purchased or brought into this city, an excise tax on the storage, use or other consuming within the city of such property at the rate of two and one-half percent (2 1/2%) of the purchase price of such property. Such tax shall be paid by every person storing, using or otherwise consuming, within the city, tangible, personal property purchased or brought into the city. The additional tax levied hereunder shall be paid at the time of importation or storage of the property within the city and shall be assessed to only property purchased outside Oklahoma; provided, that the tax levied herein shall not be levied against tangible, personal property intended solely for use outside the city, but which is stored in the city pending shipment outside the city or which is temporarily retained in the city 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 city had been levied on the sale of such goods or services. (Ord. No. NC 371, 6/5/89, amended by Ord. No. NC 422, 1/3/95)

SECTION 7-404      PURPOSE OF REVENUES.

It is hereby declared to be the purpose of this chapter to provide revenues for the support of the functions of the municipal government of the city, and any and all revenues derived hereunder may be expended by the governing body of the city for any purpose for which funds may be lawfully expended as authorized. (Ord. No. NC 371, 6/5/89)

SECTION 7-405      EXEMPTIONS.

The provisions of this chapter shall not apply:

1. In respect to the use of an article of tangible, personal property brought into the city by a nonresident individual visiting in this city for his or her personal use or enjoyment while within the city;
2. In respect to the use of tangible, personal property purchased for resale before being used;
3. In respect to the use of any article of tangible, personal property on which a tax, equal to or in excess of that levied by both the Oklahoma Use Tax Code and the City’s Use Tax, has been paid by the person using such tangible, personal property in the city, whether such tax was levied under the laws of Oklahoma or some other state or municipality of the United States. If any article of tangible, personal property has already been subjected to a tax by Oklahoma or any other state or municipality in respect to its sale or use, in an amount less than the tax imposed by both the Oklahoma Use Tax Code and City Use Tax, the provision of this chapter shall also apply to it by a

rate measured by the difference only between the rate provided by both the Oklahoma Use Tax Code and the city use tax, 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 City;

4. In respect to the use of machinery and equipment purchased and used by persons establishing new manufacturing or processing plants in the city, and machinery and equipment purchased and used by persons to the operation of manufacturing plants already established in the city. 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 city. The term “manufacturing plants” means those establishments primarily engaged in manufacturing or processing operations, and generally recognized as such;

5. In respect to the use of tangible, personal property now specifically exempted from taxation under the sales tax code of the city;

6. In respect to the use of any article of tangible, personal property brought into the city by an individual with intent to become a resident of this city where such personal property is for such individual’s personal use or enjoyment;

7. In respect to the use of any article of tangible, personal property used or to be used by commercial airlines or railroads; or

8. In respect to livestock purchased outside Oklahoma and brought into this city for feeding or breeding purposes, and which is later resold. (Ord. No. NC 371, 6/5/89)

SECTION 7-406      TIME WHEN DUE, RETURNS, PAYMENT.

The tax levied by this chapter 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. (Ord. No. NC 371, 6/5/89)

SECTION 7-407      TAX CONSTITUTES DEBT.

Such taxes, penalty and interest due hereunder shall at all times constitute a prior, superior and paramount claim as against the claims of unsecured creditors, and may be collected by suit as any other debt. (Ord. No. NC 371, 6/5/89)

SECTION 7-408      COLLECTION OF TAX BY RETAILER OR VENDOR.

Every retailer or vendor maintaining places of business both within and without the state, and making sales of tangible, personal property from a place of business outside this state for use in this city shall at the time of making such sales collect the use tax levied by this chapter from the purchaser and give to the purchaser a receipt therefore in the manner and form prescribed by the Tax Commission, if the Tax Commission shall, by regulation, require such receipt. Each retailer or vendor shall list with the Tax Commission the name and address of all his agents operating in this



city and location of any and all distribution or sales houses or offices or other places of business in the city. (Ord. No. NC 371, 6/5/89)

SECTION 7-409      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 maintain a place of business within this state but who makes sales of tangible, personal property for use in this city and by the out-of-state place of business of any retailer or vendor maintaining places of business both within and without this state and making sales of tangible, personal property such out-of-state place of business for use in this city. Such retailer or vendor may be issued, without charge, a permit to collect such taxes by the Tax Commission in such manner and subject to such regulations and agreements as it shall prescribe. When so authorized, it shall be the duty of such retailer or vendor to collect the tax upon all tangible, personal property sold to his knowledge for use within this city. Such authority and permit may be cancelled when at any time the Tax Commission considers that such tax can more effectively be collected from the person using such property in this city. Provided, however, that in all instances where such sales are made or completed by delivery to the purchaser within this city by the retailer or vendor in such retailer's or vendor's vehicle, whether owned or leased (not by common carrier), such sales or transactions shall continue to be subject to applicable city sales tax at the point of delivery and the tax shall be collected and reported under taxpayer's sales tax permit number accordingly. (Ord. No. NC 371, 6/5/89)

SECTION 7-410      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 chapter of the Oklahoma Use Tax Code or any orders, rules or regulations of the Tax Commission, the Tax Commission may, upon notice and hearing as provided for in Section 1408 of Title 68 of the Oklahoma Statutes, by order revoke the use tax permit, if any, issued to such retailer or vendor, and if any such retailer or vendor is a corporation authorized to do business in this state may, after notice and hearing above provided, cancel the corporation's license to do business in this state and shall issue a new license only when such corporation has complied with the obligations under this chapter, the Oklahoma Use Tax Code, or any orders, rules or regulations of the Tax Commission. (Ord. No. NC 371, 6/5/89)

SECTION 7-411      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 the code for the collection of state use taxes. (Ord. No. NC 371, 6/5/89)

SECTION 7-412      INTEREST AND PENALTIES, DELINQUENCY.

Section 217 of Title 68 of the Oklahoma Statutes is hereby adopted and made a part of this chapter, and interest and penalties at the rates and in the amounts as herein specified are hereby levied and shall be applicable in cases of delinquency in reporting and paying the tax levied by this chapter. 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 chapter 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 chapter. (Ord. No. NC 371, 6/5/89)

SECTION 7-413      WAIVER OF INTEREST AND PENALTIES.

The interest or penalty or any portion thereof accruing by reason of a retailer's or vendor's failure to pay the city tax herein levied may be waived or remitted in the same manner as provided for the waiver or remittance as applied in administration of the State Use Tax provided in Section 227 of Title 68 of the Oklahoma Statutes, and to accomplish the purposes of this section the applicable provisions of Section 220 are hereby adopted by reference and made a part of this chapter. (Ord. No. NC 371, 6/5/89)

SECTION 7-414      ERRONEOUS PAYMENTS, CLAIM FOR REFUND.

Refund of erroneous payment of the city 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 Section 227 of Title 68 of the Oklahoma Statutes, and to accomplish the purpose of this section, the applicable provisions of Section 227 are hereby adopted by reference and made a part of this chapter. (Ord. No. NC 371, 6/5/89)

SECTION 7-415      FRAUDULENT RETURNS.

In addition to all civil penalties provided by this chapter, 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 chapter shall be an offense, and upon conviction thereof the offending taxpayer shall be punished as provided in Section 1-108 of this code. Each day of noncompliance with this chapter shall constitute a separate offense. (Ord. No. NC 371, 6/5/89)

SECTION 7-416      RECORDS CONFIDENTIAL.

The confidential and privileged nature of the records and files concerning the administration of the city use tax is legislatively recognized and declared, and to protect the same the provisions of Section 205 of Title 68 of the Oklahoma Statutes, 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 city use tax as is herein set forth in full. (Ord. No. NC 371, 6/5/89)

SECTION 7-417      CLASSIFICATION OF TAXPAYERS.

For the purpose of this chapter, the classification of taxpayers hereunder shall be as prescribed by state law for purposes of the Oklahoma Use Tax Code. (Ord. No. NC 371, 6/5/89)

SECTION 7-418      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 chapter hereby ratified, confirmed and adopted in lieu of any requirement for an additional city permit for the same purpose. (Ord. No. NC 371, 6/5/89)

SECTION 7-419      PROVISIONS CUMULATIVE.

The provisions hereof shall be cumulative, and in addition to any and all other taxing provisions of the city ordinances. (Ord. No. NC 371, 6/5/89)

SECTION 7-420      ADDITIONAL INDUSTRIAL/ECONOMIC DEVELOPMENT USE TAX.

In addition to all other use taxes levied and/or assessed prior to January 1, 2010:

A.      Use Tax rate; Sale subject to tax. There is hereby also levied and this shall be paid by every person storing, using or otherwise consuming within the City tangible, personal property purchased or brought into this City additional use tax (excise tax) on the storage, use or other consuming within the City of such property at the rate of One-Half Cent (\$0.005) [also known as One-half of One Percent (1/2%)] of the purchase price of said property, which shall be paid and payable with and in the same manner as the 2% use tax imposed by Section 7-403 of the Atoka City Code, for a period of five (5) years, commencing on January 1, 2010.

B.      Purpose of revenues; Disposition of proceeds. It is declared to be the purpose of such additional 1/2% use tax levy to provide for industrial development and/or economic development and/or related functions; and, the revenues generated thereby shall be used for and only for such developments and/or functions.

C.      Permissive transfers/distributions to public trust. The City Council shall be authorized, in its discretion, from time to time, to transfer or distribute all or any portion of the revenues generated by such additional tax 1/2% use tax levy to the Atoka City Industrial Development Authority Trust, a Public Trust of which the City of Atoka is sole beneficiary, and has accepted the beneficial interest, for purposes of such “industrial development” and/or “industrial functions”, as defined therein; such being synonymous with the terms, phrase of expression “industrial development and/or economic development and/or related functions” as used herein.

D.      All other provisions applicable. All other Sections of this Chapter 4 (Sections 7-401 et seq.) of the Atoka City Code shall apply to such additional 1/2% use tax levy as though passed as a part thereof.

SECTION 7-421 to SECTION 7-429 (Reserved)

SECTION 7-430      ADDITIONAL USE TAX

Beginning on January 15, 2006 {although the Oklahoma Tax Commission might not begin collection before April 1, 2006}, there is hereby imposed a new and additional Use Tax, as follows:

A.      Intention to Cause Total Use Tax Rate to Be Equal to Total Sales Tax Rate. It is the intention and purpose of this Section 7-430 of the Atoka City Code to impose, levy and assess a new Use Tax which is in addition to that which is imposed, levied and/or assessed by Section 7-403 of the Atoka City Code, and any other (if any) like Sections of the Atoka City Code and/or Ordinances of the City of Atoka, in such an additional amount so that the total combined amount of all such Use Tax imposed, levied and/or assessed by said Section 7-403, and this Section 7-430 and any other said like Sections of the Atoka City Code and/or Ordinances of the City of Atoka shall be equal to the total amount of Sales Tax now and/or hereinafter, from time to time, imposed, levied and/or assessed by the Atoka City Code and/or Ordinances of the City of Atoka.

B.      Intention to Cause Respective percentage Portions of the Total Use Tax Rate to be subject to the same limitations As Its Sales Tax Counterpart. Furthermore, it is the intention and purpose of this Section 7-430 of the Atoka City Code that to the extent, if any, that any portion of such total amount of said Sales Tax are limited in duration and/or dedicated, earmarked and/or otherwise required to be applied to any particular function, use, activity or other limitation upon the otherwise general use of the revenues generated thereby (such as, by way of example and not limitation, the Industrial Development Sales Tax, and The Water Plant Utilization Sales Tax), then and in that event, the equal (respective percentage) portion of said new and additional Use Tax shall likewise be so restricted as to the duration of the imposition of such corresponding portion of said Sales Tax and/or the expenditure of the (respective percentage portion of the) revenues produced thereby.

C.      Additional Use Tax: Property. Sales And/or Other Activities Subject To Tax. There is hereby also levied and there shall be paid by every person storing, using or otherwise consuming within the City tangible, personal property purchased or brought into this City an additional Use Tax (excise tax) on the storage, use or other consuming within the City of such property at the percentage rate determined in accordance with the provisions of subparagraph 0 of this Section 7-430, of and/or upon the purchase price of said property, which shall be paid and payable with and in the same manner as the Use Tax imposed by Section 7-403 of the Atoka City Code.

D.      Amount and/or Rate of Such Additional Use Tax: The total rate (percentage) of said new and additional Use Tax shall be determined by the following formula:

1.      The amount equal to the total (rate) Sales Tax imposed, levied and/or assessed, from time to time, under the Provisions of the Atoka Sales Tax Code (Section 7-301 et seq. of the Atoka City Code) as the same now exists and/or may hereafter come to be, and/or any other provisions of the Atoka City Code as are now in existence and/or hereafter coming into existence, and/or other Ordinances of the City of Atoka as are now existing and/or hereafter coming into existence likewise imposing, levying and/or assessing any such Sales Tax;

2.      less the amount of Use Tax already imposed, levied and/or assessed under Section 7-

401 et seq. of the Atoka City Code as the same now exists and/or may hereafter come to be, and/or any other provisions of the Atoka City Code as are now in existence and/or hereafter coming into existence, and/or other Ordinances of the City of Atoka as are now existing and/or hereafter coming into existence likewise Imposing, levying and/or assessing any such Use Tax (so that there be no duplication thereof, and the total combined Use Tax will be equal to the total combined Sales Tax).

E. Duration Of Such Additional Use Tax: Inasmuch as the amount (rate) of such additional Use Tax is dependent upon the amount (rate), from time to time, of the total Sales Tax, when any portion of said total combined Sales Tax shall increase or discontinue, the corresponding amount of said additional Use Tax shall likewise increase or decrease; such that the respective portions of the total (from time to time) Use Tax shall be equal in amount and duration of the corresponding portions of the total (from time to time) Sales Tax (specifically including, but not limited to, the Industrial Development Sales Tax and the Water Plant Utilization Sates Tax).

F. Purpose of revenues: Disposition of proceeds. Except as otherwise below provided, the revenues produced and/or generated by said additional Use Tax shall be expendable for any lawful use and/or purpose; provided, however, that to the extent that expenditures of the revenues generated and/or produced by any particular portion of said total combined Sales Tax shall be limited to particular uses, functions, activities or is otherwise restricted (specifically including, but not limited to, the Industrial Development sales Tax and the Water Plant Utilization Sates Tax), then the (respective percentage) amount of corresponding revenues generated and/or produced by said additional Use Tax shall likewise be so restricted.

G. Permissive Transfers and/or Distributions to Public Trusts. The City Council shall be authorized, in its discretion, from time to time, to transfer or distribute all or any portion of the revenues generated by such additional Use Tax to the Atoka City Industrial Development Authority Trust (a Public Trust of which the City of Atoka is sole beneficiary, and has accepted the beneficial interest) and/or the Atoka Municipal Authority Trust (a Public Trust of which the City of Atoka is sole beneficiary, and has accepted the beneficial interest) and/or any other similar a Public Trust of which the City of Atoka is sole beneficiary, and has accepted the beneficial interest.

H. All other Use Tax Provisions Applicable. Sections 7-401 through 7-429 of the Atoka City Code, as the same may now exist and/or hereafter come to exist, shall apply to such additional Use Tax levy as though passed as a part thereof.

CHAPTER 5

911 EMERGENCY SERVICE FEE

Section 7-501      Service fee levied, rate, amendment.  
Section 7-502      Administration.

SECTION 7-501      SERVICE FEE LEVIED, RATE, AMENDMENT.

A.      The city hereby provides for the operation of an emergency telephone service through the levy of an emergency telephone service tax or service fee. The tax or service fee is hereby levied pursuant to the Nine-One-One (911) Emergency Number Act, Section 2814 of Title 63 of the Oklahoma Statutes, in the amount of five percent (5%) of the applicable telephone tariff rate. There shall be no duplication of the fee upon any such telephone user who is assessed such fee under the resolution of the board of county commissioners.

B.      Collection of the emergency telephone service tax shall not begin prior to the date of the contracting for the emergency telephone service; and shall continue thereafter until otherwise directed by a vote of the people. (Ord. No.NC 391, 10/1/90)

SECTION 7-502      ADMINISTRATION.

A.      The director of public safety of the city is hereby authorized to act for the city and county and for the residents of the same in establishing, operating and maintaining such service.

B.      The local telephone exchange company providing telephone service in the exchange areas shall be entitled to retain, as an administrative fee, three percent (3%) of the fee imposed and collected by it pursuant hereto as provided by law; however, there shall be no duplication of this fee upon any such telephone user who is assessed such fee under the resolution of the board of commissioners of this county. (Ord. No.NC 391, 10/1/90)

CHAPTER 6

TELEPHONE EXCHANGE FEE

- Section 7-601      Inspection fee and service charge.  
Section 7-602      Charge in lieu of other license tax.

SECTION 7-601      INSPECTION FEE AND SERVICE CHARGE.

A.      There is hereby levied an annual inspection fee and service charge upon each and every person operating a telephone exchange in the city to compensate the city for the expenses incurred and services rendered incident to the exercise of its police power, supervision, police regulation and police control of the construction of lines and equipment of the telephone company in the city.

B.      The amount of the inspection fee and service charge shall be 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.

C.      The inspection fee and charge shall be due and payable to the city on or before the first day of May of each year and shall be paid into and appropriated and expended from the general revenue fund of the city. (Prior Code, Sec. 5-11)

State Law Reference: City powers to levy tax on utilities, 68 O.S. Secs. 2601 et seq.

SECTION 7-602      CHARGE IN LIEU OF OTHER LICENSE TAX.

During continued substantial compliance with the terms of this chapter by the owner of any telephone exchange, the charge levied by this chapter 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. This section is not intended to extinguish or abrogate any existing arrangement whereby the city is permitted to use the underground conduit, duct space or pole contracts of the company for the fire alarm and police call systems of the city, or either of them. (Prior Code, Sec. 5-12)

CHAPTER 7

UTILITY FEE

(RESERVED)



CHAPTER 8

UNCLAIMED AND SURPLUS PROPERTY

Section 7-801	Delivery to police chief required; records.
Section 7-802	Disposition of personal property, general procedures.
Section 7-803	Seized property related to gambling, report and disposition.
Section 7-804	Seized property related to alcoholic beverages, disposition.
Section 7-805	Property of deceased persons.
Section 7-806	Exchange of unclaimed or confiscated weapons.
Section 7-807	Recovery by owner.

SECTION 7-801      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. (Prior Code, Sec. 19-1 to 19-4, as amended)

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 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 7-802      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.

G. 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. (Prior Code, Sec. 19-1 to 19-4, in part)

Cross Reference: See Fee Schedule, Appendix 2, for applicable fees.

State Law Reference: Similar provisions 11 O.S. Sec. 34-104.

SECTION 7-803      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 the seizure, 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 therefor, in duplicate, and the sheriff shall retain the same and all thereof until the same shall be destroyed pursuant to the orders of the court.

B. In 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 7-804      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 transporting any 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 the city 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 newspaper of the county at least ten (10) days before such sale. Appeal from 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. (Prior Code, Sec. 19-1 to 19-4, in part)

State Law Reference: Similar provisions, 37 O.S. Sec. 539.

SECTION 7-805      PROPERTY OF DECEASED PERSONS.

The personal property of a deceased person shall be delivered only to the next of kin of such person or to the legally appointed representative of his estate. If the personal property is claimed by the legally appointed representative of the estate of the deceased, a certified copy of the order of the district court appointing such person shall be deemed sufficient authority to support the claim. If the personal property is claimed by the next of kin, the claimant shall furnish an affidavit to the effect that he is the person entitled to possession of the property; 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. (Prior Code, Sec. 19-1 to 19-4, in part)

SECTION 7-806      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 7-807      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 therefor shall be returned to the purchaser, upon verified claim being submitted and approved by the police chief. (Prior Code, Sec. 19-1 to 19-4, in part)

CHAPTER 9

LOCAL ENERGY MANAGEMENT

Section 7-901	Local energy officer designated.
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Section 7-906	Compensation of members.
Section 7-907	Officers.
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SECTION 7-901      LOCAL ENERGY OFFICER DESIGNATED.

There is hereby designated an employee within existing city staff which shall be known as the local energy officer (LEO). This person shall be the city engineer, building official or someone with similar technical training. This person shall be recommended by the city manager and appointed by the city council. (Ord. No. N.C. 402, 9/16/91)

SECTION 7-902      COMMITTEE CREATED.

There is hereby created a committee which shall be known as the energy management committee. (Ord. No. N.C. 402, 9/16/91)

SECTION 7-903      MEMBERSHIP.

A.      The energy management committee shall consist of five (5) members to be appointed by a majority vote of the city council.

B.      The local energy officer shall be appointed by a majority vote of the city council. (Ord. No. N.C. 402, 9/16/91)

SECTION 7-904      TERMS AND VACANCIES.

A.      The term of office of a member of the energy management committee shall be two (2) years and shall end on the first Monday of September. Of the original appointive members, one shall serve for one year, two (2) shall serve for three (3) years and two (2) shall serve for two years. The individual term of office of an original appointive member shall be determined by the mayor in such manner as he shall direct.

B.      Any vacancy which occurs shall be filled for the unexpired term in the same manner as the original appointment.

C.      A member who shall miss three (3) consecutive regularly scheduled meetings of the

committee shall cease to be a member. The vacancy created shall be filled by an appointment of a new member to serve the remainder of the unexpired term by a majority vote of the city council.

D. The term of office for the LEO shall be established by the city manager and approved by the majority vote of the city council. (Ord. No. N.C. 402, 9/16/91)

SECTION 7-905      MEETINGS.

A. The energy management committee and LEO shall hold a regular monthly meeting. The members of the committee shall determine the time and place of such meetings. The LEO, the city manager, the mayor or any three (3) members of the energy management committee may call a special meeting.

B. Except for instances wherein executive sessions are authorized by state law, all meetings shall be open to the public with proper notice given as required by the Oklahoma Open Meeting Act. (Ord. No. N.C. 402, 9/16/91)

SECTION 7-906      COMPENSATION OF MEMBERS.

The members of the energy management committee shall serve without compensation but shall be reimbursed for such reasonable expense incurred in the performance of their duties as allowed by the city council. The LEO shall be compensated through his salary. (Ord. No. N.C. 402, 9/16/91)

SECTION 7-907      OFFICERS.

The energy management committee shall elect from its membership a vice-chairman and a secretary to serve for terms of one year. The LEO shall serve as the chairman of the committee. The secretary shall keep minutes of all meetings of the board and certify to the chairman that proper notice has been given to the city clerk and the public of all meetings. (Ord. No. N.C. 402, 9/16/91)

SECTION 7-908      DUTIES AND POWERS.

A. The energy management committee shall act as an advisory committee to the city council and city manager.

B. Copies of city utility bills, contracts, franchise agreements and records pertaining to expenditures shall be made available to the committee upon request.

C. The committee shall develop an ongoing energy management program (EMP) to be implemented citywide as a method of:

1. Reducing energy costs by identifying energy management opportunities for which effective solutions are commercially available;

2. Developing and maintaining a regularly scheduled maintenance program of all

facilities;

3. Identifying and implementing “low-cost/no cost measures” for proper energy management;

4. Developing strategies for future energy management measures;

5. Conducting technology seminars with manufacturers to keep abreast of current technology and future trends.

D. The committee shall monitor the EMP on an ongoing basis to ensure the program is obtaining the desired objectives, forecast savings, and policies of the program’s current direction.

E. The committee shall prepare quarterly reports involving the status, current objectives, goals and accomplishments of the EMP.

F. The committee shall hold two (2) public meetings annually to obtain citizen input, and to inform the citizens of the current status, objectives, goals and accomplishments of the EMP.

G. The committee chairman shall present the quarterly reports to the city council with recommendations for consideration of implementation.

H. The committee secretary shall provide copies of the minutes to the office of city clerk within ten (10) days from the date of their approval. (Ord. No. N.C. 402, 9/16/91)



Health and Nuisances

**PART 8**

**HEALTH AND NUISANCES**

CHAPTER 1

NUISANCES AND HEALTH GENERALLY

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## Health and Nuisances

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SECTION 8-101      DEFINITIONS.

As used in this chapter, the following terms shall have the meanings respectively ascribed to them herein:

1. “Nuisance” means unlawfully doing an act, or omitting to perform a duty, or is anything or condition which either:

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- a. Annoys, injures or endangers the comfort, repose, health or safety of others;
- b. Offends decency;
- c. Unlawfully interferes with, obstructs or tends to obstruct or render dangerous for passage, any lake or navigable river, stream, canal or basin, or any public park, square, street or other public property; or
- d. In any way renders other persons insecure in life or in the use of property;

2. “Private nuisance” means every nuisance not included in paragraph 3 of this section; and

3. “Public nuisance” means a nuisance which affects at the same time an entire community or neighborhood, or any considerable number of persons, or three (3) or more properties under separate ownership in the vicinity of such nuisance, although the extent of the annoyance or damage inflicted upon the individuals may be unequal. (Prior Code, Secs. 12-121, 15-1)

State Law References: Nuisances generally, see Title 50 O.S. Secs. 1 et seq.; power of city to summarily abate, 50 O.S. Sec. 16.

Cross Reference: Animals, Secs. 4-101 et seq.; Buildings, Secs. 5-101 et seq; Food and milk regulations, Secs. 8-401 et seq.

### SECTION 8-102 CERTAIN PUBLIC NUISANCES DEFINED.

A. In addition to other public nuisances declared by other sections of this code or law, the following are hereby declared to be public nuisances:

1. The sale or offering for sale of unwholesome food or drink; or the keeping of a place where such sales or offerings are made;

2. The sale, offering for sale or furnishing of intoxicating liquor in violation of the state law or ordinances of the city; or the keeping of a place where intoxicating liquor is sold, offered for sale, or furnished in violation of the state law or ordinances of the city;

3. The exposure, display, sale or distribution of obscene pictures, books, pamphlets, magazines, papers, documents, or objects; or the keeping of a place where such are exposed, displayed, sold or distributed;

4. The keeping of a place where persons gamble, whether by cards, slot machines, punchboards or otherwise;

5. The keeping of a place where prostitution, illicit sexual intercourse or other immoral acts are practiced;

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6. The keeping of a place where activities in violation of state law or ordinance are practiced or carried on;
7. The public exposure of a person having a contagious disease;
8. The continued making of loud or unusual noises, music or sounds, or strong vibrations which annoy persons of ordinary sensibilities; or the keeping of an animal which makes such noises;
9. The operation or use of any electrical apparatus or machine which materially and unduly interferes with radio or television reception by others;
10. Any use of a street or sidewalk or a place adjacent thereto which causes crowds of people to gather so as to obstruct traffic on such street or sidewalk, or which otherwise obstructs traffic thereon, except as may be authorized by law or ordinances;
11. Permitting water or other liquid to flow or fall, or ice or snow to fall, from any building or structure upon any street or sidewalk where mosquitoes breed or are likely to breed, or which are so constructed, formed, conditioned, or situated as to endanger the public safety;
12. All wells, pools, cisterns, bodies or containers of water in which mosquitoes breed or are likely to breed, or which are so constructed, formed, conditioned or situated as to endanger the public safety;
13. Rank weeds or grass, carcasses, accumulations of manure, refuse or other things which are, or are likely to be, breeding places for flies, mosquitoes, vermin or disease germs, and the premises on which such exist;
14. Any building or structure which is dangerous to the public health or safety because of damage, decay or other condition;
15. Any pit, hole or other thing which is so constructed, formed, conditioned or situated as to endanger the public safety;
16. Any fire or explosion hazard which endangers the public safety;
17. Any occupation or activity which endangers the public peace, health, morals, safety or welfare;
18. Permitting bagworms to be upon any trees or other plants within the city;
19. Permitting foul, noxious or offensive odors to escape from premises; or unusual quantities of dust or other deleterious substances to escape or emanate across the property line upon which the same originates;



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20. Any stable or other place where animals are kept that may become obnoxious or annoying to any resident of this city, by reason of any noise or noises made by the animal therein, or by reason of lack of sanitation;

21. The keeping in violation of Sections 4-101 et seq. of any dog kennels within this city for the breeding and raising of dogs that shall become offensive or annoying to the public by reason of the barking and noise made by the animals therein contained;

22. Any vault, cesspool or sink used to receive human excrement, slops, garbage, refuse or other filthy substance;

23. Any pond, slop, trash, refuse, cobs, manure, decayed or decaying vegetable matter, left, kept or maintained in such condition as to endanger the public health;

24. The keeping of any hog pen within the limits of this city in violation of this code;

25. Every privy or water closet which shall be in an overflowing, leaking or filthy condition, or in a condition dangerous, injurious or annoying to the comfort, health and welfare of any resident of this city;

26. Any green or unsalted hides of any animal kept in any exposed or open place within the limits of this city;

27. Any unclean, foul, leaking or broken or defective ditch, drain, gutter, slop, garbage or manure barrel, box or other receptacle in this city; and

28. Every building or other structure that shall become unsafe and dangerous from fire, decay or other cause, or shall become hazardous from fire, by reason of age, decay or construction, location or other cause, or shall be detrimental to the health, safety or welfare of this city or its inhabitants from any cause.

B. The enumeration in Subsection A hereof of certain public nuisances shall be cumulative and not limit other provisions of law or ordinances defining public or private nuisances either in more general or more specific terms. (Prior Code, Sec. 15-7, in part)

### SECTION 8-103      NUISANCE PROHIBITED.

No person shall create or maintain a nuisance within the city or permit a nuisance to remain on premises under his control within the city.

### SECTION 8-104      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. (Prior Code, Sec. 15-2)

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### SECTION 8-105      TIME DOES NOT LEGALIZE NUISANCE.

No lapse of time can legalize a public nuisance amounting to an actual obstruction of public right. (Prior Code, Sec. 15-3)

### SECTION 8-106      REMEDIES AGAINST PUBLIC NUISANCES.

The remedies against a public nuisance are:

1. Prosecution on complaint before the municipal court;
  2. Prosecution on information or indictment before another appropriate court;
  3. Civil action; or
  4. Abatement;
    - a. By the person injured as provided in Section 12 of Title 50 of the Oklahoma Statutes; or
    - b. By the city in accordance with law or ordinance.
- (Prior Code, Sec. 15-4)

### SECTION 8-107      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 Sections 14 and 15 of Title 50 of the Oklahoma Statutes; or
    - b. By the city in accordance with law or ordinance.
- (Prior Code, Sec. 15-5)

### SECTION 8-108      CITY HAS POWER TO DEFINE AND SUMMARILY ABATE NUISANCE.

As provided in Section 16 of Title 50 of the Oklahoma Statutes, 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 the 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 to the owner and an opportunity for him to be heard, if this can be done. (Prior Code, Sec. 15-6)

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### SECTION 8-109      SUMMARY ABATEMENT OF NUISANCES.

A.      Some nuisances are of such nature as to constitute a grave and immediate danger to the peace, health, safety, morals or welfare of one or more persons or of the public generally. It is recognized that circumstances may be such as to justify, and even to require, the city manager or other appropriate officer or agency of the city government to take immediate and proper action summarily to abate such nuisances or to reduce or suspend the danger until more deliberate action can be taken toward such abatement.

B.      An officer subordinate to the city manager may submit to the city manager a statement as to the existence of a nuisance as defined by the ordinances of the city or law, and a request or recommendation that it be abated.

C.      The city manager or his designee shall determine if a nuisance exists as defined by the ordinances of the city or law. If he finds that a nuisance does in fact exist, he shall direct the owner or other persons 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 persons or public adversely affected would not be unduly jeopardized by the consequent delay. If such peace, health, safety, morals or welfare would be unduly jeopardized by the consequent delay, or if the owner or other persons responsible for or causing the nuisance do not abate it within the specified time, or if the persons responsible authorize the city to abate the nuisance, the manager shall direct the appropriate officer to abate the nuisance or have it abated, if summary abatement is practical, as authorized by Section 16 of Title 50 of the Oklahoma Statutes. 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 manager, may be appealed by the occupant or owner or person causing the nuisance by filing a request for hearing in writing with the city clerk within the period of time specified in the notice for abatement of the nuisance. The 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. (Prior Code, Sec. 15-8, in part)

### SECTION 8-110      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 expense, any source of filth, cause of sickness, condition conducive to the breeding of insects or rodents that might contribute to the transmission

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of disease, or any other condition adversely affecting the public health, within twenty-four (24) hours, or within such other time as may be reasonable. 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, occupant or agent, if known and within the state. If the premises are unoccupied and the residence of the owner, 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. (Prior Code, Sec. 15-21)

Cross Reference: See Fee Schedule, Appendix 2, for applicable fees.

### SECTION 8-111 CITY ACTIONS NOT TO JEOPARDIZE PRIVATE ACTION.

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 specially injurious to them.

### SECTION 8-112 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 for any person to place, deposit, leave or dispose of trash, garbage, refuse or debris 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 8-113 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. (Prior Code, Sec. 15-9, in part)

### SECTION 8-114 PROCEDURE CUMULATIVE.

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

### SECTION 8-115 TOILET FACILITIES REQUIRED.

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A. For the purposes 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 toilet 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 humans reside, are employed or congregate within this city shall install, equip and maintain adequate sanitary facilities for the disposal of human excrement by use of a sanitary water closet or a sanitary pit privy. The closets and toilets hereby required shall be of the sanitary water closet type when located within three hundred (300) feet of a sanitary sewer and accessible thereto and of the sanitary water closet type (notwithstanding a greater distance from a sanitary sewer) or the water closet type emptying into a septic tank system 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 a 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 nuisances, and may be dealt with and abated as such. Any person maintaining any such nuisance is guilty of an offense and each day upon which any such nuisance continues is a separate offense.

F. No residence, business or commercial building, nor any other premises in the city, if 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. (Prior Code, Secs. 12-1 to 12-5)

### SECTION 8-116 OBSTRUCTING HEALTH OR ENFORCEMENT OFFICER.

It is unlawful for any person to willfully obstruct or interfere with any health officer or

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other code enforcement officer charged with the enforcement of the health or nuisance laws of this city.

### SECTION 8-117 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 8-118 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 this part 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 therefor, 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.

### SECTION 8-119 ABANDONED REFRIGERATORS, FREEZERS, OR ICEBOXES.

A. Any person, firm or corporation who abandons or discards, in any place accessible to children, any freezer, refrigerator, icebox, or ice chest, of a capacity of one and one-half (1 1/2) cubic feet or more, which has an attached lid or door which may be opened or fastened shut by means of an attached latch, or who, being the owner, lessee, or manager of such place, knowingly permits such abandoned or discarded freezer, refrigerator, icebox or ice chest to remain in such condition, shall be deemed negligent as a matter of law.

B. Any person, firm or corporation who places, stores, or uses a freezer, refrigerator, icebox, or ice chest, of a capacity of one and on-half (1 1/2) cubic feet or more, in any outdoor location that is visible from a public street, or who, being the owner, lessee, or manager of such place, knowingly permits such use or placement, shall be deemed an attractive nuisance and shall be deemed negligent as a matter of law. The provisions of this Paragraph shall not apply to walk-in freezers or refrigerators that are located in any Commercially Zoned District provided that the freezer or refrigerator has fully operational safety features permanently incorporated into the door that allows the door to open in the event of an emergency.

C. Any person, firm or corporation who violates the provisions of this Section shall

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be guilty of a misdemeanor, and upon conviction thereof shall subject to abatement and/or be fined not more than Five Hundred Dollars (\$500.00), or imprisoned not more than one (1) year, or both such fine and imprisonment.

(Ord. 572, adopted 2/1/21, Amended Ord. 595, 10/02/23)

### SECTION 8-130     BURN PERMIT DEFINITIONS

As used in Sections 8-130 through 8-140, inclusive, of the Atoka City Code, the following terms, phrases and/or expressions shall have the meanings hereinbelow ascribed thereto, to-wit:

“Burn Permit” means: a permit granted by the City of Atoka under, and in compliance with, the provisions “Hereof”.

“Burn Location” means: the property and premises upon which the proposed “Open Burning” is to be carried out.

“Competent Adult” means: an individual eighteen (18) years of age, or older, who has not been adjudged to be mentally incompetent or mentally incapacitated by a court of competent jurisdiction.

“Hereof” means: Sections 8-130 through 8-140, inclusive, of the Atoka City Code.

“Open Burning” means: the burning of any matter or things, natural or artificial, outside the structure of any building, in any place or location, public or private, within the City of Atoka.

“Qualified Applicant” means: a “Competent Adult”, who produces written documentation that the “Burn Location” (structures thereupon) is (are) covered, by a current insurance policy providing reasonable fire and premises liability coverage, and who meets at least one of the tests of/for a “Qualified Owner”.

“Qualified Owner” - If the Burn Location is owned by:

1. An individual, then “Qualified Owner” means that individual owner, or the “Qualified Owner’s Agent” thereof;
2. A husband and wife, then “Qualified Owner” means either such husband or wife, or the “Qualified Owner’s Agent” of either such husband or wife;
3. Any person who is not an individual, then “Qualified Owner” means the “Qualified Owner’s Agent” of said owner;
4. Any two or more individuals or persons, then “Qualified Owner” means the “Qualified Owner’s Agent” of any one or more of said co-owners.

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“Qualified Owner’s Agent” means: the tenant or the agent of the owner or co-owners of the “Burn Location” having and evidencing the notarized specific written authorization of said owner, or one or more of said co-owners, to apply for a “Burn Permit” and to bind said owner, or said co-owners, to the terms, provisions and conditions “Hereof” and/or as set forth in said “Burn Permit”.

### SECTION 8-131      OPEN BURNING PROHIBITED, EXCEPTIONS.

No person shall start, cause, continue, suffer or permit any “Open Burning” unless:

1. Such “Open Burning” is specifically authorized under Section 1-132 “Hereof”; or
2. A “Burn Permit” has been first obtained therefore, which is displayed and maintained upon the “Burn Location”, and, such burning is done in accordance with the provisions, conditions and restrictions “Hereof” and/or as set forth in said “Burn Permit”.

Any violation “Hereof” is hereby declared to be a public nuisance subject to immediate abatement, and, is further declared to be an offense, punishable by a fine not to exceed \$200.00, with each violation being deemed to be a separate offense.

### SECTION 8-132      EXCEPTIONS NOT REQUIRING A BURN PERMIT

Provided, the following types of “Open Burning” may be carried out without having first obtained a “Burn Permit”, to-wit:

1. Small camp fires and other small fires used solely for recreational and/or ceremonial purposes and/or for the outdoor non-commercial preparation of food, if carried out:
  - a. In a reasonable and prudent manner and otherwise in such a fashion and under such a set of circumstances so as to not (otherwise) constitute and/or create a nuisance;
  - b. By and under the supervision of a “Competent Adult”,
  - c. and wholly upon property and premises either:
    - i. Owned and/or co-owned by such individual; or
    - ii. Being then lawfully possessed by such individual, and for which such individual had previously obtained the written consent of the owner or a co-owner thereof.
2. If authorized in advance by the Fire Chief and the City Manager, fires set by the Atoka Fire Department for the:
  - a. Instruction or training of firefighting personnel;
  - b. or, the management or elimination of fire hazards or of hazardous



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materials, where there is no other practical or lawful method of management or disposal readily at hand.

3. And, fires set for the management of forest and/or game in accordance with practices recommended by the Oklahoma Department of Agriculture, The Oklahoma Department of Wildlife, the United States Forestry Service, or similar State or Federal authority, when authorized in advance by the City Manager and Fire Chief, and approved in advance by the City Council, and set, carried out and/or supervised by the Atoka Fire Department.

### SECTION 8-133      EXCEPTIONS REQUIRING A BURN PERMIT

Provided, the following types of “Open Burning” may be carried out if a “Burn Permit” has been previously issued therefor, so long as the provisions, restrictions and conditions “Hereof” and/or as set forth in said “Burn Permit” are complied with; to-wit:

1. The burning of trees, limbs, stumps, leaves, shrubs, brush, grass, weeds, crops, crop stubble, and other similar vegetable matter, whether or not then standing, living and/or growing, for the purposes of clearing land and/or preparing and/or maintaining land for agricultural purposes (agricultural crop burning).

2. The burning of fallen, cut and/or otherwise severed trees, limbs, stumps, leaves, shrubs, brush, grass, weeds, and other similar vegetable matter for the purposes of cleaning and/or maintaining the land for appearance purposes (yard waste burning).

### SECTION 8-134      BURN PERMITS - GENERAL PROVISIONS

If the requirements and conditions for the issuance therefor are satisfied, such a “Burn Permit” shall be initially issued to the applicant by the City Manager or the City Clerk, as a ministerial act, and shall thereafter be validated, or not, by the Fire Chief or the Assistant Fire Chief or the designates (member of the Atoka Fire Department) thereof. No “Burn Permit” shall be valid, in whole or in part, unless and until the same has been both so issued and so validated. It shall be the obligation of the applicant for such “Burn Permit” to wholly and fully comply with the application process for the issuance of a “Burn Permit”; and, if and once issued thereto, to contact the Fire Chief, Assistant Fire Chief, or said designates thereof, and obtain such validation.

### SECTION 8-135      GENERAL CONDITIONS AND RESTRICTIONS

Provided further, however, that:

1. No “Burn Permit” shall be issued or validated, or if nevertheless issued or validated, shall otherwise be valid, unless and until the provisions, conditions and restrictions of Sections 8-136, 8-137, and 8-139 “Hereof” are met and satisfied in full; and

2. Even if a “Burn Permit” has been first issued and validated therefor, no person shall start, continue, cause, suffer or allow any such burning under any such “Burn Permit” if, at

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the time of such burning or at any time during the course thereof:

a. The provisions, conditions and restrictions of Sections 8-136 and/or 8-137 “Hereof” are (or become) not complied with, and/or the information set forth in, and/or in connection with, the application made therefor under Section 8-138 “Hereof” is (or becomes) materially changed; and/or

b. Said “Burn Permit” is and/or becomes canceled or revoked for any reason, including but not limited to the matters and circumstances set forth in Section 8-139 “Hereof”.

### SECTION 8-136      MINIMUM CONDITIONS AND RESTRICTIONS

No person shall be entitled to have any “Burn Permit” issued and/or validated thereto, nor to start, continue, cause or suffer any burning thereunder (even if otherwise qualifying as such an “agricultural crop burning” and/or “yard waste burning”) unless:

1. Such burning is carried out at a distance of at least:
  - a. Eighty Feet (80’) from any occupied or unoccupied residence, building and/or other structure (other than a fence) located on any property other than the “Burn Location”; and,
  - b. Forty Feet (40’) from any occupied or unoccupied residence, building and/or other structure (other than a fence) located upon the “Burn Location”.
2. Such burning is commenced no earlier than 8:30 O’clock a.m., and is wholly terminated, and the fire wholly extinguished, no later than 7:30 O’clock p.m. on that same date;
3. Adequate supplies of water, and hoses to apply it, are and will remain available and in service at the “Burn Location”;
4. Such burning otherwise complies with all State and Federal laws, rules and/or regulations, and, City code provisions otherwise applicable hereto (but not written as a part “Hereof”); and (5) no oil, rubber, man-made or other similar materials which produce unreasonable amounts of smoke, noxious odors and/or fumes, or other air contaminants are burned; and, reasonable care is used to minimize the amount of dirt on the materials being burned.

### SECTION 8-137      LOCALIZED CONDITIONS AND RESTRICTIONS

The provisions of Section 8-136 “Hereof” shall be deemed and construed to be minimal requirements which cannot be waived; however, mere compliance therewith shall not necessarily, of itself, be sufficient to obtain the validation of any such “Burn Permit”. Additionally thereto, the Fire Chief, Assistant Fire Chief, or authorized designates, may impose more restrictive conditions, and/or additional conditions and restrictions, upon and/or with

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respect to any particular “Burn Permit” sought or issued under the provisions “Hereof”, on a case by case basis, as the circumstances may dictate; having due regard, in such cases, for the provisions “Hereof”, the “Open Burning” contemplated and/or conducted, the “Burn Location”, weather conditions, safety precautions and any and all other reasonably related attendant facts and circumstances.

### SECTION 8-138      APPLICATION FOR BURN PERMIT

No “Burn Permit” shall be issued until and unless the applicant has paid the fee set forth in Section 8-310 “Hereof”, and obtained the approval of the City Manager or City Clerk therefor. By making such application, said applicant and the owner(s) of the “Burn Location” shall be deemed and construed to covenant and agree to be bound by, and comply with, all of the provisions, conditions and restrictions “Hereof”, and those set forth in any “Burn Permit” issued and validated thereto. Such applications shall be made in writing, upon a form approved by the City Manager. Said form, and all accompanying information and documentation, shall be verified by the applicant under oath; and, as a minimum, said form shall require certification by the applicant:

1. That he/she is a “Qualified Applicant” (and, each of the factors constituting the same);
2. Of the date, time, place, manner, supervision, participants, safety precautions, and type of “Open Burning” proposed;
3. That all information and documentation provided thereby is correct, truthful and accurate;
4. That said applicant and the owner(s) of the Burn Location shall be deemed and construed to covenant and agree to be bound by, and comply with, all the provisions, conditions and restrictions “Hereof”, and any “Burn Permit” issued and validated thereto; and,
5. That said Applicant and said owner(s), jointly and severally, each for his/her own self, heirs, estate, personal representatives, trustees and assigns, wholly and completely indemnify and hold harmless the City of Atoka and the Atoka Fire Department (and all officers, Council members, attorneys, managers, members, clerks, employees, agents, and/or servants of either and/or both) of and/or from any and all liability, damages, injury, demands, choses in action, rights, privileges, immunities, litigation costs and/or expenses, legal or other professional fees, and/or other claims in law or equity or otherwise, of and/or for and/or relating and/or pertaining in any manner or method whatsoever to and/or for or on account of any damage and/or injury to the person and/or property, and/or rights thereof and/or therein, of said applicant, owner(s) and all persons in the world, for or from any and all causes whatsoever, or combination thereof, foreseeable or unforeseeable, directly or indirectly or otherwise howsoever related and/or connected to the application for, issuance of, validation of, and/or any acts and/or omissions upon relation to, any such “Burn Permit”.

SECTION 3-139      VALIDATION, DENIAL, OF VALIDATION, AMENDMENT, CANCELLATION, REVOCATION, AND APPEAL

Upon presentment of such a “Burn Permit” which has been issued by the City Manager or City Clerk:

1. The Fire Chief or Assistant Fire Chief, or designates (member of the Atoka Fire Department) thereof, hereinafter referred to as “Validating authority”, shall cause an inspection to be performed upon the proposed “Burn Location” for the proposed “Open Burning”, and make such other inquiry of the applicant and such further investigation as may be necessary or convenient to confirm the accuracy of the information set forth on the application, and otherwise carry out the duties herein set forth.

2. On validation, if any, of said “Burn Permit”, said validating authority shall endorse upon such “Burn Permit” such other and/or altered provisions, conditions and/or restrictions as shall be necessary, convenient and/or appropriate in view of the proposed burning, and the provisions, purposes and intentions “Hereof”.

3. Unless the same is subsequently canceled or revoked, if the “Burn Permit” is so validated thereby, then the “Open Burning” permitted thereby shall be authorized, so long as it is carried out in accordance with provisions, conditions and restrictions “Hereof” and/or as set forth in said “Burn Permit” and so long as said “Burn Permit” is conspicuously displayed, and at all times during the burn, kept and maintained, at the “Burn Location”;

4. If the “Burn Permit” is validated, said validating authority shall conduct at least one (1) unannounced inspection of the “Open Burning” authorized thereunder; and, if it appears that such “Open Burning” is not being carried out in compliance with the provisions, conditions and restrictions “Hereof” and/or as set forth in said “Burn Permit”, then he shall revoke said “Burn Permit” and/or cause said fire to be extinguished forthwith, and/or take such other remedial action as may appear to be necessary or appropriate under the attendant circumstances and conditions;

5. After validation, whether or not in connection with the aforesaid inspection, if there is a change in circumstances which materially affects or relates to the usefulness or safety aspects of the “Open Burning” authorized thereby (including, but not limited to, rain or storm, higher winds, illness or other unavailability of the applicant), said “Burn Permit” may be amended, or canceled with a substituted permit provided, by said validating authority, without the necessity of a new application being made therefor;

6. If no such validation is made, or if otherwise said applicant is aggrieved by any action or decision made by said validating authority, then the applicant shall have ten (10) working days within which to appeal the same to the City Manager, by filing a written appeal with the City Clerk. In deciding such appeal, the City Manager may grant such relief, if any, as she deems to be appropriate, provided that such relief, if any, is consistent with the provisions, conditions and restrictions “Hereof”. If unsatisfied thereby, the applicant may appeal the City Manager’s decision to the City Council, by filing a written appeal with the City Clerk within ten

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(10) working days from the date of said decision. In deciding such appeal, the City Council may grant such relief, if any, as it finds and concludes, as a body, is appropriate.

### SECTION 8-140      PERMIT FEE - ALLOCATION

The fee to be charged and collected for each application for a “Burn Permit” shall be \$10.00; and shall be allocated and deposited into the discretionary account of and for the Atoka Fire Department, in the nature of “run money”, there to be held, invested or expended as the Atoka Fire Department may, from time to time, provide by and in accordance with its by-laws.

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CHAPTER 2

WEEDS, GRASS AND TRASH

Section 8-201	Definitions.
Section 8-202	Accumulation of trash or weeds unlawful.
Section 8-203	Duty of owner, occupant to maintain private property.
Section 8-204	Reports of accumulation of grass, weeds or trash on property.
Section 8-205	Cleaning and mowing, notice, consent, hearing, abatement, lien and payment.
Section 8-206	Fine for Violation Chapter 2

SECTION 8-201      DEFINITIONS.

As used in this chapter, the following terms shall have the meanings respectively ascribed to them in this section:

1.      “Administrative officer” means the person so designated by the city manager; Section 8-118 of this code;
2.      “Cleaning” means the removal of trash from property;
3.      “Owner” means the owner of record as shown by the most current tax rolls of the county treasurer;
4.      “Trash” means any refuse, litter, ashes, leaves, debris, paper, combustible materials, rubbish, offal, waste, or matter of any kind or form which is uncared for, discarded or abandoned; and
5.      “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 or 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

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- 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. (Prior Code, Sec. 15-11, et seq, as amended to reflect state law)

### SECTION 8-202 ACCUMULATION OF TRASH OR WEEDS UNLAWFUL.

A. It is unlawful for any owner or occupant of any lot, tract or parcel of land situated wholly or in part within the corporate limits of the city to allow trash or weeds to grow, stand or accumulate upon such premises. It is the duty of such owner or occupant to remove or destroy any such trash or weeds.

B. No owner or occupant of land or lots shall not

1. Knowingly permit the throwing or dumping upon his premises of any refuse, rubbish or trash, or

2. Permit such materials to remain on his premises for more than ten (10) days after being notified to remove them by the city or the county health department whether or not the owner or occupant knew of or permitted such throwing or depositing.

In addition to a penalty for violation of this section or Section 8-203, the city may abate as a public nuisance any condition prohibited herein pursuant to this chapter, any other law or ordinance, all of which shall be cumulative.

State Law Reference: Cleaning, mowing property, municipal powers, 11 O.S. Sec. 22-110.

### SECTION 8-203 DUTY OF OWNER, OCCUPANT TO MAINTAIN PRIVATE PROPERTY.

No person owning, leasing, occupying or having charge of any private property or premises shall maintain or keep any refuse, rubbish, trash or similar material except dirt thereon; nor shall such person allow the accumulation of any such material; nor shall any such person keep or maintain such premises in a manner causing substantial diminution in the value of other property in the neighborhood in which the premises are located. No prosecution may be undertaken under this section until such person shall have been given ten (10) days’ notice by the city of the condition and an order to fully abate the alleged deficiency.

Cross Reference: See also Section 8-510 and 8-511 of this code for similar provisions on accumulations of litter on private property.

### SECTION 8-204 REPORTS OF ACCUMULATION OF GRASS, WEEDS OR TRASH ON PROPERTY.

Any officer or employee of the city who discovers an accumulation of trash or the growth

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of grass and weeds, or both these conditions, upon any premises within the limits of the city, shall report the condition to the administrative officer 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;
3. A fire hazard to property; or
4. Any two (2) or more of these conditions.

(Prior Code, Sec. 15-12)

State Law Reference: Cleaning and mowing of property, procedures and powers 11 O.S. Sec. 22-111.

### SECTION 8-205      CLEANING AND MOWING, NOTICE, CONSENT, HEARING ABATEMENT, LIEN AND PAYMENT.

The city manager is authorized to cause property within the city to be cleaned of trash and weeds, or grass to be cut or mowed, and the nuisance to be abated in accordance with the following procedure:

1. The city manager or his designee may determine whether the accumulation of trash, growth of weeds or grass, or other nuisances has caused the property to become detrimental to the health, benefit or welfare of the public and the community or a hazard to traffic, or creates a fire hazard to the danger of the property;

2. 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 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;

3. At the time of mailing of notice to the property owner, the city shall obtain a receipt of mailing from the postal service, which receipt shall indicate the date of mailing and the name and address of the mailee. However, if the property owner can not be located within ten (10) days from the date of mailing the same, notice may be given by posting a copy of the notice on the property or by publication, as provided by Section 102.8 of Title 11 of the Oklahoma Statutes, one time not less than ten (10) days prior to any hearing or action;

4. If the city anticipates summary abatement of a nuisance in accordance with the provisions as herein provided, the notice, whether by mail or publication, shall state: that any accumulations of trash or excessive weeds or grass growth on the owner's property occurring



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within six (6) months after the removal of trash or cutting or mowing of weeds or grass on the property pursuant to the notice may be summarily abated by the city; that the costs of such abatement shall be assessed against the owner; and that a lien shall be imposed on the property to secure such payment, all without further notice to the property owner. At the time of each summary abatement the city clerk 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 this section. 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;

5. 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 his written consent, the owner waives his right to a hearing by the city;

6. A hearing may be held by the administrative officer 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 or 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 city manager, except that if the city manager conducts the initial hearing, then the right of appeal is to the city council. The appeal shall be taken by filing written notice of appeal with the city clerk within ten (10) days after the administrative order is rendered.

7. If the administrative officer finds the condition of the property constitutes a detriment or hazard and that the property would be benefited by the removal or such conditions, the administrative officer shall direct the clearing or cleaning be done by one of the following methods:

- a. By the city; or
- b. On a private contract basis, in which case it shall be awarded to the lowest and best bidder;

The agents of the city are granted the right of entry on the property for the removal of trash, mowing of weeds or grass, cleaning and performance of 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 and mowing costs, and that such costs are the personal obligation of the property owner from and after the date of filing of the notice;

8. After the property has been cleaned, the administrative officer shall determine the actual cost of such cleaning and any other expenses as may be necessary in connection therewith, including the cost of the notice and mailing. The city clerk shall forward by mail to the property owner specified in this section a statement of the actual cost and demanding payment;

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9. If payment is not made within thirty (30) days from the date of the mailing of the statement, the city clerk shall forward a certified statement of the amount of the cost to the county treasurer of the county in which the property is located, and the same shall be levied on the property and collected by the county treasurer as other taxes authorized by law. The cost and the interest thereon shall be a lien against the property from the date the cost is certified to the county treasurer and shall continue until the cost shall be fully paid;

10. At any time prior to the collection as provided herein the city may pursue any civil remedy for collection of the amount owing and the interest thereon. 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 or part thereof; and

11. The provisions of this section shall not apply to any property used for agricultural purposes. (Prior Code, Sec. 15-13 to 15-17, as amended to reflect state law)

### SECTION 8-206      FINE FOR VIOLATION CHAPTER 2

Violation of Sections 8-202 and 8-203 shall carry a fine of up to Five Hundred Dollars (\$500.00). The citation for said violation shall be delivered or otherwise served upon the owner, lessee, or occupant of the premises in the manner provided for by law. Prosecution of said violation shall occur no earlier than ten (10) days from the date of service and shall be prosecuted in the Atoka Municipal Court. (Ordinance 551, adopted 11/6/17)

Cross Reference: See Fee Schedule, Appendix 2, for applicable fees.

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CHAPTER 3

DILAPIDATED BUILDINGS

Section 8-301	Definitions.
Section 8-302	Report to be made.
Section 8-303	Condemnation, boarding and securing of dilapidated buildings, notice, removal, lien, payment.
Section 8-304	Clearing up of premises from which buildings have been removed.
Section 8-305	Penalty.

SECTION 8-301      DEFINITIONS.

For the purposes of this Chapter:

1.      “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;
2.      “Cleaning” or “cleaned” means the removal of trash or weeds from the premises;
3.      “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; or
  - 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; or
  - c.      A structure which is determined by the municipal governing body or administrative officer of the municipal governing body to be an unsecured building, as defined by Section 8-301 of this title, more than three (3) times within any twelve (12) month period; or
  - d.      A structure declared by the municipal governing body to constitute a public nuisance.
4.      “Unsecured building” shall mean any structure which is not occupied by a legal or equitable owner thereof or by a lessees 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.

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5. “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.

State Law Reference: Similar provisions, Okla. Stat. tit. 11, §§22-112, *et seq.*

### SECTION 8-302      REPORT TO BE MADE.

Any officer or employee of this city who discovers or receives a report of a dilapidated building which has become detrimental to the health, benefit and welfare of the public and the community or creates a fire hazard to the danger of property, shall report such conditions to the administrative officer.

### SECTION 8-303      CONDEMNATION, BOARDING AND SECURING OF DILAPIDATED BUILDINGS, NOTICE, REMOVAL, LIEN, PAYMENT.

The administrative officer may cause dilapidated buildings within the city limits to be torn down and removed, or boarded or secured, in accordance with the following procedure:

1. At least ten (10) days’ notice shall be given to the owner of the property before the city takes action or holds a hearing as provided herein. 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 mailee. 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 by 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 this section;

2. A hearing shall be held by the administrative officer to determine whether the property is dilapidated and has thereby become detrimental to the health, benefit and welfare of the public and the community, or creates a fire hazard to the danger of property, or needs to be boarded and secured;

3. If the administrative officer finds that the condition of the property constitutes a detriment or a hazard, and that the property would be benefited by the removal of such conditions, or by its boarding and securing, the administrative officer may cause the dilapidated building to be torn down and removed, and boarded and secured, and shall fix reasonable dates for the commencement and completion of the work. The city clerk shall immediately file a notice of lien with the county clerk describing the property, the findings of the administrative officer at the hearing, and stating that the city claims a lien on the property for the destruction and removal, boarding and securing costs and that such costs are the personal obligation of the property owner from and after the date of filing of the notice;

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4. The property owner shall have a right of appeal to the city manager from an order of the administrative officer, or if the order is rendered by the city manager, then the right to appeal is to the city council. The appeal shall be filed in writing with the city clerk within ten (10) days after the administrative order is rendered;

5. If the work is not performed by the property owner within the dates fixed by the administrative officer, the administrative officer shall direct the tearing down and removal, or boarding and securing, be done by one of the following methods:

- a. By the city;
- b. On a private contract basis, in which case it shall be awarded to the lowest and best bidder;

6. After the building has been torn down and removed, or boarded and secured, the administrative officer shall determine the actual cost of the dismantling and removal of dilapidated buildings, or the boarding and securing, and any other expenses as may be necessary in conjunction therewith, including the cost of notice and mailing. The city clerk shall forward a statement of such actual cost attributable to the dismantling and removal or boarding and securing and a demand for payment by mail to the property owner at the address specified in this section. In addition, a copy of the statement shall be mailed to any mortgage holder at the address specified in this section. At the time of mailing of the statement of costs to any property owner or mortgage holder, the city shall obtain a receipt of mailing from the postal service, which receipt shall indicate the date of mailing and the name and address of the mailee;

7. If payment is not made within six (6) months from the date of the mailing of the statement, the city clerk shall forward a certified statement of the amount of the cost to the county treasurer of the county in which the property is located. The city shall have a lien on the property for such costs, together with interest thereon, and the lien shall continue until the cost shall be fully paid;

8. When payment is made to the city for costs incurred, the city shall file a release of lien or part thereof;

9. The provisions of this section shall not apply to any property zoned and used for agricultural purposes; and

10. Nothing in this section shall prevent the city from otherwise abating a dilapidated building as a nuisance or otherwise exercising its police power to protect the public health, safety or welfare.

State Law Reference: 11 O.S. Section 22-112, removal of dilapidated buildings.

Cross Reference: See Fee Schedule, Appendix 2, for applicable fees. See removal of weeds and trash, Sections 8-201 et seq. of this code; building codes, Sec. 5-101 et seq.

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SECTION 8-304      CLEANING UP OF PREMISES FROM WHICH BUILDINGS HAVE BEEN REMOVED.

In all cases in which:

1.      A house or building has been removed before the taking effect of this chapter; or
2.      A house or building is torn down or demolished pursuant to order of the State Fire Marshal or one of his assistants or the sheriff of the county or the chief of the fire department as provided by state law or as provided in this chapter;

And in which any of the following conditions exist,

1.      The premises have not been cleaned up;
2.      The premises are cleaned up, and all lumber, brick, concrete, cement, plaster, nails, wire, and other material have not been removed;
3.      The materials removed but the cellar space and excavations have not been filled;
4.      A cistern or well has not been filled or safely and securely closed and all openings to sanitary sewer have not been plugged to meet the requirements of the city plumbing inspector and securely closed; and
5.      The lot or lots have not been leveled and left entirely free from trash or the same be not immediately done;

Then the owner or owners of the lot or lots and the person, firm, or corporation who tore down the house or building shall immediately comply with the provisions of this chapter by having all of the things done.

SECTION 8-305      PENALTY.

Any person who shall tear down or begin the tearing down of any house or building within the city limits of the city without having first procured permit therefor as herein provided shall be guilty of an offense against the city and upon conviction thereof shall be punished as provided in Section 1-108 of this code.

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### CHAPTER 4

#### ABANDONED, JUNK VEHICLES

Section 8-401	Definitions.
Section 8-402	Prohibited acts; nuisances declared; exceptions.
Section 8-403	Permits for reconstruction/repair of vehicles.
Section 8-404	Procedures for abatement.
Section 8-405	Presumption of abandonment.
Section 8-406	Notice to remove from public property.
Section 8-407	Responsibility for removal from public property.
Section 8-408	Notice to remove from private property.
Section 8-409	Hearing.
Section 8-410	Removal of motor vehicles from property.
Section 8-411	Notice of removal.
Section 8-412	Appraisal.
Section 8-413	Redemption of impounded vehicles or motor vehicles.
Section 8-414	Collection of city's costs of removal.
Section 8-415	Penalty; continuing violations.

#### SECTION 8-401      DEFINITIONS.

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

1. "Administrative officer" means the city manager or his designee;
2. "Junk vehicle" means any motor vehicle or vehicle, as defined herein, which is wrecked, dismantled, partially dismantled, inoperative, abandoned or discarded, but does not include motor vehicles or vehicles for which a permit has been obtained pursuant to this chapter for so long as the terms and conditions of the permit are in force and obeyed; but does not include motor vehicles or vehicles parked on private property which display current license tags and safety inspection stickers which are temporarily out of service due to mechanical breakdown or damage if the owner thereof makes diligent efforts to place same back into operable condition, but shall not exceed thirty (30) days;
3. "Motor vehicle" means any vehicle which is self-propelled and designed to travel along the ground or water and the term shall include, but not be limited to, automobiles, boats, buses, motorbikes, motorcycles, motor scooters, trucks, tractors, go-carts, and golf carts;
4. "Private property" means any real property within the city which is not public property;
5. "Public property" means any real property which is dedicated to the public use which the federal or any state or municipal government, or any political subdivision thereof, owns

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or leases, or exercises control and dominion over for public purposes; and

6. "Vehicle" means a machine propelled by power other than human power, designed to travel along the ground by use of wheels, treads, runners, or slides and to transport persons or property or pull machinery and includes, without limitation, automobile, truck, trailer, motorcycle, tractor, buggy and wagon.

### SECTION 8-402 PROHIBITED ACTS; NUISANCES DECLARED; EXCEPTIONS.

A. It is unlawful and an offense for any person to park, store or leave, or to permit the parking, storing, or leaving of, any junk vehicle of any kind which is in an abandoned, wrecked, dismantled, inoperative, rusted, junked, or partially dismantled condition, whether attended or not, upon any private property within the city for a period of time in excess of ten (10) days.

B. The presence of any junk vehicle or any abandoned, wrecked, dismantled, inoperative, rusted, junked or partially dismantled vehicle or boat or parts thereof, on private property is hereby declared a public nuisance which may be abated as such in accordance with the provisions of this chapter.

C. The provisions of Subsections A and B shall not apply to any vehicle or motor vehicle:

1. Enclosed within a building on private property;
2. Held in connection with a lawful business enterprise which is properly operated as such business enterprise in the appropriate zone, pursuant to the zoning provisions of this code;
3. In operable condition which is not a junk vehicle as defined herein; or
4. For which a non-expired reconstruction/repair permit has been obtained pursuant to this code.

### SECTION 8-403 PERMITS FOR RECONSTRUCTION/REPAIR OF VEHICLES.

A. Any person desiring to:

1. Reconstruct; or
2. Make repairs to an inoperable vehicle or motor vehicle, for a period in excess of thirty (30) days may, upon making application to the city, payment of an application fee, and compliance with the terms of a permit, keep such vehicle on a cement, asphalt or other sealed driveway or space pursuant to the terms of the permit.

B. The application shall state that the owner, only, of such vehicle or motor vehicle seeks to have a permit issued, permitting such vehicle or motor vehicle to be on private property within the city in an inoperable, unlicensed or untagged condition for a specific period of time. All



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applications shall state with specificity how the reconstruction or repairs shall be accomplished and contain deadlines for the completion of each stage, which shall become part of the permit.

C. No permit may be issued without opportunity for public hearing unless the person seeking such permit obtains the written consent of eighty percent (80%) of the owners of all private real property within three hundred (300) feet of the place which the vehicle or motor vehicle is proposed to be kept according to the county assessor's records.

D. Any consent from nearby private real property owners shall state that a permit is being sought for the purpose of reconstructing or repairing a described vehicle or motor vehicle.

E. If the applicant is unable to obtain the consents of eighty percent (80%) of the nearby property owners pursuant to this section, the applicant may file a completed application and post the application fee, and the city will thereafter give notice by certified mail, return receipt requested, of the application to the owners of all private real property within three hundred (300) feet of the place where the applicant proposes to keep the vehicle or motor vehicle, advising such property owners of the application and of their right to file written objections within fifteen (15) days of the mailing. The applicant shall advance to the city the costs of any mailing up to a maximum of Fifty Dollars (\$50.00).

F. Within three (3) days of the expiration of the time for objections to the issuance of a permit to be filed, the city's administrative officer shall appoint a board of three (3) members to consider, in a public hearing held within seven (7) days, any objections which may have been filed, and to make a recommendation to the administrative officer.

G. After any hearing set forth in above, the administrative officer shall forthwith determine whether or not the permit should be issued, and as soon thereafter as is practicable, enter an order approving or disapproving such permit.

H. If the applicant obtains the consents described in Subsection C above, or if no objections are filed pursuant to Subsection E above, the administrative officer shall cause a permit to be issued, unless the deadlines set forth in the application are unreasonable, in which case the applicant shall be provided a hearing pursuant to this section.

I. No permit shall be issued unless the applicant agrees in the application, to allow the city to abate any violation of the terms of any permit within ten (10) days of the mailing by certified mail of a written demand to do so.

J. Initial permits for any vehicle or motor vehicle shall be issued for a maximum period of six (6) months, and may be extended for periods not to exceed six (6) months each upon successful completion of a full application process for each and every renewal period.

K. No permit shall be in force as to more than one person or one residence at any time.

L. Such vehicle or motor vehicle for which a permit has been issued shall prominently display a sticker to be provided by the city, indicating the permit number and its date of expiration.

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The sticker may be physically inspected without notice by any officer of the city between the hours of 9:00 A.M. and 5:00 P.M., during weekdays, and the right to inspect shall be a condition of the issuance of a permit.

M. Any permit may be revoked by the administrative officer upon reasonable notice and opportunity for a hearing, if the application contains any material falsehood, or if any purported consent filed therewith is fraudulent.

N. A permit may be revoked by the administrative officer upon reasonable notice and opportunity for a hearing, if any of the terms of the permit are not complied with.

### 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

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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 1-108 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.

Cross Reference: See Fee Schedule, Appendix 2, for applicable fees.

### 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 to Remove 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

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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      APPRAISAL.

Upon removing a junk vehicle under the provisions of this chapter, the city shall, after ten (10) days, cause it to be appraised. If the vehicle or boat appraises at Seventy-five Dollars (\$75.00) or less, the administrative officer or his designee shall execute an affidavit so attesting and describing the vehicle or motor vehicle, including the license plates, if any, and stating the location and appraised value of the vehicle or motor vehicle. After complying with the above, the city may summarily dispose of the vehicle or boat and execute a bill of sale. If the vehicle or boat is appraised at over Seventy-five Dollars (\$75.00), notice of public sale shall be given not less than ten (10) days before the date of the proposed sale.

### 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 city clerk of such sum as may be determined by the administrative officer and fixed as the actual and reasonable expense of removal, plus storage.

Cross Reference: See Fee Schedule, Appendix 2, for applicable fees.

SECTION 8-414      COLLECTION OF CITY'S COSTS OF REMOVAL.

A.      Upon the failure of the owner or occupant of property on which junk vehicles have been removed by the city to pay the unrecovered expense incurred by the city in such removal, the amount of the unrecovered cost may be added to the municipal utility bills directed to the occupants of the private property from which the junk vehicle was removed, and may be recovered in the same manner of such utility bills.

B.      If the private property is not served by the municipal utilities, or if collection efforts are not successful, the costs may be certified by the city clerk to the county clerk of the county, who shall add the same to the ad valorem taxes assessed against the property, until paid, and shall be collected in the same manner as ad valorem taxes against the property; and when collected shall be paid to the city.

SECTION 8-415      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. Violation of this section shall carry a fine of up to two hundred fifty dollars (\$250.00). Each act in violation 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.

(Ordinance 550, adopted 11/6/17)

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CHAPTER 5

FOOD AND MILK REGULATIONS

ARTICLE A

FOOD SERVICE SANITATION

Section 8-501 Regulations adopted.

ARTICLE B

MILK AND MILK PRODUCTS

Section 8-520 Regulations adopted.

Section 8-521 Penalty.

ARTICLE A

FOOD SERVICE SANITATION

SECTION 8-501 REGULATIONS ADOPTED.

The latest edition of the “Oklahoma State Department of Health Rules and Regulations pertaining to Food Establishments” is hereby adopted and incorporated by reference in this code, effective December 1, 1992. At least one copy of the rules and regulations shall be on file in the office of the city clerk. The rules and regulations shall govern except in case of conflict with the provisions of this chapter, in which case the more restrictive terms shall prevail. (Prior Code, Sec. 12-9, as amended)

State Law Reference: Requirements of food establishments, 63 O.S. Secs. 1-1101 et seq.

ARTICLE B

MILK AND MILK PRODUCTS

SECTION 8-520 REGULATIONS ADOPTED.

A. The latest edition of the United States Public Health Service Recommendation “Grade A Pasteurized Milk Ordinance with Administrative Procedures” and the provisions of state law governing milk and milk products as set out in Sections 1-1301 to 1-1311 of Title 63 of the Oklahoma Statutes, as amended from time to time, are hereby adopted and incorporated by reference in this code and are enforceable by the city as fully as if they were set out at length herein. At least one copy of the milk ordinance and referenced state law shall be on file in the office of the city clerk. The milk ordinance and the referenced state law shall govern except in case of conflict with the provisions of this chapter, in which case the more restrictive terms shall

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prevail.

B. Only certified pasteurized and grade A pasteurized, and certified raw or grade A raw milk and milk products shall be sold to the final consumer, or to restaurants, soda fountains, grocery stores or similar establishments. In an emergency, however, the sale of pasteurized milk and milk products which have not been graded, or the grade of which is unknown, may be authorized by the health authority, in which case, such milk and milk products shall be labeled “ungraded.”

C. All sampling, examining, grading and regarding of milk and milk products and all inspections, and issuing and suspension or revocation of permits shall be done by the health officer or his designee who shall be a registered professional sanitarian. (Prior Code, Sec. 12-6, as amended)

Cross Reference: See Part 2 of this code, cooperative health department designation.

State Law Reference: Milk regulations 63 O.S. Secs. 1-1201 et seq., 2 O.S. Secs. 7-1 et seq. (milk manufacture).

### SECTION 8-521      PENALTY.

Any person who shall violate any of the provisions of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided in Section 1-108 of this code. Such person may also be enjoined from continuing such violations. Each day upon which such a violation occurs shall constitute a separate violation. (Prior Code, Sec. 12-10)

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CHAPTER 6

HAZARDOUS CHEMICAL CODE

ARTICLE A

Section 8-601	Citation.
Section 8-602	Purpose and scope.
Section 8-603	Application.
Section 8-604	Exclusions.
Section 8-605	Definitions.

ARTICLE B

EMPLOYER RESPONSIBILITY

Section 8-611	Chemical information lists.
Section 8-612	Material safety data sheets.
Section 8-613	Providing lists and data sheet to purchasers.
Section 8-614	Oil and MSDS review.
Section 8-615	Access to written records: availability.
Section 8-616	Labeling.
Section 8-617	Training and education program.

ARTICLE C

FIRE SAFETY

Section 8-621	General provisions.
Section 8-622	Signs required and adoption by reference.
Section 8-623	Proprietor variance applications.
Section 8-624	Agreement between a proprietor and fire department.
Section 8-625	Significant amounts.
Section 8-626	Recommended communications.
Section 8-627	Procedure for non-compliance.

ARTICLE D

EMPLOYEE RIGHTS AND RESPONSIBILITIES

Section 8-631	Employee rights and responsibilities.
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ARTICLE E

TRADE SECRETS

Section 8-641 Trade secrets.

ARTICLE F

ENFORCEMENT, ADMINISTRATION AND PENALTIES

Section 8-651 Enforcement.  
Section 8-652 Effective dates.  
Section 8-653 Asbestos notice and labeling.  
Section 8-654 Duties of enforcement official.  
Section 8-655 Penalties.

ARTICLE A

SECTION 8-601 CITATION.

This chapter shall be known as the Hazardous Chemical Code of the city and may be cited as employee right-to-know. (Ord. No. N.C. 336, 5/4/87)

Ed. Note: The city's hazardous chemical code, being the Federal Emergency Management Agency (FEMA) SARA Title III, Hazardous Chemical Code list, as enacted by Ordinance No. N.C. 336, May 4, 1987, and all amendments thereto, is hereby adopted and incorporated herein by reference, applicable as fully as if set out at length herein. A copy of the code and all amendments are on file with the city clerk.

SECTION 8-602 PURPOSE AND SCOPE.

A. Many places of public work potentially pose an acute and chronic health and safety hazard to employees who may be exposed to concentrations of hazardous substances. These employees have a right-to-know the properties and potential health and safety hazards of substances to which they may be exposed, thereby reducing the incidents and cost of occupational illness and injury. It is the intent of these regulations to insure the transmission of necessary information to public employees while specifying requirements for subject public employees to act responsibly with use of potentially hazardous chemicals at the work place.

B. These regulations have performance objectives which are implemented by specific minimum standard and requirements governing manufacturers who produce, package, re-package, distribute and sell hazardous substances to:

1. Public employers;
2. Public employers who use hazardous substances at the work place; and

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3. Public employees who use potentially hazardous chemicals who assume responsibility for use of.

C. Administrative provisions are hereby established to insure compliance with Title 40, Sections 401 through 424 of the Oklahoma Statutes as amended. (Ord. No. N.C. 336, 5/4/87)

### SECTION 8-603 APPLICATION.

A. No person shall manufacture, produce, package, repackage, distribute or sell any hazardous substance without providing attached to substance container a chemical list containing chemical properties of each substance provided.

B. Any employee of public agency who is responsible for purchasing any potentially hazardous chemical shall be responsible for labeling substances and posting lists of hazardous chemicals at work sites and on buildings in compliance with this code.

C. Any employee who utilizes potentially hazardous chemicals shall assume responsibility for using the hazardous chemical in exact accordance with manufacturer's or distributor's recommendations. (Ord. No. N.C. 336, 5/4/87)

### SECTION 8-604 EXCLUSIONS.

A. These regulations do not apply to any substances which are foods, drugs, cosmetics or tobacco products intended for personal consumption by employees while in the workplace. Additionally, these regulations do not apply to any consumer products and food stuffs packaged for distribution to, and intended for use by, the general public.

B. Except as provided in the following subsection, these regulations do not apply to hazardous substances being developed and used only in research laboratories.

1. For all research laboratories, the employer shall provide the following to all employees and their designated representatives:

- a. The chemical name of the hazardous substance; and
- b. A training and education program which shall be designed to inform employees of the appropriate work practices, the appropriate protective measures, and the appropriate emergency measures regarding hazardous materials in the workplace;

2. The employer shall maintain any material safety data sheets as defined by these regulations or any additional information relating to the toxicity or hazardousness of those hazardous substances and the employer shall ensure that this information is available to employees and their designated representatives; and

3. The employer shall ensure that labels on incoming containers of hazardous

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substances are not removed or defaced. (Ord. No. N.C. 336, 5/4/87)

### SECTION 8-605     DEFINITIONS.

A. For all purpose of these regulations certain terms and words are to be used and interpreted as defined hereafter. When not inconsistent with the context, words used in the present tense include the future. Words used in the masculine gender include the feminine and neuter; and vice versa. The singular number includes the plural and the plural number includes the singular. The word "shall" is mandatory and not directory. When terms are not defined, the ordinarily accepted meanings within the proper context shall apply. Whenever specific terms as with reference to a part of a building are used in this chapter they shall be construed as though they were followed by the words "or any part thereof."

1. "Asbestos containing materials" means any material that has been determined by a competent laboratory facility to contain more than one percent (1%) asbestos by weight;

2. "CAS number" means the unique identification number assigned by the Chemical Abstracts Service to chemicals;

3. "Chemical name" means the scientific designation of a substance in accordance with the nomenclature system developed by the International Union of Pure and Applied Chemistry (IUPAC) or the Chemical Abstract Service (CAS) rules of nomenclature or an alternate name found in the NIOSH Registry of Toxic Effects of Chemical Substances (RTECS) or a prescription generic drug name;

4. "Common name" means any designation or identification, such as trade name or number, code name or number, brand name or generic name, used to identify a substance other than by its chemical name;

5. "Container" means any barrel, bottle, box, can, cylinder, drum, pipe or piping system, storage tank, reaction vessel, or the like that contains a hazardous material;

6. "Distributor" means a business, other than a chemical manufacturer or importer, which supplies hazardous substances to the employer;

7. "Employee" means a person permitted to work by an employer in employment;

8. "Employee representative" means any individual or organization whom an employee has authorized to exercise such employee's rights under these regulations;

9. "Employer" means any entity of the city and its political subdivisions, which has in its employ one or more individuals performing services for it in employment;

10. "Enforcement officer" means a person assigned by the city to enforce these regulations;

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11. “Hazardous substance” is any substance which is a physical hazard or a health hazard;

12. “Health hazard” means any chemical, or biological substance or agency which is listed in the U.S. Occupational Safety and Health Administration list of Toxic and Hazardous Substances, 29 CFR Part 1910, Subpart “Z”. And any other substance including but not limited to chemicals which are carcinogens, toxic or highly toxic agents, reproduction toxins, irritants, corrosives, sensitizers, hepatopoietic system, and agents which damage the lungs, skin, eyes or mucous membranes; and any substance for which a material safety data sheet has been provided by the manufacturer, as a hazardous material, or such substances deemed by the commissioner, based on documented scientific evidence, that poses a threat to the health of an employee.

13. “Manufacturer” means a person or establishment where hazardous substances are produced, synthesized, extracted, imported, or otherwise made for use or distribution;

14. “Mixture” means a combination of two (2) or more hazardous substances if the combination does not occur in nature and is not, in whole or part, the result of a chemical reaction;

15. “Physical hazard” means a chemical which is a compressed gas, explosive, flammable, an organic peroxide, an oxidizer, pyrophoric, unstable (reactive) or water-reactive, and which is contained in the U.S. Occupational Safety and Health Administration’s list of hazardous materials, 29 CFR Part 1910 Subpart “H”. Any substance for which a material safety data sheet has been provided by the manufacturer as a hazardous material, or such substances deemed by the commissioner, based on documented scientific evidence that poses a threat to the safety of an employee;

16. “Proprietor” means the owner, manager, or other person or organization which has control over any location where hazardous substances are present, and which is subject to the jurisdiction of employers subject to the provisions of these rules;

17. “Research laboratory” means a specially designated area used primarily for research, development, and testing activity, and not primarily involved in the production of goods in which hazardous substances are used;

18. “Service contractor” means any person, company, or corporation that provides a service to the employer with or without a written agreement;

19. “Trade secret” means any formula, plan, pattern, process, production data, information, or compilation of information, which is not patented, which is known only to a manufacturer and certain other individuals, and which is used in the fabrication and production of an article of trade or service, and which gives the manufacturer possessing it a competitive advantage over businesses who do not possess it, or the secrecy of which is certified by an appropriate official of the federal government as necessary for national defense purposes. The chemical name and chemical abstracts service number of a substance shall be considered a trade secret only if the manufacturer can establish that the substance is unknown to competitors. In determining whether a trade secret is valid pursuant to these regulations, the commissioner shall

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consider material provided by the manufacturer concerning the following:

- a. The extent to which the information for which the trade secret claim is made known outside the manufacturer business;
- b. The extent to which the information is known by others involved in the manufacturer business;
- c. The extent of measures taken by the manufacturer to guard the secrecy of the information;
- d. The value of the information, to the manufacturer or the manufacturers competition;
- e. The amount of effort or money expended by the manufacturer in developing the information;
- f. The ease or difficulty with which the information could be disclosed by analytical techniques, laboratory procedures, or other means.

20. “Trade secret registry number” means a code number temporarily or permanently assigned to the identity of a substance in a container by the commissioner pursuant to these regulations;

21. “Work area” means any room or defined space, whether within or outside of a building or other structure, where hazardous substances are present, produced, used or where exposure could occur;

22. “Workplace” means any location away from home, permanent or temporary, where any employee performs any work related activity in the course of his/her employment. (Ord. No. N.C. 336, 5/4/87)

## ARTICLE B

### EMPLOYER RESPONSIBILITY

#### SECTION 8-611      CHEMICAL INFORMATION LISTS.

A. Each employee shall develop and maintain Chemical Information Lists (CIL) containing the common and trade names of all hazardous substances present in the workplace. Such annual CIL’s shall be maintained in alphabetical order cross referenced to their chemical names.

B. A CIL shall be maintained on each employee indicating the type of chemical exposure received throughout their employment in the workplace, and this information shall:

1. Be stored for not less than forty (40) years;

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2. Be provided to employees on a regular periodic basis, or upon termination in a form that includes the following statement, "You should preserve this report for future reference"; and

3. Whenever an employer discovers that an employee has received a potentially hazardous exposure to any substance or agent covered under this rule, the employer shall immediately notify the employee of the exposure and take such steps as may be necessary to provide medical evaluation. (Ord. No. N.C. 336, 5/4/87)

### SECTION 8-612 MATERIAL SAFETY DATA SHEETS.

A. Each employer shall obtain or develop a Material Safety Data Sheet (MSDS) for each hazardous substance which he has identified on the CIL.

B. Each MSDS shall reflect the information contained in the sources consulted by the manufacturer in his hazard determination and shall contain at least the required information specified by 29 CFR 1915.97 (B).

C. Provisions of a U.S. Form 20 MSDS or equivalent shall constitute prima facie proof of compliance with Section (III) (B) (2).

D. If the employer becomes aware of any information which is significant regarding the health hazard of a substance, and which does not appear on the MSDS, this shall be added to the MSDS within a reasonable period of time, but not to exceed thirty (30) days. Where trade secrets are involved, the manufacturer shall be informed in writing of the discovery and a copy shall be forwarded to the Oklahoma Department of Labor for follow-up. (Ord. No. N.C. 336, 5/4/87)

### SECTION 8-613 PROVIDING LISTS AND DATA SHEET TO PURCHASERS.

A. Manufacturers, distributors, and service contractors shall provide an appropriate MSDS to the purchasers of hazardous substances which are employers as defined in this standard, upon request.

B. Purchasers may require that:

1. MSDS be provided by the manufacturer, distributor, or service contractor at the time a bid to provide the product or service is submitted for review;

2. Each time a purchase of the substance is made, unless provided for in 111 (C) (1) (a), the MSDS shall precede the shipment; or

3. Any time there is a change that alters the composition of the substance, the MSDS mailing shall precede shipment of the product or commencement of the service. (Ord. No. N.C. 336, 5/4/87)

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### SECTION 8-614 OIL AND MSDS REVIEW.

The chemical and common names of all hazardous substances introduced into the workplace subsequent to the original listing shall be appended to the CIL when introduced into the workplace but not to exceed a thirty (30) day period with the original listing and appendage being revised and re-alphabetized annually. Each employer required to prepare CIL and MSDS's, shall review their CIL's and MSDS's, shall update, revise and realphabetize, as needed but not less than annually. (Ord. No. N.C. 336, 5/4/87)

### SECTION 8-615 ACCESS TO WRITTEN RECORDS: AVAILABILITY.

A. Upon request by an affected employee or employee representative, the employer shall assure access to copies of the CIL and MSDS's required by these regulations and shall ensure that they are readily accessible as soon as possible in a reasonable time, place, and manner, but in no event later than one working day after the request for access is made.

B. In addition, whenever any effected employee or employee representative requests a copy of the CIL and MSDS, the employer shall, within fifteen (15) days assure that either a copy or a mechanical means to copy is provided. (Ord. No. N.C. 336, 5/4/87)

### SECTION 8-616 LABELING.

A. Labels on containers shall be applied to each container when provided to the employer from the manufacturers or distributor. Containers used by service contractors shall likewise be labeled prior to use of the hazardous substances in the employer's workplace.

B. The employer shall take any action necessary to ensure that every container in the work area containing a hazardous substance shall bear a label indicating the chemical name and CAS number for the substance or the trade secret registry number assigned to the hazardous substance.

C. If the label contains a mixture, the employer shall ensure that the label identifies the chemical names and CAS numbers, or the trade secret registry number, of the five (5) most predominant substances contained in the mixture. The provisions of these subsections shall not apply to any substance constituting less than one percent (1%) of a mixture unless the substance is present at the workplace in an aggregate amount of five hundred (500) pounds or more.

D. Employers shall be required to label pipelines only at the valve or valves located at the point at which a substance enters the workplace's pipeline system, and at normally operated valves, outlets, vents, drains and sample connections designed to allow the release of a substance from the pipeline.

E. The provisions of this subsection shall not apply to any substances labeled pursuant to the Federal Insecticide, Fungicide and rodenticide Act, 61 Stat. 163 (USC Section 1221 et al). The commissioner may certify containers labeled pursuant to any other federal or state act as labeled in compliance with the provisions of this section.

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F. The employer shall not be required to label portable containers into which hazardous substances are transferred from labeled containers, and which are intended only for the immediate use by the employee who performs the transfer. (Ord. No. N.C. 336, 5/4/87)

### SECTION 8-617 TRAINING AND EDUCATION PROGRAM.

A. Each employer shall have an employee training and education program designed to communicate information to employee(s) about the hazardous substances to which they are exposed. Additionally, the program shall include the established mechanism for employees to obtain and use the appropriate CIL's and MSDS's.

B. This training and education shall be provided within the first thirty (30) days of employment or transfer and at least annually and shall include but not be limited to: the nature of the hazards, appropriate work practices, protective measures and emergency procedures. Such information shall not be inconsistent with the contained in the MSCS's, which shall be used as a basis for the training and education program.

C. The employer shall provide additional instruction whenever the employee may be routinely exposed to additional hazardous substances or substances which require special precautions or whenever the employee's potential for exposure is increased due to changes in work practices or through the introduction of new toxic and hazardous substances or equipment.

D. Employers may require that service contractors whose work or materials pose a health hazard to the employer's employees shall be responsible for the provisions of III (G) (1-4) above.

## ARTICLE C

### FIRE SAFETY

### SECTION 8-621 GENERAL PROVISIONS.

A. Proprietors shall provide to the person responsible for the administration and direction of a fire department in a county, municipality, or political subdivision and having fire protection authority over the proprietors location, including the state fire marshal, fire chief, or fire administrator, or that person's designee:

1. A list of work areas, sufficiently identified by name and location where hazardous substances are consistently generated by, used by, stored at, or transported from the proprietor's facility, the list shall contain chemical and common name of each substance.

B. The person responsible for the administration and director of the fire department in a county, municipality, or political subdivision, including the state fire marshal, fire chief or fire administrator, or that person's designee shall maintain the information provided by the proprietor under subsection A (1) of this section and shall provide copies of this information:



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1. To the fire suppression companies primarily responsible for fire suppression at the workplaces within their jurisdiction;
2. Fire prevention and inspection divisions within the same jurisdiction; and
3. Upon request, to any fire department employee or a representative of fire department employees pursuant to Section III E of this rule.

C. No fire department receiving location information as provided by this section and pursuant to the provisions of these regulations shall make this information available to the public. Any fire department may request from a proprietor further information concerning the location information provided pursuant to the provisions of these regulations that may be reasonably required to protect the safety and health of employees and the employer shall provide the additional information upon the request thereof.

D. Each proprietor of a research laboratory at such location shall establish a communication and information exchange program with the fire department, which shall be designed to assist the fire department in adequately preparing to respond to emergencies at such research laboratory. (Ord. No. N.C. 336, 5/4/87)

### SECTION 8-622 SIGNS REQUIRED AND ADOPTION BY REFERENCE.

The proprietor shall post signs which shall comply with this rule. Proprietors need not comply with the sign posting requirements of subrule E(2) if the building, structure, or location within the building or structure does not contain a significant amount of the hazardous chemical as defined in subrule H. The National Fire Protection Association's standard system for identifying fire hazards of chemicals based on NFPA Standard 704-1985 Edition is adopted by reference.

1. **Size.** The signs shall be at least seven and one-half (7 1/2) inches on each side. The sign shall have four (4) spaces each at least three and three-fourths (3 3/4) inches on a side. Numbers and symbols within each of the four (4) spaces shall be at least three (3) inches in height;

2. **Location.** If a building or structure has a floor space of five hundred thousand (500,000) square feet or less, a proprietor shall post signs on the outside of the building or structure identifying the type of each hazardous chemical contained in the building or structure. If the building has more than five thousand (5,000) square feet, in addition to the signs posted outside, the proprietor shall post a sign at the place within the building where each hazardous chemical is permanently stored to identify the type of hazardous chemical. If the hazardous chemical is moved within the building, the proprietor shall also move the sign or post an additional sign at the locations where the hazardous chemical is moved. This subrule applies to significant amounts of hazardous chemical as defined in subrule H.

3. **Categories.** The signs shall identify hazards of a chemical in terms of three (3) principle categories, namely, "health," "flammability," and "reactivity (instability)", and indicate the order of severity numerically by fire divisions ranging from four (4), indicating no special hazard. This information is to be presented by a spatial system of diagrams with "health" always

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being on the left, “flammability” at the top, and “reactivity (instability)” on the right. Supplementing the spacing arrangement, color backgrounds or numbers are used for three (3) categories with blue representing “health” hazard, red representing “flammability,” and yellow representing “reactivity (instability).” The fourth space, at the bottom, is used to indicate unusually reactivity or other special hazard warnings in black and white colors. (Ord. No. N.C. 336, 5/4/87)

### SECTION 8-623 PROPRIETOR VARIANCE APPLICATIONS.

A proprietor may make application to the Commissioner for less stringent sign posting requirements:

1. The proprietor shall make written application for a variance; and
2. The proprietor shall have the burden of proof to show that compliance imposes undue hardship on the proprietor and that the less stringent sign posting requirements as proposed to the proprietor offer substantially the same degree of notice and protection to emergency responders. (Ord. No. N.C. 336, 5/4/87)

### SECTION 8-624 AGREEMENT BETWEEN A PROPRIETOR AND FIRE DEPARTMENT

In instances where the number of signs exceeds five (5), and where posting of a sign for each hazardous chemical would be ambiguous, repetitive, or where space is limited by the physical characteristics of the structure, the proprietor may enter into a written agreement with the fire chief of the local fire department which provides for the posting of signs for the most hazardous chemical in each principle category as set in subrule E (2). The agreement is subject to the approval of the commissioner of labor pursuant to the procedure for a variance as specified in rule B. If the variance is approved, the employer shall post in the same location as the required posted signs a sign stating: “Signs not posted for all hazardous chemicals.” The signs shall be in block letters at least three (3) inches in height. (Ord. No. N.C. 336, 5/4/87)

### SECTION 8-625 SIGNIFICANT AMOUNTS.

A chemical meeting any of the following criteria shall be considered a “significant amount” of hazardous chemicals:

1. Any amount of a hazardous chemical which is classified according to the U.S. Department of Transportation as:
  - a. A class A explosive;
  - b. A class B explosive;
  - c. A class A poison;
  - d. A class B poison;

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- e. A flammable solid with a “dangerous when wet” warning; or
- f. A yellow III label radio-active material;

2. The aggregate amount of hazardous chemical stored, placed, or used at the workplace is greater than or equal to fifty-five (55) gallons of liquid or five hundred (500) pounds of non-liquid where the numerical rating of the hazardous chemical based on the NFPA 704-1985 system results in:

- a. Health rating of greater than or equal to 2;
- b. Flammability rating greater than or equal to 2; or
- c. Reactivity rating of greater than or equal to 1.

If the hazardous chemical in a liquid and non-liquid state, the aggregate amount measurement shall be made considering the combined poundage; and

3. The requirements of this rule shall be suspended by other state or federal laws where those regulations are more restrictive. (Ord. No. N.C. 336, 5/4/87)

### SECTION 8-626      RECOMMENDED COMMUNICATIONS.

It is recommended that the local fire departments and proprietors meet to collaborate on the types and amount of hazardous chemicals as well as any unusual hazards which may be encountered by emergency response personnel. (Ord. No. N.C. 336, 5/4/87)

### SECTION 8-627      PROCEDURE FOR NON-COMPLIANCE.

If a proprietor fails to comply with the requirements of rule IV, the fire chief in the jurisdiction of the proprietor may file a written complaint with the commissioner:

1. The commissioner may rely on the information provided by the fire chief and immediately issue a notice of non-compliance to the proprietor or may conduct an investigation or inspection pursuant to the HCS;

2. Opportunity for hearing. The notice of non-compliance shall be sent by certified mail and shall set forth that the proprietor named has an opportunity to be heard, upon demand by the proprietor. In the event the proprietor demands a hearing, the commissioner may conduct the hearing;

3. In the event the proprietor does not demand a hearing within thirty (30) days of the receipt of notice of non-compliance, the commissioner shall, without further notice, issue an order for compliance which shall be a final agency action pursuant to the Oklahoma Occupational Health and Safety Standards Act; and

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4. In the event the issue of non-compliance comes for hearing before the commissioner, the commissioner may, at the conclusion of the hearing, issue an order for compliance which shall be a final agency action pursuant to the Oklahoma Occupational Health and Safety Standards Act or dismiss the complaint. (Ord. No. N.C. 336, 5/4/87)

### ARTICLE D

#### EMPLOYEE RIGHTS AND RESPONSIBILITIES

##### SECTION 8-631      EMPLOYEE RIGHTS AND RESPONSIBILITIES.

A. If any employee has requested information pursuant to Section III, and has not received the information within the specified time period, the employee may then refuse to work with the substances or at the location for which the request was made. An employer may not discharge or initiate any adverse personnel action against any employee because the employee has exercised his right under this provision. An employer may not request or require any employee to waiver any right under these regulations and in any event if such waivers are executed they shall be null, void and unenforceable.

B. Employees working in areas where an exposure to hazardous substance exist shall, be required to perform their jobs in accordance with precautions communicated to them during training and education programs. Employers may take appropriate disciplinary action when employees to not comply with the precautionary measures this standard mandates.

C. An employee upon receiving a potentially hazardous exposure to any substance or agency covered under this rule, shall immediately notify the employer of such exposure. Any employee utilizing any potential chemical hazardous substance shall do so in exact accordance with manufacturer`s or distributor`s or public agency`s recommendations. (Ord. No. N.C. 336, 5/4/87)

### ARTICLE E

#### TRADE SECRETS

##### SECTION 8-641      TRADE SECRETS.

A. Subject to the provisions of subsections B and C of this section, an employer, chemical manufacturer, or distributor may withhold from a purchaser the precise chemical name of a hazardous substance if:

1. The substance has been recognized pursuant to the provisions of 29 CFR 1910.1200 (i); except

2. The employer, chemical manufacturer, or distributor provides written substantiation of the trade secret to the commission within thirty (30) days after asserting the trade secret claim:

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a. Upon receipt of the trade secret claim, the commissioner shall assign a trade secret registry number to the employer. Upon receipt of the trade secret registry number, the employer shall affix the trade secret registry number to each container containing a substance for which the trade secret claim was made;

b. The commissioner shall act to make a determination on the validity of a trade secret claim when a request is made pursuant to the provisions of this act for the disclosure of the information for which the trade secret claim was made, or at any time that the commissioner deems appropriate. Upon making a determination of the validity of a trade secret claim, the commissioner shall inform the employer of the determination by certified mail. If the commissioner determines that the trade secret claim is not valid, the employer shall have forty-five (45) days from the receipt of the commissioner's determination to file with the department of labor request for an administrative hearing on the determination. The determination shall then be adjudicated by an action for a declaratory judgment filed by the affected employer in the district court of Oklahoma County or in the county in which such employer does business.

B. An employer, chemical manufacturer, or distributor shall provide to the purchaser:

1. An identification of the chemical by generic chemical classification that would permit independent toxicological evaluation by a health professional; and

2. All information required by this section other than the precise chemical name.

C. The information withheld under Subsection A of this section shall be provided to:

1. A physician who states in writing that a patient's health problems may be the result of occupational exposure;

2. A physician who in an emergency situation requests the information; or

3. A health professional, including an industrial hygienist, toxicologist, or physician who states in writing that the information is needed to evaluate potential health problems from actual exposure.

D. For any substance regulated by Subsection A of this section, the material safety data sheet shall include:

1. An indication of which category of information is being withheld on trade secret grounds;

2. The name of the manufacturer; and

3. An emergency telephone number where information could be obtained under Subsection C of this section. (Ord. No. N.C. 336, 5/4/87)

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ARTICLE F

ENFORCEMENT, ADMINISTRATION AND PENALTIES

SECTION 8-651      ENFORCEMENT.

The provisions of these regulations shall be enforced pursuant to the provisions of Title 40, Chapter 10 Oklahoma Occupational Health and Safety Standards Act. (Ord. No. N.C. 336, 5/4/87)

SECTION 8-652      EFFECTIVE DATES.

A. Hazardous material containers shipped subsequent to November 25, 1985, shall be accompanied by Material Safety Data Sheets.

B. Employers shall be in compliance with all provisions of this Standard, with the exception of Rule IV, by May 25, 1986, including initial training for all current employees.

C. Rule IV shall become effective for political subdivisions as follows:

1. October 25, 1986 for populations over one hundred thousand (100,000); and

2. January 25, 1987 for populations less than one hundred thousand (100,000).

SECTION 8-653      ASBESTOS NOTICE AND LABELING.

A. Pipes, boilers, storage vessels, structural members of equipment with insulating material that might be removed, penetrated, damaged or otherwise disturbed by repair, remodeling, renovation, maintenance or other activity, shall be labeled with cautionary labels. Such caution labels shall be printed in letters of sufficient size and contrast as to be readily visible and legible. Each room or area where the conditions requiring such labels exist shall have a minimum of one such label, and such additional labels as may be necessary to insure ready visibility and legibility.

Such equipment with asbestos containing material shall bear the following:

CAUTION

Contains Asbestos Fibers

Avoid Creating Dust

Breathing Asbestos Dust May Cause Serious Bodily Harm

B. For facilities with asbestos containing material used acoustical material on ceilings or walls. Employers or their representatives having administrative jurisdiction over such facilities shall insure that the following notice is posted informing employees of the presence of asbestos in the workplace.

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NOTICE TO EMPLOYEE

This facility has been inspected for the presence  
of asbestos containing material.

Asbestos containing material is present  
in this facility.

Asbestos containing material may cause health problems.  
(Ord. No. N.C. 336, 5/4/87)

SECTION 8-654      DUTIES OF ENFORCEMENT OFFICIAL.

A.      The Atoka City hereby designates the city manager to enforce this ordinance. He or his authorized representative are hereby directed to enforce this ordinance.

B.      The enforcement official, for the purpose of enforcing this ordinance, shall maintain written records and make inspections, surveys and examine property, buildings and structures. A report of finds shall be made periodically to the governing body. (Ord. No. N.C. 336, 5/4/87)

SECTION 8-655      PENALTIES.

Whenever the enforcement official discovers a violation of any portion of this chapter, he shall cause the following actions to take place by the governing body:

1.      Any manufacturer, packager or re-packager or distributor selling any chemical or substance to a public body without correct labeling and providing an identification of potentially hazardous substance shall be removed from bid list of eligible suppliers for one year from the date such violation occurs; and

2.      Any employee of public entity who violates any portion of this chapter, specifically who uses any chemically hazardous substance shall do so in exact accordance with manufacturer's or distributor or town/city's recommendation. Any failure to do so shall be grounded for immediately dismissal of subject employee. (Ord. No. N.C. 336, 5/4/87)

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CHAPTER 7

OIL AND GAS EXPLORATION

Section 8-701	Oil and Gas Exploration Prohibited Within the City Limits; Exceptions.
Section 8-702	Penalties.
Section 8-703	Certain Limited Oil and Gas Exploration Permitted in Certain Areas of the City upon issuance of Permit by City therefor. Exceptions.
Section 8-704	Provisions Specifically Also Applicable To Well Conversions.
Section 8-705	Issuance of Permits by City Council.
Section 8-706	Application Process; Planning Commission Hearing And Recommendations.
Section 8-707	Application And/or Filing Fees.
Section 8-708	Insurance Requirement.
Section 8-709	Additional security requirements.
Section 8-710	Revocation of Permit.
Section 8-711	Specified Technical Requirements, Conditions And Requirements.
Section 8-712	Disposal Wells Absolutely Prohibited.

SECTION 8-701      OIL AND GAS EXPLORATION PROHIBITED WITHIN THE CITY LIMITS; EXCEPTIONS.

Except as specifically authorized in Sections 8-701 through 8-712 of the Atoka City Code, it is unlawful for any person and/or persons, natural or legal, to establish, maintain, carry on, operate and/or otherwise engage in any Oil and Gas Exploration, within the City limits of the City of Atoka. As used herein, the term, phrase or expression Oil and Gas Exploration means and/or includes any and all means or aspects of the erecting, construction, placement and/or maintenance of any rig or drilling apparatus for the purpose of drilling, mining, exploring and/or producing any oil, gas, distillates and/or hydrocarbons (whether or not in paying quantities) and/or in any other method or manner by which one might engage in and/or maintain related mines, wells, drillings, operations or other explorations for oil, gas, distillates and/or hydrocarbons.

SECTION 8-702      PENALTIES.

Any person convicted of a violation of any one or more of the provisions of this Chapter Seven (7) of this Part Eight (8), of the Atoka City Code (Sections 8-701 through 8-712, inclusive) shall be punishable by a fine of not more than \$500.00. Bail for any person charged therewith shall be \$500.00 unless otherwise set by the City Judge. Each location at which any violation occurs shall be deemed to be a separate offense, and each day a violation occurs and/or continues may be prosecuted as a separate offense.

SECTION 8-703      CERTAIN LIMITED OIL AND GAS EXPLORATION PERMITTED IN CERTAIN AREAS OF THE CITY UPON ISSUANCE OF PERMIT BY CITY THEREFOR. EXCEPTIONS.

A person who is issued a Permit to engage in Oil and gas Exploration by the City of



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Atoka in compliance of the provisions of Sections 7-705 through 8-712 of the Atoka City Code may engage in the Oil and Gas Exploration authorization by such Permit, at the location specified within such permit, if but only if and so long as:

1. Such location is within an area designated (zoned) as A-1 (General Agricultural District) or I-2 (Heavy Industrial), and
2. Such location is at least (no less than) Six Hundred and Sixty feet (660') from any developed area, park, school, church, public building, or place of public assembly; and
3. Such person complied with the provisions of Sections 8-706 through 8-709 of the Atoka City Code; and
4. Continues to comply therewith, and further continues to comply with the conditions, limitations, restrictions and/or and requirements set forth in Sections 8-701 through 8-712 of the Atoka City Code.

### SECTION 8-704      PROVISIONS SPECIFICALLY ALSO APPLICABLE TO WELL CONVERSIONS.

No person shall convert any well from natural or primary production to a use for enhanced recovery or disposal without first obtaining a permit therefore. The application therefore shall be made upon payment of the same costs and expenses and by use of a similar form as that required for any other permit to drill an original well and/or to otherwise engage in Oil and Gas Exploration, with such modifications as determined to be appropriate by the City Clerk. Provided further, however, in addition to all other applicable requirements, the application shall include copies of all information supplied to the Oklahoma Corporation Commission and a copy of the Commission's approval of the project.

### SECTION 8-705      ISSUANCE OF PERMITS BY CITY COUNCIL.

A permit to engage in Oil and Gas Exploration may be issued, in its discretion, by the City Council; however, the City Council shall not issue such a permit until and/or unless the applicant therefore has fully complied and/or satisfied the requirements of Sections 8-705 through 8-709 of the City Code. The City Council may reject, approve or grant, or conditionally approve or grant such a permit upon such further terms, provisions and/or conditions as it deems appropriate (so long as the same otherwise complies with any limitations imposed by this Chapter). The determinations made by the City Council as to any such permit shall be final.

### SECTION 8-706      APPLICATION PROCESS; PLANNING COMMISSION HEARING AND RECOMMENDATIONS.

The Process and procedures for application for a permit to engage in Oil and Gas Exploration shall be as follows:

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1. Any person desiring to be issued a permit to engage in Oil and Gas Exploration shall make application therefore through the office of the Atoka City Clerk, upon such forms as may be, from time to time, be adopted, approved and/or utilized thereby, and payment of the sums and amounts hereinbelow specified in this Section and in Sections 8-707 of the City Code.

2. Upon application therefor, the City Clerk shall have thirty (30) days within which to evaluate such application, and make his/her determination as to whether or not the application appears to comply with the provisions of the applicable law. If the City Clerk determines that said application is not satisfactory then he/she shall so advise the applicant, who shall be given a reasonable period of time to make corrections and/or correct deficiencies therein. The applicant shall be allowed to appeal and adverse determinations with regard thereto made by the City Clerk to the City Manager, whose determination thereupon shall be final and binding subject only to any a decision of the City Council made upon a proceeding sought before the same by the City or the Applicant.

3. Upon approval of such an application, the City Clerk shall (upon coordination with the Chairperson thereof) cause such application to be submitted for a public hearing to be held before the Atoka Planning Commission, and, shall cause notice thereof to be given in the same manner as provided for hearings on an application for a zoning change. The Applicant shall pre-pay the non-refundable costs and expenses thereof, as in the case of such zoning change applications, in addition to the fee specified in Section 8-707 hereof.

4. Such Hearing shall be publicly conducted upon a regular or specially called meeting of the Atoka Planning Commission, under the direction and control thereof, and in accordance with the otherwise applicable procedures utilized thereby in hearing applications for zoning changes. In addition to matters concerning compliance with the intent and provisions of the City Code and such other matters as the Atoka Planning Commission may find reasonable and proper to consider in relation to such application, the Planning Commission shall specifically take into consideration issues relating to the possible damage to abutting property that might result if drilling is permitted, as well as the orderly development and utilization of the lands in question and of the surrounding area, and any other factors indicated in this chapter seven.

5. Upon conclusion of such hearings process, the Atoka Planning Commission shall report its conclusions drawn therefrom, together with its recommendations in regard thereto, to the City Clerk, who shall report the same to the City Council, and schedule the same to be considered thereby as an agenda item at an appropriate City Council meeting.

### SECTION 8-707 APPLICATION AND/OR FILING FEES.

Every person desiring a permit to engage in Oil and Gas Exploration shall be required to deposit with the City Clerk a filing fee of two thousand five hundred dollars (\$2,500.00). If the permit is denied, the city will retain Two Hundred and Fifty Dollars (250.00) thereof as processing fee on said application, and shall refund the balance to the Applicant. If a permit is granted to the Applicant, no portion of the filing fee shall be refunded. A separate filing fee shall be required for each permit sought, and, a permit shall be limited to one single and specific, identified, location.

SECTION 8-708      INSURANCE REQUIREMENT.

Additionally, each applicant for a permit to engage in Oil and Gas Exploration shall also submit with its written application a policy of public liability insurance, insuring the applicant and the city against all claims or causes of action made against either or both applicant and the city for damages to persons or property arising out of the drilling, maintenance, operation or abandonment of such well and/or other Oil and Gas Exploration. Such insurance shall include a loss payable provision for the benefit of the City, and shall include a provision that the issuing company will not cancel or change such policy of insurance except after thirty (30) days' notice to the applicant and the city. Such insurance shall be required to be maintained in full force and effect at all times during which the permittee is authorized to engage in activities under such permit. At a minimum such insurance shall provide the following coverages in at least the following amounts:

Bodily injury	\$100,000.00 each person
	\$300,000.00 each occurrence
Property damage	\$50,000.00 each occurrence

SECTION 8-709      ADDITIONAL SECURITY REQUIREMENTS.

If an Oil and Gas Exploration permit is authorized to be issued by the City Council, nevertheless the same shall not be valid, nor shall any Oil and Gas Exploration be lawful, nor otherwise commenced thereunder, until the permittee has filed with the City Clerk a bond or standby letter of credit by a federally insured bank in the principal amount of at least fifty thousand dollars (\$50,000.00) per well or two hundred thousand dollar (\$200,000.00) blanket bond or standby letter of credit by a federally insured bank on all wells operated by a single operator. Said bond or letter of credit shall, in addition to other provisions, assure payment of any fees, charges or assessments for any violation of then provisions hereof, and damages caused by such operator as determined by the applicable law.

SECTION 8-710      REVOCAION OF PERMIT.

If an Oil and Gas Exploration permit is issued, such permit may be thereafter cancelled, suspended and/or revoked upon discovery of any non-compliance, defect or misinformation involved the application and/or the permitting process and/or any failure of the permittee or applicant to thereafter comply and/or continue to comply with any of the applicable provisions of this Chapter.

SECTION 8-711      SPECIFIED TECHNICAL REQUIREMENTS, CONDITIONS AND REQUIREMENTS.

In addition, the following rules, conditions, limitations and/or restrictions shall apply to any Oil and Gas Exploration in the City:

1.      Pollution Control: The permittee shall take every reasonable precaution to prevent the escape of noxious fumes, gases, oil or other substances from the location of any such Oil and

## Health and Nuisances

### Gas Exploration.

2. Protection Of Fresh Water Strata: Every well shall be cased and casing cemented for the top of the well hole to a depth not less than fifty feet (50') below all fresh water strata encountered in the well and in a manner that will protect such fresh water from contamination resulting from the drilling of operation of the well.

3. Fire Safety Equipment: All machinery, equipment and installations on all drilling sites shall conform with such requirements as may, from the time to time, be issued by the City fire department. Further, the permittee shall provide adequate firefighting equipment and supplies approved by the City fire department on the drilling site at all times during drilling and production operations.

4. Bradenhead: Each well drilled shall be equipped with a bradenhead with the working pressure of not less than the pressure which a prudent operator would expect under the conditions known. The bradenhead shall not be welded except to surface pipe. Bradenheads installed on the surface casing shall be equipped with fittings having a working pressure rating of not less than the pressures which a prudent operator would expect under the conditions known. The bradenhead pressure shall be checked at least once each calendar month, and if pressure is found to exist, proper remedial measures shall be immediately taken to eliminate the source and existence of the pressure.

5. Christmas Tree and Well Head Connections – Pressure Standards: The Christmas tree and well head connections on each well drilled shall have at least a minimum working pressure and a minimum test pressure which meets or exceeds the highest of the following three (3) standards:

1. State corporation commission regulations for wells of the applicable depth;
2. Environmental protection agency regulations for wells of the applicable depth;
3. The standards which would be used by a prudent operator for a well of the applicable depth.

6. Christmas Tree and Well Head Connections – Safety Valves: In the event the surface shut-in pressure of any well exceeds two thousand (2,000) pounds per square inch, the flowing of the Christmas tree shall be equipped with as automatic closing and safety valve in addition to the regular valves.

7. Valves And Blowout Preventers: No well shall be drilled without properly equipping the surface casing when set with at least one (1) master valve, nor without properly equipping the production casing when set with at least one (1) master valve and one (1) fluid operated ram-type blowout preventer; nor without properly equipping the production casing during completion operations and work over operations with at least one (1) master valve and one (1) fluid operated ram-type blowout preventer. On each well drilled, a valve cock or kelly cock shall be installed on the kelly used. Each blowout preventer shall test one thousand (1,000)

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pounds, and its mechanical operation shall be tested to ensure proper and safe operation. All control equipment shall be in good working condition and order at all times.

8. Slush Pits Generally: The bottoms and walls of all slush pits used in drilling or operating shall be treated with mud or be constructed with some impermeable substance.

9. Mud and Reserve Pit: All mud pits used to circulate fluids in and out of the hole during drilling, reworking or completion procedures shall be made of steel. Pits used only as reserve shall be permitted to be earthen pits, fully lined with plastic, at least six (6) mils thick, into which only non-deleterious substances may be disposed. Both deleterious and non-deleterious substances shall be removed to a proper disposal facility within fifteen (15) days after completion of the well. No earthen or steel reserve pit shall be located within six hundred sixty feet (660') of any developed area, park, school, church, public building, or place of public assembly.

10. Salt Water Disposal: No salt water in any amount shall be stored behind any earthen dam or in any surface pond. If any well produces salt water in any amount, the well shall be immediately shut down and ceased to be operated until such time as adequate means are had for the disposal of such salt water, the facilities thereof to be subject to the approval of the city.

11. Earthen Dikes: All tanks shall be surrounded by the earthen dikes of sufficient height so as to contain a capacity of fluid equal to one hundred fifty percent (150%) of the capacity of such tanks.

12. Chainlink Fence: All pumps, tanks and equipment used in the operation of a completed well shall be enclosed on all sides by a chainlink fence at least six feet (6') high with steel posts, with four (4) strands of barbed wire above such fence. During drilling operations, a watchman shall be maintained on the premises at all times who shall be charged with the responsibility of protection of the general public from any hazard resulting from the conduct of such drilling operations. If such a watchman is not employed, then the entire well location shall be fenced as in the operation of a completed well.

13. Cleanup After Completion: Upon the completion of each well, the slush pits shall be filled level with the surface of the ground as soon as practical operation will permit, and debris, oil and basic sediment about the well shall be cleaned and removed from the area, the landscape will be left in a suitable manner and grass will be restored.

14. Applicable Laws and Industry Standards: Unless a more stringent requirement is set forth in this Chapter, any and all operations shall otherwise be conducted and carried out in full compliance with any applicable laws, rules and/or regulations, and (unless in conflict with such applicable laws) in compliance with industry standards.

### SECTION 8-712 DISPOSAL WELLS ABSOLUTELY PROHIBITED.

Provided further, however, that no person shall drill any well for disposal, nor shall any person convert any well to a disposal well, nor shall any permit be issued therefore, nor shall the

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same be deemed authorized under any permit issued.

License and Business Regulations

**PART 9**

**LICENSE AND BUSINESS REGULATIONS**

**CHAPTER 1**

**GENERAL PROVISIONS**

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**CHAPTER 2**

**ITINERANT VENDORS**

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## License and Business Regulations

### CHAPTER 3

#### FLEA MARKETS

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#### TO BE USED FOR FUTURE USE

### CHAPTER 6

#### TAXICABS

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## License and Business Regulations

### CHAPTER 7

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# License and Business Regulations

## CHAPTER 1

### GENERAL PROVISIONS

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#### SECTION 9-101      LICENSES CONDITIONED ON COMPLIANCE WITH CODE PROVISIONS.

All permits and licenses issued under the provisions of this code for or to any person, business, activity, device or machine shall be conditioned upon substantial compliance by the permittee or licensee with all provisions of this code for the regulation and maintenance of the public order, welfare, peace, health and safety. In addition, the permits and licenses shall be conditioned upon strict compliance with the provisions of this code relating specifically to the person, business, activity, device or machine covered by the permit or license.

State Law Reference: Licenses, city powers, procedures, 11 O.S. Secs. 22-106, 22-107

Cross Reference: See also alcoholic beverage licenses, Sections 3-101 et seq of this code; building trade licenses, Sections 5-101 et seq of this code, Fee schedule, Appendix 1 of this code.

#### SECTION 9-102      ISSUANCE CONDITIONED UPON APPROVAL, FEES, INSPECTION OR BOND.

Whenever in any section any permit or license issued by an officer, agency or department is made contingent upon the approval of another officer, agency or department, or contingent upon the payment of any fee or fees, or the making of any prior inspection or examination, or the furnishing of any bond in connection therewith, then the issuance of the permit or license shall be withheld until the approval, inspection or examination is had or the bond provided and until the fee has been paid as required.

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Cross Reference: Right of entry, inspections, as condition of license, Sec. 1-203 of this code.

### SECTION 9-103      TRANSFER PROHIBITED.

No license or permit issued shall be transferable nor may any license or permit be sold, assigned, or mortgaged, except as may be specifically authorized by this code. No person may attempt to do business under a license or permit transferred to him.

### SECTION 9-104      SEPARATE LICENSES REQUIRED.

A separate license must be obtained for each branch or separate place of business in which the trade, calling, profession or occupation is carried on. Each license shall authorize the party obtaining it to carry on, pursue or conduct only that trade, calling, profession or occupation described in the license, except as may be otherwise provided herein. (Prior Code, Sec. 5-2, in part)

### SECTION 9-105      LICENSES REQUIRED, ISSUANCE, EXPIRATION DATE.

A. It is unlawful for any person to engage in, carry on, conduct, operate or follow any of the trades, businesses, vocations, professions, callings or activities set out in this code or section, unless he has a current license issued by the city clerk. All new businesses, trades, occupations, callings, etc., covered by this chapter shall obtain license before commencing business.

B. Licenses shall be issued by the city clerk after payment of fees, approval of application, and any other approvals required prior to issuance of the license.

C. All annual licenses issued shall expire on April 30 or on the date specified in this code or on the license.

D. All permits shall expire upon execution of the act or activity for which the permit was issued, or at the expiration time noted on the permit or in this code, whichever occurs first.

E. The license shall show the date, amount of license tax to be paid, by whom paid, and what occupation is licensed, the length of time for which license is paid, and the name of the person to whom the license is issued.

F. No license may be issued for a fraction of the period of which the license tax is paid, but must be issued for the period prescribed herein.

G. No refund of any money paid for licenses shall ever be authorized or be made by any city officials for any unused or unexpired portion of the license period. (Prior Code, Sec. 5-4, 5-5, 5-8, in part)

### SECTION 9-106      SUSPENSION OR REVOCATION.

Any permit or license shall be subject to suspension or revocation for failure to comply with the terms of this code and as may otherwise be provided by this code.

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### SECTION 9-107      LICENSES AND PERMITS; NOT TO BE CONSTRUED AS AN ENDORSEMENT.

No permit or license shall be construed or used in any manner or by any person as an official endorsement by the city of the person, activity or thing licensed or permitted, nor as authorization of the conduct of any business or occupation which is by law prohibited. (Prior Code, Sec. 5-9)

### SECTION 9-108      RENEWAL OF LICENSES, GENERAL REQUIREMENTS.

For all occupations, activities or businesses regulated in this code, no applicant for an initial or renewal license may engage in the activity, occupation or business regulated without issuance of the license as provided in this chapter unless otherwise provided herein. Renewal applications and fees must be received by the city prior to the expiration of the license, except where otherwise provided by this code, or else the applicant must proceed in the manner required of an applicant for a new or initial license.

### SECTION 9-109      PROCESSING FEE FOR ALL LICENSES, PERMITS.

All licenses are subject to a processing fee as set by the council by motion or resolution unless otherwise provided in this code. The fee, less the applicable charge for processing the application for a permit or license, shall be refunded to the applicant, upon demand, in case the license or permit filed for is not granted.

Cross Reference: See Fee Schedule, Appendix 2, for applicable fees.

### SECTION 9-110      FEES.

In addition to other requirements of this part and the city code, the following trades, businesses, vocations, professions, callings or activities are required to be licensed pursuant to this chapter:

1. Amusements and amusement devices;
2. Auctioneers;
3. Contractors;
4. Druggists;
5. Bankers;
6. Bowling alleys;
7. Brokers;
8. Butchers;
9. Carnivals, circuses and other road shows;
10. Confectioners;
11. Express companies;
12. Firework dealers;
13. Furniture dealers;
14. Grocers;

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15. Insurance companies or agencies;
16. Jewelers;
17. Merchants of all kinds;
18. Pawnbrokers;
19. Photographers;
20. Real estate agents;
21. Saddle or harness dealers;
22. Shows, theaters and exhibitions for pay;
23. Stationers;
24. Telegraph companies or agencies; and
25. All other businesses, individuals conducting commercial businesses in the city, not excluded by law from paying an occupation or license tax.

The fees for such licenses shall be as set by the city by motion or resolution. (Prior Code, Sec. 5-1, in part)

Cross Reference: See also Appendix 2 of this code for Fee schedule. See Section 9-201 of this code for provisions on peddlers and itinerant vendors. See Secs. 3-101 et seq. on Alcoholic beverage license; Secs. 3-201 et seq. on Nonalcoholic beverage licenses; Secs. 5-101 et seq. on building, plumbing, electrical, mechanical, etc., licenses; Sections 8-501 et seq. on food service and milk licenses; and the city's fee schedule; taxi licenses, 8-601 of this code.

### SECTION 9-111      APPLICATION.

Application for a license required by this code shall be filed with the city clerk and shall contain such reasonable information as he may require, in addition to any information specifically required by other provisions of this chapter.

### SECTION 9-112      POSTING.

Each license issued under this chapter shall be posted in a conspicuous place where the business, vocation or calling is carried on, and the holder of such license shall immediately show the same to any officer of the city upon being requested so to do. (Prior Code, Sec. 5-7, in part)

### SECTION 9-113      SUSPENSION OR REVOCATION OF LICENSES OR PERMITS; REFUSAL TO ISSUE LICENSES OR PERMITS; NOTICE AND HEARING.

A. The council or other authorized official may refuse to issue or renew a license or permit; or the licenses or permits issued pursuant to this code, unless otherwise provided, may be suspended or revoked by the council or such other authorized official, department, board or agency where applicable, after notice and hearing for any of the following causes:

1. Any fraud, misrepresentations or false statements contained in the application for permit or license;
2. Any fraud, misrepresentation or false statement made in connection with the selling

## License and Business Regulations

of goods, wares, merchandise and services;

3. Conviction of the applicant, licensee or permittee of any crime of misdemeanor involving moral turpitude or a violation of any act of the state, or any law of the United States having a reasonable relationship to the purpose and scope of the permit or license; or

4. Conducting the activity under this code or any ordinance of the city in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, morals or general welfare of the public.

B. Notice of hearing for the suspension or revocation of a license or permit shall be in writing given by the clerk, setting forth specifically the grounds of the complaint and the time and place of the hearing. Service of such notice shall be made by either personal service or by certified mail, return receipt requested, to the applicant, licensee or permittee at the last-known address, at least five (5) days prior to the date set for the hearing.

C. In case of refusal to issue a permit or license or the suspension or revocation of a license or permit as herein provided, no portion of the application, license or permit fee shall be returned to the applicant, licensee or permittee unless otherwise provided in this code or any ordinance of the city.

D. Any suspension or revocation hereunder may be either in addition to or instead of any penalty or fine as prescribed in this code or any ordinance of the city.

E. The order of the council or such other authorized official, department, board or agency where applicable shall be the final municipal action for the purpose of judicial review unless otherwise specifically provided.

F. This section is in addition to any other procedures in this code for license suspension or revocation.

### SECTION 9-114      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.

# License and Business Regulations

## CHAPTER 2

### ITINERANT VENDORS

Section 9-201	Definitions.
Section 9-202	License required, blanket license.
Section 9-203	Fee.
Section 9-204	Application for license.
Section 9-205	Investigation, approval or disapproval.
Section 9-206	Bond for license.
Section 9-207	Service of process.
Section 9-208	Sale of foods.
Section 9-209	Identification tag or badge, display.
Section 9-210	Exceptions
Section 9-211	Provisions cumulative, revocation.
Section 9-212	Penalty.

#### SECTION 9-201      DEFINITIONS.

For the purpose of this chapter, the following terms shall have the meaning respectively ascribed to them herein:

1. “Commercial” means soliciting for a business purpose which is intended to be for profit and is not intended to be charitable, religious, not for profit or political;

2. “Itinerant” means having no regular place of doing business or soliciting in the city and includes but is not limited to making regular delivery or providing goods over an established route through the city;

3. “Peddler” means a person soliciting commercial orders for goods or services which are to be provided from stocks or goods carried with the peddler or which are services provided by the peddler at the time the order is made;

4. “Soliciting” means all activities of peddlers, solicitors and vendors attempting to obtain business. Such activities may include, but are not limited to, distribution of handbills or leaflets to the public directly or by placing them in a mailbox, on a doorknob or otherwise on any property; coming personally onto any property for the purposes defined herein; calling the occupants of any property by telephone for the purposes herein defined; or calling or inviting any prospective customers to purchase or obtain merchandise, product or service;

5. “Solicitor” means a person soliciting commercial orders for goods or services which are to be provided or shipped to the consumer at a later date; and

6. “Vendor” means any person engaged in a business or occupation selling or offering to sell any merchandise, product or service, and includes but is not limited to peddlers and solicitors.

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State Law Reference: State peddlers licenses, 47 O.S. Sec. 434; Ex-servicemen exempted if certified by district court, 72 O.S. Sec. 1.

### SECTION 9-202      LICENSE REQUIRED, BLANKET LICENSES.

A. Any itinerant vendor, solicitor or peddler shall obtain a license from the city prior to any soliciting in the city, unless exempted herein, to cover each person who will be soliciting and each location or separate place of business.

B. Owners or lessees of buildings in which itinerant vendors operate or locate must obtain a blanket license covering all itinerant vendors who will be established in the building controlled by the owner or lessee. Governmental agencies owning public buildings may arrange a letter of agreement with the city in lieu of a license if licensing is contrary to the regulations governing the governmental agency. In such a case, the letter of agreement will provide for the same requirements as are shown in this chapter and will provide that the city receive half the rental fee paid by the itinerant vendor until the city's receipts equal the amount required for a blanket license fee. (Prior Code, Sec. 5-1, in part)

### SECTION 9-203      FEE.

The fee for licenses herein required shall be as set by the city council by motion or resolution. The fees may be waived for educational, charitable, religious groups, qualifying as 501(c)(3) organizations who make house to house solicitations.

### SECTION 9-204      APPLICATION FOR LICENSE.

A. Applicants for licenses shall file during regular business hours a written application signed by the applicant, if an individual, by all partners if a partnership, and by a qualified corporate officer, if a corporation, with the licensing officer, showing:

1. Name and address of person or persons having the management or supervision of the applicant's business during the time that it is proposed to be carried on in the city; the location or address of such person or persons when engaged in such business; the permanent address or addresses of such person or persons; the capacity in which such person or persons will act; the name and address of the person, firm or corporation for whose account the business will be carried on, if any, and if a corporation, under the laws of what state the same is incorporated;

2. The place or places in the city within the proper zoning classification, where it is proposed to carry on the applicant's business and the length of time during which it is proposed that the business be conducted;

3. Place or places, other than permanent place of business of the applicant, within the six (6) months next preceding the date of the application, where the applicant has conducted a transient business;

4. The nature of the goods or products being sold, that is whether they are "seconds,"



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rejects or first-line quality, and whether any warranty applies to the items being sold; if a warranty applies, the period of the warranty and the name and address of the warrantor and the procedures for filing for the adjustment of refund shall be specified;

5. A statement that the applicant agrees to the requirement to pay all state and city sales taxes due on all items which are subject to sales taxes and recognizes that a copy of all applications will be provided to the local office of the Oklahoma Tax Commission;

6. Current state sales tax permit number;

7. Current license or permit, if any, which may be required by state law or ordinances of the city for the particular activity or business;

8. If a motor vehicle is to be used in the business, a description of the vehicle together with motor vehicle registration number and the license number for the vehicle, and:

a. Proof of liability insurance required by state law; and

b. Proof or verification from the insurance carrier that the city clerk will be provided at least ten (10) days notice of any cancellation; and

9. Proof of 501(c)(3) tax status if claiming exemption from the license fees.

B. Applicants for a blanket itinerant vendor license shall file during regular business hours a written application signed by the applicant, if an individual, by all partners, if a partnership, and by a corporation officer, if a corporation, with the license and permits clerk showing:

1. Name and address of person or persons having the management or supervision of the building in which itinerant vendor shall conduct business;

2. Name and address of the person or persons having the management or supervision of the applicant's business during the time that is proposed to be carried on in the city; the location or address of such person or persons when engaged in such business; the permanent address or addresses of such person or persons; the capacity in which such person or persons will act; the name and address of the person, firm or corporation for whose account the business will be carried on, if any, and if a corporation, under the laws of what state the same is incorporated and licensed to operate in the state;

3. A general description of the products or services that will be sold by the itinerant vendor;

4. A statement that the applicant shall establish the following controls over itinerant vendors and shall maintain records concerning each itinerant vendor for one year after the engagement dates involving the itinerant vendors:

a. The applicant shall determine the names and addresses of each salesperson

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involved locally for an itinerant vendor and determine the names and permanent addresses of the parent company, if any, controlling the itinerant vendor;

b. The applicant shall determine the nature of the merchandise or product to be sold, determine whether it is a “reject” line or seconds, determine whether there are warranties of the product, and how any complaint is to be filed for warranty adjustment. The applicant shall require that the vendor display a sign prominent enough to disclose to all potential customers that the product consists of seconds, rejects or irregulars if such is the case;

c. The applicant shall inform each vendor of the requirement to pay state and city sales taxes and shall forward the name, product involved, and dates of the vendor’s engagement to the local office of the state tax commission. Further, the applicant will furnish the vendor with one copy of the state sales tax report form and require him to certify that he will submit a sales tax report at the conclusion of his engagement in the city;

d. The applicant shall post proof of liability insurance policy in effect in amount of Twenty-five Thousand Dollars (\$25,000.00);

e. The applicant shall provide copies of all ordinances, regulations, tax forms, etc., to itinerant vendor and provide the city with a statement signed by the vendor agreeing to comply with same; and

f. The applicant shall post a notice with the city thirty (30) days in advance, listing each itinerant vendor establishing a business.

Cross Reference: See Fee Schedule, Appendix 2, for applicable fees.

### SECTION 9-205      INVESTIGATION, APPROVAL OR DISAPPROVAL.

A. All applications for licensing or registration shall be immediately referred for investigation as to the truth thereof, which investigation shall be conducted within ten (10) business days after the application and fee are deposited with the city.

B. If the city finds no past history of the applicant indicating violations of this code and that the application is properly made and truthful, a license shall be issued to the approved applicant upon payment of the fee therefor and the filing of the required bond.

C. In all matters of denial of the license or registration, the applicant shall be forthwith advised thereof. The applicant shall be advised that an appeal of a denied license may be submitted to the city council.

### SECTION 9-206      BOND FOR LICENSE.

A. Before any license as provided by this chapter shall be issued, such applicant shall file a bond running to the city. A person engaging in business as an itinerant vendor shall file a bond in

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the sum set forth in the bond schedule, secured by the applicant as principal and two (2) sureties upon whom service of process may be made in the state.

B. All such bonds shall be approved by the city attorney and conditioned that:

1. Applicant shall comply with all of the provisions of the ordinances of the city and the statutes of the state regulating and concerning the sale of goods or wares and merchandise; and

2. Will pay all judgments rendered against the applicant for any violation of the ordinances or statutes, or any of them, together with all judgments and costs that may be recovered against him by any person or persons for damage growing out of any misrepresentation or deceptive practice by any person transacting such business with such applicant, whether such misrepresentation or deception were made or practiced by the owner or by their service, agents or employees, either at the time of making the sale or through any advertisement of any character whatsoever, printed or circulated with reference to the goods, wares and merchandise sold or any part thereof. Any action on the bond may be brought in the name of the city to the use of the aggrieved person.

Cross Reference: See Fee Schedule, Appendix 2, for applicable fees.

### SECTION 9-207      SERVICE OF PROCESS.

Before any license for an itinerant vendor, as herein provided, shall be issued, such applicant shall file with the city an instrument nominating and appointing the city clerk his true and lawful agent, with full power and authority to acknowledge service of notice of process for and on behalf of the applicant in respect to any matters connected with or arising out of the business transaction under the license and the bond given as required by this chapter, or for the performance of the conditions of the bond or for any breach thereof. The instrument shall also contain recitals to the effect that the applicant for the license consents and agrees that service of any notices or process may be made upon the agent and when so made shall be taken and held to be as valid as if personally served on the person or persons applying for the license under this chapter, according to the laws of the state or any other state and waiving all claims or right of error by reason of such acknowledgement of service or manner of service. Immediately upon service of process upon the city clerk, as herein provided, the city clerk shall send to the licensee at his last-known address, by certified mail, a copy of the notice.

### SECTION 9-208      SALE OF FOODS.

A. All applicants for license to sell foods and merchandise for human or animal consumption shall have their application for license approved in accordance with the applicable state food establishment requirements before the licenses are issued.

B. The sale of foods requires an individual license not covered by blanket licenses.

Cross Reference: See also Fee Schedule, Appendix 2, and Part 8 on food regulations.

### SECTION 9-209      IDENTIFICATION TAG OR BADGE, DISPLAY.

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At all times there shall be posted in a conspicuous place upon each:

1. Licensee if an individual;
2. Vehicle or booth used by a licensee; or
3. Building or premises as appropriate for blanket licenses,

A badge, tag or card issued by the city as proof of issuance of a license. The card, tag or badge shall state the name of the licensee and the date of expiration of the license. Blanket licenses shall be displayed and readily available for inspection by the city. (Prior Code, Sec. 5-7)

### SECTION 9-210      EXCEPTIONS.

A. The following are exempt from the license requirements of this chapter:

1. Farmers and truck gardeners from lands owned, cultivated or controlled by them, who offer for sale or sell, or who solicit and sell from house to house, vegetables, butter, eggs and farm products produced and raised by the farmers and truck gardeners from such land or produced thereon;

2. Persons selling at wholesale to licensed dealers in such articles whose stock of merchandise is listed with the county assessor for taxation;

3. To persons in taking orders at the houses of their customers for goods held in stock in their places of business;

4. To persons delivering to customers of goods so ordered in this subsection A.

B. Any person who desires to be exempt from the license fees levied under this chapter due to engaging in interstate commerce shall provide sufficient data on transactions and proof to the city to establish the interstate commerce nature of his business and transactions. If the city refuses to issue an interstate commerce exemption for the license fees to a commercial business activity, then the applicant is entitled to a hearing before the city judge. (Prior Code, Sec. 6-19, 5-1, 5-6 in part)

### SECTION 9-211      PROVISIONS CUMULATIVE, REVOCATION.

A. The requirements of this chapter are cumulative to any provisions of state law or city ordinances regulating or governing any of the activities licensed herein. In the case of any conflict between the provisions of this chapter and those of any other city ordinance or state law, the more restrictive requirements shall apply.

B. The provisions of Chapter 1 of this Part on revocation or suspension of licenses shall apply to licenses issued under this chapter. (Prior Code, Sec. 5-17 in part)

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SECTION 9-212      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. (Prior Code, Sec. 5-18, in part)

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CHAPTER 3

FLEA MARKETS

Section 9-301	Flea Markets.
Section 9-302	License required.
Section 9-303	Records to be kept by licensee.
Section 9-304	Secondhand stores excepted.
Section 9-305	More than one market.
Section 9-306	Unlawful transactions.
Section 9-307	Purchases from children.
Section 9-308	Penalty.

SECTION 9-301                      FLEA MARKETS.

As used in this chapter, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

1.        “Flea market” means a market, indoors or out of doors, where new or used items are sold from individual locations, with each location being operated independently from the other locations. Items sold include but are not limited to household items, antiques, rare items, decorations, used books and used magazines; and
2.        “Market” means a place where goods are sold to the public. (Ord. No. 332, 7/21/86)

SECTION 9-302                      LICENSE REQUIRED.

No person, firm or corporation shall operate the business of renting space or allocating space to flea market sellers without first obtaining a license therefor. Applications for licenses shall be made to the city clerk, on forms to be provided by the city clerk. Only one license shall be required for each flea market, and the individual flea market sellers shall not be required to obtain a license under this section. The fee for such license shall be as set by the council by motion or resolution. (Ord. No. 332, 7/21/86)

Cross Reference: See Fee Schedule, Appendix 2, for applicable fees.

SECTION 9-303                      RECORDS TO BE KEPT BY LICENSEE.

Each person, required by this chapter to obtain a license shall keep accurate records of the names and addresses of each flea market seller, together with a brief description of the type or types of merchandise offered for sale by that seller. (Ord. No. 332, 7/21/86)

SECTION 9-304                      SECONDHAND STORES EXCEPTED.

No person, firm or corporation having a license as a secondhand store shall be required to obtain a license under this chapter for the same business location. (Ord. No. 332, 7/21/86)

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### SECTION 9-305      MORE THAN ONE MARKET.

Any person, firm or corporation renting or allocating space to flea market sellers in more than one place of business shall be required to obtain a license for each place of business, provided that one licensee shall be adequate for locations that are on the same lot, adjacent lots or lots separated only by an alley. (Ord. No. 332, 7/21/86)

### SECTION 9-306      UNLAWFUL TRANSACTIONS.

No person shall sell or offer for sale at any flea market any goods known to such person to be stolen. (Ord. No. 332, 7/21/86)

### SECTION 9-307      PURCHASES FROM CHILDREN.

No flea market seller shall purchase any used household item, antique or used article whatsoever from any person under the age of eighteen (18) years, unless such person is accompanied by the person's parent or guardian. (Ord. No. 332, 7/21/86)

### SECTION 9-308      PENALTY.

Any person, firm or corporation violating any provision of this chapter shall be punished as provided in Section 1-108 of this code. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues. (Ord. No. 332, 7/21/86)

## CHAPTER 4

### GARAGE SALES

Section 9-401	Definitions.
Section 9-402	Location of garage sales, number.
Section 9-403	Hours.
Section 9-404	Residential areas.
Section 9-405	Permit required, fee.
Section 9-406	Violations.

### SECTION 9-401      DEFINITIONS.

For the purpose of this chapter:

1. "Family" means a person residing alone in a residential dwelling house or apartment, or two (2) or more persons related by blood or marriage permanently residing together in a residential dwelling house; and
2. "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. (Prior Code, Sec. 18-13)

SECTION 9-402      LOCATION OF GARAGE SALES, NUMBER.

Garage sales, yard sales or porch sales shall be permitted to be conducted by families at their respective homes, provided that no more than two (2) such sales shall be conducted at any location during any calendar year. (Prior Code, Sec. 18-13)

SECTION 9-403      HOURS.

Garage sales, yard sales or porch sales shall be permitted to be conducted between the hours of 8:00 a.m. and 6:00 p.m. (Prior Code, Sec. 18-13)

SECTION 9-404      RESIDENTIAL AREAS.

Garage sales, yard sales and porch sales shall not be deemed to be conduct of business and therefore shall not be in violation of existing ordinances relative to land use. (Prior Code, Sec. 18-13)

SECTION 9-405      PERMIT REQUIRED, FEE.

A.      Prior to any family conducting a garage sale within the city, the family conducting same shall be required to obtain a permit therefor from the city clerk, who shall keep a record of the family applying and the location of the proposed sale.

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 licensed at the proposed location within the current calendar year, then no such permit shall be issued. (Prior Code, Sec. 18-13)

Cross Reference: See Fee Schedule, Appendix 2, for applicable fees.

SECTION 9-406      VIOLATIONS.

Any person conducting any garage sale, porch sale or yard sale in violation of this chapter shall be deemed guilty of an offense and upon conviction shall be punished as provided in Section 1-108 of this code. (Prior Code, Sec. 18-13)



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CHAPTER 5

TO BE USED FOR FUTURE USE

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CHAPTER 6

TAXICABS

Section 9-601	Definitions.
Section 9-602	License required.
Section 9-603	License fee.
Section 9-604	Inspection.
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Section 9-606	Name of owner.
Section 9-607	Application for license.
Section 9-608	Card to be issued.
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Section 9-611	Chauffeur's license required.
Section 9-612	Revocation of license.
Section 9-613	License fee in lieu of occupation tax.
Section 9-614	Regular place of business, telephone.

SECTION 9-601      DEFINITIONS.

For the purpose of this chapter, "taxicab" means any vehicle carrying passengers for hire. (Prior Code, Sec. 24-6)

Cross Reference: See Fee Schedule, Appendix 2, for applicable fees.

SECTION 9-602      LICENSE REQUIRED.

No person shall operate a taxicab in the city in intro-city business without first having obtained from the city manager a license therefor, and without having complied with all other provisions of this chapter. (Prior Code, Sec. 24-7)

SECTION 9-603      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. (Prior Code, Sec. 24-8)

SECTION 9-604      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 a 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

## License and Business Regulations

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. (Prior Code, Sec. 24-9)

### SECTION 9-605      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) 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. (Prior Code, Sec. 24-10, as amended)

### SECTION 9-606      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 1/2) inches in height. (Prior Code, Sec. 24-11)

### SECTION 9-607      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. (Prior Code, Sec. 24-12)

### SECTION 9-608      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. (Prior Code, Sec. 24-13)

### SECTION 9-609      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. (Prior Code, Sec. 24-14)

### SECTION 9-610      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 refiled with the city manager at the time of renewal of any taxicab license. (Prior Code, Sec. 24-15)

## License and Business Regulations

### SECTION 9-611      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. (Prior Code, Sec. 24-16)

### SECTION 9-612      REVOCAION 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. (Prior Code, Sec. 24-17)

### SECTION 9-613      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. (Prior Code, Sec. 24-18)

### SECTION 9-614      REGULAR PLACE OF BUSINESS, TELEPHONE.

Any person obtaining a taxicab license as herein provided and doing intro-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. (Prior Code, Sec. 24-19)

# License and Business Regulations

## CHAPTER 7

### MASSAGE BUSINESS

Section 9-700	Definitions.
Section 9-701	License.
Section 9-702	Exemptions.
Section 9-703	Fees and Renewal.
Section 9-704	Applications.
Section 9-705	Denial and Issuance.
Section 9-706	Display of License and Identification Card.
Section 9-707	Transfer Prohibited.
Section 9-708	Bogus Check.
Section 9-709	Operating Requirements.
Section 9-710	Records to be kept.
Section 9-711	Inspections.
Section 9-712	Revocation.
Section 9-713	Notice.
Section 9-714	Enforcement.
Section 9-715	Appeals.
Section 9-716	Sale.
Section 9-717	Branch Operations.
Section 9-718	Existing Operations.
Section 9-719	Penalty.
Section 9-720	Remedies Cumulative.

#### SECTION 9-700      DEFINITIONS

As used in this chapter, the following words and phrases shall have the meanings given herein.

A.      Message means any method of pressure on or friction against by stroking, rubbing, kneading, tapping, pounding, manipulating, vibrating, or stimulating the external parts of the human body with the hands, feet or otherwise, with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powders, creams, lotions, ointment or other preparations, sun lamps, inferred heat, vibrators, mechanical or electrical appliances and external baths, for any type of consideration or gratuity.

B.      Message Establishment means any establishment or place of business where any person engages in, conducts, carries on or permits to be engaged in, conducted or carried on, any business of the manipulation of the body by means of massage as herein defined.

C.      Operator, Massage Establishment Operator, means any person owning or operating a massage establishment. In the event of a corporate owner, operator shall mean the manager or person in charge. If a sole proprietorship, operator shall mean such individual alone.

## License and Business Regulations

D. Massage Technician means any person who administers to another person, for any considerations or gratuity, a massage, external bath, electric or magnetic massage procedure, manipulation of the body or other similar procedure.

E. External Bath means the bathing of another person by a massage technician or massage apprentice by immersion, shower, or steaming any part of the body.

F. Massage Apprentice means any person employed by a massage establishment and directly supervised by a massage technician for the purpose of learning the method and practice of massage.

G. Patron means any person eighteen (18) years of age or older who receives a massage.

H. Person means any individual, partnership, firm, association, joint stock company, corporation or combination of individuals of whatever form or character.

I. Sexual body areas means the genitals, pubic area, buttocks, anus, and perineum of any person and the vulva and breasts of a female person.

J. Licensee means any massage establishment operator, massage technician or massage apprentice appropriately licensed by the City of Atoka.

K. City means the City of Atoka, Oklahoma, a municipal corporation.

L. City Clerk means the Licensing Department for the City of Atoka or an authorized representative.

M. Direct Supervision means on-the-premise control and responsibility for the massage apprentice by and in the physical presence of the massage technician.

N. Personal Pronouns when used in the masculine or neuter gender, mean the masculine, feminine and neuter gender.

### SECTION 9-701      LICENSE

A. It shall be unlawful and an offense for any person to operate a massage establishment in the City without having first obtained a license to do so as herein provided.

B. It shall be unlawful and an offense for any person to perform or offer or agree to perform the services of a massage technician or massage apprentice in the City without first having obtained a license to do so as herein provided.

C. It shall be unlawful and an offense for an operator of a massage establishment to permit any person in his massage establishment to act as a massage technician or massage apprentice in the City unless such person is duly licensed as provided in this chapter.

## License and Business Regulations

D. It shall be unlawful and an offense for a person to operate an outcall massage service in the City.

E. It shall be unlawful and an offense for any massage apprentice to perform a massage unless acting under the direct supervision of a duly licensed massage technician.

### SECTION 9-702      EXEMPTIONS

This chapter shall not apply to the following persons while engaged in the personal performance of the duties of their respective professions:

- A. Nurses who are registered under the laws of the State of Oklahoma;
- B. Physicians, surgeons, chiropractors, chiropodists, podiatrists, osteopaths or physical therapists who are duly licensed to practice their respective professions in the State of Oklahoma;
- C. Barbers and beauticians who are duly licensed under the laws of the State of Oklahoma;
- D. Any employee or student of any nonprofit organization such as a hospital, clinic, nursing and convalescent home, university, college or seminary licensed or accredited by the State of Oklahoma or organized as exempt from taxation by the Internal Revenue Code of the United States, when massages are performed as part of such service or education and not for any consideration or gratuity.

### SECTION 9-703      FEES AND RENEWAL

A. Every original application for a massage establishment license shall be accompanied by a non-refundable processing fee of Twenty-Five Dollars (\$25.00) per establishment. Applications for massage technician or massage apprentice, shall be accompanied by a non-refundable processing fee of Fifteen Dollars (\$15.00) per person.

B. Annual license fees set forth herein shall be due and payable by the licensee at the time the City license is issued; provided, however, that fees for the initial applications for massage establishments, and massage technicians may be prorated quarterly.

- |    |                       |         |
|----|-----------------------|---------|
| 1. | Massage establishment | \$35.00 |
| 2. | Massage Technician    | \$25.00 |
| 3. | Massage Apprentice    | \$15.00 |

C. Each licensee, except a massage apprentice, shall reapply for a license annually and the license shall be renewed automatically, unless the Director determines that the licensee should be reexamined for health reasons or should be denied a license for a violation of the provisions of this chapter. Massage apprentice licenses are not renewable.

## License and Business Regulations

D. Licenses shall expire on April 30 or each year, except for massage apprentice licenses which shall expire one (1) year from date of issuance. Applications for renewal of the license may be submitted along with appropriate annual license fee as herein provided at any time prior to thirty (30) days before the date of expiration.

E. In the event that the licensee shall cease operation, either voluntarily or involuntarily, before the end of the period for which a license is issued, the annual license fee shall not be refundable.

### SECTION 9-704      APPLICATIONS

A. **Massage Establishments.** Any applicant for a license for a massage establishment shall submit to the City Clerk a written application on a form furnished by the City Clerk. Before issuing a license, the City Clerk shall determine that the following requirements are met by each applicant.

1. The applicant or members of the applying firm, partnership, or association, or if a corporation, the manager, ("Applicant" herein) shall be twenty-one (21) years of age or older by proof acceptable to the City Clerk. The applicant's name, place of birth, sex, race, height, weight, color of eyes, and hair, business and home address and telephone numbers, and any other names by which the applicant was known in the past shall be included in the application. The applicant shall specify the exact name and address of the proposed massage establishment.

2. The applicant shall be of good moral character.

3. The applicant, who is or intends to be a massage establishment operator engaged in on-the-premise supervision of massage technicians or who performs the duties of a massage technician, shall be duly licensed by the City as a massage technician, shall be duly licensed by the City as a massage technician as provided in this chapter.

4. The applicant shall furnish to the City Clerk two (2) full-faced photographs of the applicant, one (1) inch by one-and-one half (1-1/2) inches, one of which shall be laminated on a City-furnished identification card, and the other shall be delivered to the Police Department of the City of Atoka. Such photographs must have been taken within thirty (30) days preceding the date of the application and must be considered by the City Clerk suitable for the purposes of this chapter.

5. The applicant shall furnish massage or similar business license history disclosing whether the applicant, in previously operating under license in this or another city or state has had his license revoked or suspended, and if so, the reason therefore, and business activity or occupation of the applicant subsequent to such suspension or revocation.

6. The applicant shall have been fingerprinted on all fingers by the Atoka Police Department on a form provided by the Police Department within thirty (30) days preceding the date of the application, which fingerprints and on photograph as required herein shall be retained in the Police Department for as long as deemed necessary by the City Clerk. The Police Department may verify identification of any applicant by appropriate means and shall notify the City Clerk



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immediately in the event a false identification is discovered.

7. The applicant shall list on the application form all felony and misdemeanor convictions other than minor traffic violations. For the purposes of this disclosure, no conviction need be listed for a misdemeanor more than five (5) years preceding the date of the application or for a felony for which a pardon has been granted.

8. If the applicant is a corporation, the application shall include the state of incorporation, the name and address of the corporation, the registered service agent in the State of Oklahoma, the date authorized to do business in Oklahoma, and the names and address of the officers and directors of the corporation.

9. That the applicant has secured a location in the City of Atoka which is described by address and name of the massage establishment, and if leased, a copy of lease agreement, which location has been inspected and approved by the Atoka County Health Department as to the following requirements.

- a. steam rooms, shower compartments, steam compartments, tub compartments,
- b. Toilet rooms and adjacent exits thereto shall have smooth, nonabsorbent and easily cleanable floors, walls, and ceilings.
- c. floors of wet and dry heat rooms shall be adequately pitched to one or more floor drains properly connected to the sewer; except that dry heat rooms with wooden floors need not be provided with pitched floors and floor drains;
- d. a source of hot water must be available within the immediate vicinity of dry and wet heat rooms to facilitate cleaning;
- e. the premises shall have adequate equipment for disinfecting and sterilizing nondisposable instruments and materials used to administer massages;
- f. massage tables shall have a cleanable plastic liner covering the entire top surface;
- g. closed cabinets shall be provided for the storage of clean linen, towels and other materials used in connection with administering massages;
- h. separate toilet facilities shall be provided in convenient locations for each sex; a single water closet per sex shall be provided for each twenty (20) employees and patrons of that sex on the premises at any one time; urinals may be substituted for water closets after one (1) water closet has been provided; toilets shall be designated as to the sex accommodated therein; toilet room floors and walls shall be smooth, non-absorbent, easily cleanable, with the walls painted in a light color; toilet facilities shall be vented to the outside air; and
- i. a minimum of one separate wash facility per toilet room shall be provided in

## License and Business Regulations

each massage establishment for the use of patrons and employees, which shall provide an approved basin, soap or detergent and hot and cold running water at all times; in addition, there shall be provided at each wash basin sanitary towels or other approved facilities placed in permanently installed dispensers.

10. The applicant shall comply with applicable provisions of the City's Building, Electrical, Plumbing, Sign and Mechanical Codes including, but not limited to the following requirements.

a. a readable sign in compliance with all provisions of the City Sign Code, posted at the main entrance identifying the business as a massage establishment; and

b. minimum lighting in accordance with the City Building Code, direct or indirect lighting of not less than forty (40) foot-candles in each room or enclosure where services are performed on patrons.

11. The applicant's massage establishment location shall have been inspected and approved by the City Fire Department as to the following requirements:

a. accessible exits for patrons and employees in case of fire.

b. no unsafe storage areas of combustible material,

c. adequate fire-extinguishing equipment available and usable by employees instructed by the Fire Department as to proper procedure, and

d. approved smoke, heat and incendiary gas detectors in operating condition.

B. Massage Technician. Any individual seeking to obtain a City license as a massage technician shall submit to the City Clerk a written application on a form furnished by the City Clerk. The City Clerk shall determine that the following requirements are met by each applicant.

1. The applicant shall be eighteen (18) years of age or older. The applicant's name, place of birth, sex, race, height, weight, color of eyes and hair, residence and business addresses and phone numbers shall be included in the application.

2. The applicant shall be of good moral character.

3. The applicant shall furnish to the City Clerk two (2) full-faced photographs of the applicant, one (1) inch by one-and-one-half (1-1/2) inches, one of which shall be laminated on a City-furnished identifications card, and the other shall be delivered to the Police Department may verify identification of any applicant by appropriate means and shall notify the City Clerk immediately in the event a false identification is discovered.

4. The applicant shall list on the application form all felony and misdemeanor convictions other than minor traffic violations. For the purposes of this disclosure, no conviction

## License and Business Regulations

need be listed for a misdemeanor which is more than five years preceding the date of the application or for a felony conviction for which a pardon has been granted.

5. The applicant shall have been examined by a medical doctor or doctor of osteopathy within the thirty (30) days preceding the date of the application and, on a form provided by the City Clerk, shall be found to be free of any evidence of a contagious disease. If a laboratory analysis is performed in connection with the physical examination, such analysis must be done in a laboratory approved by the Health Department of the State of Oklahoma.

6. The applicant shall furnish massage or similar business license history disclosing whether the applicant, in previously operating in this or another city or state, has had his license revoked or suspended, and if so, the reason therefore and the business activity or occupation of the applicant subsequent to such suspension or revocation.

7. The applicant shall furnish his residence and employment addresses for the preceding two (2) years.

8. The applicant shall provide at least one of the following:

a. a graduation certificate from a school or other institution of learning recognized by the City Clerk wherein the method, profession, and work of massage technicians is taught,

b. a photocopy of applicant's grade record reflecting successful completion of at least three (3) semester hours of applied anatomy and physiology at any institution or higher learning accredited by the state wherein such institution is located,

c. a sworn affidavit, on a form provided by the City Clerk, from a City-licensed massage technician that the applicant has completed a minimum of two hundred fifty (250) hours of no-the-job, supervised training in the art of massage as a City-licensed massage apprentice and is thereby fully qualified to be a technician, or

d. evidence that the applicant has heretofore been licensed by the City as a massage operator and is currently the holder of a valid massage operator's license.

9. The application shall include the name, address and City license number of the massage establishment for which the applicant is or shall be employed.

10. The applicant shall furnish such other information and identification as the City Clerk shall require to verify the matter herein specified.

### SECTION 9-705      DENIAL AND ISSUANCE

A. The requirements of this chapter for each license are cumulative and the failure of the applicant to comply with any requirement shall be grounds for denial of such license.

## License and Business Regulations

B. Each and every applicant who satisfactorily complies with the license requirements of this chapter shall be immediately issued the appropriate license by the City Clerk. Nothing herein shall prevent any person from holding a massage establishment license if requirements are satisfactorily met.

C. On the face of each license for a massage establishment, the City Clerk shall list by name those persons processed and approved by the City Clerk as owner or partner. The City Clerk shall issue to each person and each applicant licensed as a massage technician or massage apprentice a City Identification Card.

### SECTION 9-706      DISPLAY OF LICENSE AND IDENTIFICATION CARD

A. Every massage establishment shall display in a well lighted area on the wall near the front entrance at the licensed address, the City license authorizing the operation of such business.

B. Each individual approved by the City Clerk and licensed by the City as the owner, operator, partner or manager of a massage establishment or as massage technician or massage apprentice, shall wear on the upper front torso area of his clothing, at all times when engaged in the licensed business or when upon the licensed premises during authorized hours of operation, the City Identification Card issued to such individual.

### SECTION 9-707      TRANSFER PROHIBITED

No licenses for the operation of any establishment, service or occupation issued to a particular person or for a particular location shall be transferred to another person or another location unless approved by the City Clerk. No more than one (1) license per address location per individual may be issued at any one time by the City under the provisions of this chapter except as provided by Subsection 705.B herein.

### SECTION 9-708      BOGUS CHECKS

Any applicant or licensee who pays any fee with a check which is subsequently dishonored for any reason shall be automatically suspended from license operation authority without further notice until payment satisfactory to the City Clerk is made. This provision shall not prevent the filing of criminal charges if and when applicable.

### SECTION 9-709      OPERATING REQUIREMENTS

A. Massage establishments. The following operating requirements shall apply to licensed massage establishments. A violation of any of the following paragraphs shall be unlawful and an offense. Any person responsible for such violation may be charged and tried accordingly before the Atoka Municipal Court or Atoka County District Court. Each day that such violation exists shall constitute a separate offense.

1. Every portion of the massage establishment, including appliances and apparatus, shall be kept clean, in good repair and shall be operated in a sanitary manner.

## License and Business Regulations

2. A price schedule for all services shall be prominently posted in the reception area in a location visible to all prospective patrons.

3. All employees, patrons, persons, managers, owners, operators, technicians and apprentices shall be clean and shall wear clean, non-transparent outer garments, covering the sexual body areas. A separate dressing room for each sex shall be available on the premises with individual lockers for each employee, technician or apprentice. Doors to such dressing rooms shall open inward and shall be self closing.

4. All massage establishments shall be provided with a sufficient quantity of clean sheets and towels which shall be laundered after each use and shall be stored in a sanitary manner. All soiled linens, towels and other materials shall be kept in properly covered containers or cabinets, which shall be kept separate from the storage areas for clean supplies.

5. No patron shall receive the services of any massage establishment, technician or apprentice, unless such patron is at least eighteen (18) years of age.

6. No person shall sell, give, dispense, consume, provide or keep, or cause to be sold, given, dispensed, provided or kept any alcoholic beverage or beer on the premises of any massage establishment.

7. No massage establishment shall be operated after 8:00 P.M. or before 8:00 A.M.

8. No person may act as manager for a corporate licensee, unless such person has been approved by the City Clerk and listed on the license of the massage establishment.

9. No owner, operator, partner or manager may supervise massage technicians, unless such person is approved and licensed as a massage technician as provided in this chapter.

10. No technician, apprentice, owner, operator, partner, manager, patron or person shall do or permit to be done the massage or touching, or the offer or agreement to massage or touch any person's sexual body areas, including his own.

11. No technician, apprentice, owner, operator, partner, manager, patron or person shall do or permit to be done the exposing, or the offer or agreement to expose to the view of any other person, his or her sexual body areas or the sexual body areas of any other person.

12. All massages shall be performed in a massage room designed for such purpose. No doorway to such room shall be fitted with a door capable of being locked. All doors or doorway coverings to any massage room shall have an unobstructed opening, six (6) inches by six (6) inches in size, capable of clear two-way viewing. Such opening shall not be less than four and one-half (4 1/2) feet nor more than five and one-half (5 1/2) feet from the floor.

13. No patron who is affected with any contagious disease or with any disease of the skin shall be massaged in any massage establishment.

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14. No person holding a massage establishment license shall operate under a name not specified in the license, nor shall business be conducted under any designation or location not specified in the license.
15. No licensee, patron or any other person shall be intoxicated while upon the premises of a massage establishment.
16. All instruments, apparatus, equipment or appliances of a nondisposable nature shall be disinfected after each use.
17. Wet and dry heat rooms, steam or vapor rooms, or steam or vapor cabinets, shower compartments and toilet rooms shall be thoroughly cleaned each day the business is in operation. Bathtubs and massage tables shall be thoroughly cleaned and disinfected after each patron's use.
18. Each patron and massage table shall be provided with clean and sanitary linens, sheets and towels.
19. Hot and cold running water shall be provided at all times.
20. Minimum lighting, direct or indirect, of not less than forty (40) foot candles shall be provided and shall be in use when massage services are being performed.
21. No massage establishment shall be used for any purpose except that which is specifically authorized by this chapter.

### SECTION 9-710      RECORDS TO BE KEPT

A. The owner, operator or manager of each massage establishment shall maintain a current register of all employees, including their address, date of birth, sex, duties and such other information as the City Clerk may reasonably require. Upon hiring or discharging any massage technician or apprentice, the owner, operator or manager shall immediately notify the City Clerk in writing, and shall include in such notice the personal information required herein. Failure to comply with the provisions of this subsection shall be unlawful and an offense.

B. Every owner, operator or manager of a massage establishment shall keep a current record of all massage treatments rendered, which record shall include the address where the massage treatment was rendered, the name and address of the patron, the technician or apprentice rendering such treatment and the date of such treatment. Such records shall be maintained for a period of one (1) year. Failure to comply with provisions of this subsection shall be unlawful and an offense.

### SECTION 9-711      INSPECTIONS

Any licensed premise, establishment, service or person shall be subject to inspection at any time during working hours by any member of the City Police Department, Health Department, Fire Department, Protective Inspections Department or Legal Department to determine and ensure compliance with the provisions of this chapter. It shall be unlawful and an offense for any person or

## License and Business Regulations

licensee to refuse to allow such inspections.

### SECTION 9-712      REVOCAION

Any license issued hereunder shall be revoked by order of the City Clerk upon his determination that the licensee has committed any act which would have been cause for denial of a license upon the original application, has made a false statement on the application, or has committed any act in violation of this chapter or in violation of the standards for good moral character.

### SECTION 9-713      NOTICE

The City Clerk shall give notice of denial of license to any applicant by regular mail to his stated home address, or of revocation of license to any licensee by regular mail to his stated business address. Such notice shall state the reasons for denial or revocation, the effective date of such determination and shall advise the applicant or licensee that the City Clerk's decision may be appealed to the Council by filing a written request for a hearing with the City Clerk within ten (10) days of the receipt of such notice. All such licenses shall be suspended pending appeal.

### SECTION 9-714      ENFORCEMENT

Any applicant who has been denied a license, or any licensee whose license has been revoked or suspended hereunder who acts in violation of such denial, revocation or suspension, shall be guilty of an offense, and each day constituting such violation is a separate and distinct offense with a separate and distinct penalty.

### SECTION 9-715      APPEALS

Appeals to the Council from any adverse decision of the City Clerk hereunder shall, when timely filed, be docketed on the Council's next available agenda and notice of the date and time of hearing shall be given to all parties concerned. At such hearing, the Council shall receive any evidence it deems appropriate and, shall either affirm, reverse or modify the City Clerk's decision.

### SECTION 9-716      SALE

Any person desiring to purchase, own, operate or manage a presently licensed massage establishment shall make application for such license and must be approved by the City Clerk and licensed by the City before assuming such business.

### SECTION 9-717      BRANCH OPERATIONS

No branch operation shall be permitted by the holder of any license hereunder, unless such operation is separately approved and licensed by the City according to the provisions of this chapter.

### SECTION 9-718      EXISTING OPERATIONS

## License and Business Regulations

A. All massage establishments currently licensed by the City shall remain operative until April 1, 1998, at 12:00 noon, at which time such license shall expire. Any applicant for a renewal or new license must comply with the provisions of this chapter.

B. All technicians currently licensed by the City as operators shall make application for a license on or before April 1, 1998, and shall comply with all requirements of this chapter.

C. Any new applications for massage technicians, massage apprentices, or massage establishments shall be in compliance with the terms and requirements of the chapter.

### SECTION 9-719      PENALTY

Any person, patron, licensee or individual found guilty of violating any provision of this chapter shall be guilty of an offense and, upon conviction thereof, shall be punished by a fine of not more than TWO HUNDRED DOLLARS (\$200.00) excluding costs.

### SECTION 9-720      REMEDIES CUMULATIVE

The conviction and punishment of any person for operating hereunder without the appropriate license shall not relieve such person from paying any appropriate license fee due, nor shall conviction and punishment prevent the City Clerk from denying the issuance of any license, nor shall the payment of any license fee prevent a criminal prosecution for the violation of any of the provisions of this chapter. The conviction and punishment of any person for violating any of the operating requirements herein shall not prevent the City Clerk from revoking any existing license for such violation, nor shall the revoking of the license prevent a criminal prosecution for the violation of any of the provision of this chapter. All remedies prescribed hereinunder shall be cumulative and the use of one or more remedies by the City shall not bar the use of any other remedy for the purpose of enforcing the provisions of this chapter.

## CHAPTER 8



## License and Business Regulations

### MEDICAL MARIJUANA

Section 9-801	Definitions
Section 9-802	General Requirements
Section 9-803	Medical Marijuana Dispensary
Section 9-804	Commercial Medical Marijuana Growing and/or Processing Facilities
Section 9-805	Medical Marijuana Wholesale and/or Storage Facilities
Section 9-806	Medical Marijuana Growing For Personal Use
Section 9-807	Penalty
Section 9-808 to 9-825	Reserved

#### SECTION 9-801      DEFINITIONS

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

B.      **Commercial Medical Marijuana Growing and/or Processing Facilities:** Any medical marijuana growing or processing facility licensed by the State of Oklahoma to grow or process medical marijuana in excess of a total of twelve (12) plants, six (6) of which shall be seedlings with the other six (6) being mature plants. Growing includes the cultivation, manufacturing, processing, packaging, and distribution of marijuana and marijuana products. Processing includes including but not limited to: drying, cleaning, curing, packaging, and extraction of active ingredients to create medical marijuana, medical marijuana products or concentrates.

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

D.      **Medical Marijuana Growing for Personal Use:** Any individual licensed by the State of Oklahoma and the City of Atoka to grow up to a total of twelve (12) plants, six (6) of which shall be seedlings with the other six (6) being mature plants within a single residence for personal medical use.

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

#### SECTION 9-802      GENERAL REQUIREMENTS

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

B.      The license outlined in this ordinance will be subject to property inspection by an

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authorized City Inspector prior to issuance to insure compliance with all codes of the City

C. The property inspection will occur at a time scheduled and approved by both the applicant and the City Inspector.

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

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

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

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

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

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

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

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

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

1. Allow persons to engage in conduct that endangers the health, safety, or welfare of the Citizens of the City of Atoka, 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.

M. Additional Regulations:

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

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2. Smoking and vaping marijuana shall be prohibited on all city property including vehicles, buildings, parks or other facilities.
3. Revocation or suspension of Municipal issued marijuana license; hearing.
  - a. The city manager or designee shall revoke or suspend a license issued under this section on any of the following grounds:
    - i. The license was procured by fraudulent conduct or false statement of a material fact or a fact concerning the applicant was not disclosed at the time of his application, and such fact would have constituted just cause for refusal to issue the license;
    - ii. Violation of City ordinance, State law, or Department of Health regulations governing medical marijuana.
  - b. Prior to suspension or revocation the permittee shall be given notice of the proposed action to be taken and shall have an opportunity to be heard before the city manager. If an employee has been designated by the city manager, such employee shall make a report to the city manager together with a recommendation as to whether the license should be suspended or revoked.
4. Any person or entity applying for or issued a license by the City of Atoka shall comply with all State law and Department of Health rules and regulations, as may be amended from time to time.
5. Revocation of the State issued license shall result in immediate revocation of the City issued license.

### SECTION 9-803      MEDICAL MARIJUANA DISPENSARY

Medical Marijuana Dispensaries are hereby allowed within the municipal boundaries of Atoka, Oklahoma upon compliance with Section 9-802, issuance of a Retail Medical Marijuana Dispensary Business License and the following additional provisions.

- A. A Medical Marijuana Dispensary shall only be located within a City of Atoka Commercial Zoning District.
- B. Medical Marijuana Dispensary Business License shall not be granted to any applicant where the proposed location would be located within one thousand (1000) feet of any public or private school.
- C. Conditions of Operation:
  1. Buildings where medical marijuana is stored or dispensed must be equipped with ventilation/air filtration systems so that no odors are detectable off premises.
  2. The retail establishment must maintain a valid sales tax permit issued by the

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State of Oklahoma.

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

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

D. There shall be a business license fee in the amount of seven hundred, fifty dollars (\$750.00) and an annual renewal fee in the amount of seven hundred, fifty dollars (\$750.00). The annual business license will expire on June 30th and shall be renewed prior to July 1st each year. Failure to renew will result in a penalty fee of fifty percent (50%) of the annual fee and shall require re-inspection, as required by City Code 9-802 (B).

### SECTION 9-804 COMMERCIAL MEDICAL MARIJUANA GROWING AND/OR PROCESSING FACILITIES

Commercial Medical Marijuana Growing and/or Processing Facilities are hereby allowed within the municipal boundaries of Atoka, Oklahoma upon compliance with Section 9-802, issuance of a Commercial Medical Marijuana Growing and/or Facility License and the following additional provisions.

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

1. "A-1" Agricultural District;
2. "I-1" Light Industrial District; or
3. "I-2" Heavy Industrial District.

B. Conditions of Operation:

1. The facility shall be secure with limited access. The secure area must be locked at all times. A key or access code shall be provided to all emergency services (Fire, Police and EMS). Changing the code or key shall not be allowed without proper notification to all emergency services.

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

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

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

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

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

C. There shall be a business license fee in the amount of seven hundred fifty dollars (\$750.00) and an annual renewal fee in the amount of seven hundred fifty dollars (\$750.00). The annual business license will expire on June 30th and shall be renewed prior to July 1st each year. Failure to renew will result in a penalty of fifty percent (50%) of the annual fee and shall require re-inspection as required by City Code 9-802 (B).

### SECTION 9-805 MEDICAL MARIJUANA WHOLESALE AND/OR STORAGE FACILITIES

Medical Marijuana Wholesale and/or Storage Facilities are hereby allowed within the municipal boundaries of Atoka, Oklahoma upon compliance with Section 9-802, issuance of a Medical Marijuana Wholesale and/or Storage Facility License and the following additional requirements.

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

1. "A" Agricultural District;
2. "I-1" Light Industrial District; or
3. "I-2" Heavy Industrial District.

B. Conditions of Operations:

1. The facility shall be secure with limited access. The secure area must be locked at all times. A key or access code shall be provided to all emergency services (Fire, Police and EMS). Changing the code or key shall not be allowed without proper notification to all emergency services.

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

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

D. There shall be a business license fee in the amount of seven hundred, fifty dollars (\$750.00) and an annual renewal fee in the amount of seven hundred fifty dollars (\$750.00). The

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annual business license will expire on June 30th and shall be renewed prior to July 1st each year. Failure to renew will result in a penalty fee of fifty percent (50%) of the annual fee.

### SECTION 9-806      MEDICAL MARIJUANA GROWING FOR PERSONAL USE

Medical Marijuana Growing for Personal Use is hereby allowed within the municipal boundaries of Atoka, Oklahoma upon compliance with Section 9-802, issuance of a Medical Marijuana Growing for Personal Medical Use License and the following additional provisions.

A. Any license issued to an individual for the growing of medical marijuana for personal use will be for the growing of medical marijuana at the individual's primary residence. The City Clerk shall be notified immediately upon any change of address of the licensee.

B. Any access or entry point to residential facilities used for medical marijuana cultivation for personal medical use must be secured by lock and key or equivalent, at all times except when the residential facility is actively being supervised in person by the permit holder.

C. Growing medical marijuana shall not be visible from the public right of way.

D. 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. Lighting shall not exceed 1,000 watts per light. The use of gas products (CO<sub>2</sub>, butane, etc.) or CO<sub>2</sub> and ozone generators in the growing area is prohibited.

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

F. The primary use of the residential property in which medical marijuana is grown shall remain at all times a residence, with legal and functioning cooking, eating, sleeping and sanitation/bathing facilities with proper ingress and egress. No room shall be used for growing marijuana where such cultivation will impair or prevent the primary uses of cooking, eating, sleeping or sanitation/bathing.

G. If the residence is rented, consent of the property owner shall be obtained prior to any cultivation commencing. This consent must be evidenced by a signed and notarized statement from the property owner permitting the growth of marijuana in a residence.

H. Any individual licensed to grow marijuana for personal use shall have a License issued by the State of Oklahoma authorizing the use of medical marijuana. Said license shall be made available to any authorized City employee upon request.

I. There shall be a license fee in the amount of fifty dollar (\$50.00) and an annual renewal fee in the amount of fifty dollars (\$50.00). The annual license will expire on June 30th and

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shall be renewed prior to July 1st each year. Failure to renew will result in a penalty fee of fifty percent (50%) of the annual fee and shall require re-inspection as required by City Code 9-802 (B).

### SECTION 9-807      PENALTY

In addition license revocation or suspension, a violation of any of the provisions contained in this chapter shall also be deemed an offense and punishable, as provided in City Code 1-108.

Reserved 9-808 to 9-825

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### PART 10

#### OFFENSES AND CRIMES

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Section 10-318	Congregating, parking on premises after hours.
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Section 10-320	Throwing or shooting at persons, property.
Section 10-321	Throwing out lighted substances or debris prohibited.
Section 10-322	Littering, deposits unlawful.
Section 10-323	Posting advertising matter on building of another.
Section 10-324	Posting advertising matter on utility poles or on or over streets and sidewalks.
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SECTION 10-101      ATTEMPTS TO COMMIT AN OFFENSE.

Every person who attempts to commit an offense against the ordinances of the city, and in such attempt does any act toward the commission of such offense, but fails or is prevented or intercepted in the perpetration thereof, is guilty of an offense, and shall be punished in the manner prescribed for the attempted offense itself. (Prior Code, Chapter 16, as amended)

SECTION 10-102      AIDING IN AN OFFENSE.

When no punishment for counseling or aiding in the commission of a particular offense is expressly prescribed by ordinance, every person who counsels or aids another in the commission of such is guilty of an offense, or misdemeanor, and punishable in the same manner as the principal offender. (Prior Code, Chapter 16, as amended)

SECTION 10-103      “OFFENSE” DEFINED.

The word “offense,” whenever used in this code or in any part, chapter, article or ordinance of the city means the unlawful act of doing, or failing to do, some particular act or thing construed therein to be detrimental to the general welfare, morals, peace, health or safety of the inhabitants of the city.

SECTION 10-104      “VIOLATION” DEFINED.

The doing of any of the acts or things prohibited, or failing to do any of the acts or things commanded to be done, as more fully specified and set forth by any provision of this code or any part, chapter or article hereof, or future ordinances of the city, is hereby declared to be an offense against the good order, public peace, morals, health, proper government and welfare of the city and unlawful.

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### SECTION 10-105     PENALTY NOT TO EXCUSE OFFENSE.

The imposition of one penalty for an offense shall not excuse it or permit it to continue, nor prevent the imposition of further penalties, should the offenses be continued or permitted to continue.

### SECTION 10-106     CAPACITY TO COMMIT OFFENSE.

All persons are capable of committing an offense as herein provided, except those belonging to the classes following:

1.     Children under the age of seven (7) years;
2.     Children over the age of seven (7) years, but under the age of fourteen (14) years, in the absence of proof that at the time of committing the act or neglect charged against them, they knew its wrongfulness;
3.     Lunatics, insane persons, and all persons of unsound mind, including persons temporarily or partially deprived of reason, upon proof that at the time of committing the act charged against them they were involuntarily incapable of knowing its wrongfulness;
4.     Persons who committed the act, or made the omission charged, under an ignorance or mistake of fact which disproves any criminal intent. But ignorance of the law does not excuse from punishment for its violation;
5.     Persons who committed the act charged without being conscious thereof, involuntarily; and
6.     Persons who committed the act, or made the omission charged, while under involuntary subjection to the power of superiors.

### SECTION 10-107     INTOXICATION, NO DEFENSE.

No act committed by any person while in a state of intoxication, whether from liquor or drugs, shall be deemed less an offense by reason of his being in such condition.

### SECTION 10-108     WITNESS, SELF INCRIMINATION.

No person otherwise competent as a witness, shall be incapacitated, excused or disqualified from testifying concerning the offense mentioned in any section, chapter or title of this code, or any ordinances hereafter enacted on the ground that his testimony might incriminate him, but the testimony which may be given by such witness shall in no case be used against him.

### SECTION 10-109     NUISANCES.

It is unlawful and an offense for any person to permit, maintain, aid, abet, or sanction a

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nuisance on or about any premise or premises owned by him or under his control at any place within the corporate limits of the city.

Cross Reference: Nuisances, Secs. 8-101 et seq. of this code.

### SECTION 10-110     CONSPIRACY.

Any two (2) or more persons assembled or who shall assemble with the intent to mutually agree to do any unlawful act with force or violence and shall make any movement therefor against the property of the city or the person or property of another person shall be guilty of an offense.

### SECTION 10-111     LIMITATIONS OF ACTIONS.

The time within which a charge may be filed under the provisions of this chapter shall be one year from the date of the commission or omission or in cases involving fraud, deception or deceit, one year from the discovery of the fraud, deception or deceit unless otherwise provided by the statutes of the state.

### SECTION 10-112     LAWFUL USE OF FORCE.

A. To use or to attempt to offer to use force upon or toward the person of another is not unlawful in the city in the following cases:

1. When necessarily committed by a public officer in the performance of any legal duty, or by any other person assisting him or acting by his direction;
2. When necessarily committed by any person in arresting one who has committed any felony, and delivering him to a public officer competent to receive him in custody;
3. When committed either by the party about to be injured, or by any other person in his aid or defense, in preventing or attempting to prevent an offense against his person, or any trespass or other unlawful interference with real or personal property in his lawful possession; provided, the force used is not more than sufficient to prevent such offense, and that the same shall be necessary for the self-defense of his person or property;
4. When committed by a parent or authorized agent of any parent, or by any guardian, master or teacher, in the exercise of a lawful authority to restrain or correct his child, ward, apprentice or scholar, provided restraint or correction has been rendered necessary by the misconduct of such child, ward, apprentice or scholar, or by his refusal to obey the lawful command of such parent or authorized agent or guardian, master or teacher, and the force used is reasonable in manner and moderate in degree;
5. When committed by a carrier of passengers, or the authorized agents or servants of such carrier, or by any person assisting them at their request, in expelling from any carriage, interurban car, vessel or other vehicle, any passenger who refuses to obey a lawful and reasonable regulation prescribed for the conduct of passengers, if such vehicle has first been stopped and the

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force used is not more than is sufficient to expel the offending passenger, with a reasonable regard to his personal safety;

6. When committed by any person in preventing an idiot, lunatic, insane person or other person of unsound mind, including persons temporarily or partially deprived of reason, from committing an act dangerous to himself or to another, or enforcing such restraint as is necessary for the protection of his person or for his restoration to health, during such period only as shall be necessary to obtain legal authority for the restraint or custody of such person;

7. In preventing or interrupting an intrusion upon the lawful possession of property; and

8. To preserve the peace or prevent the commission of an offense.

B. Where force is permitted to effect a lawful purpose only that degree of force necessary to effect such purpose shall be used.

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CHAPTER 2

OFFENSES AGAINST PERSONS

Section 10-201	Assault and battery.
Section 10-202	Assault defined.
Section 10-203	Battery defined.
Section 10-204	Reckless conduct.

SECTION 10-201     ASSAULT AND BATTERY.

No person shall commit an assault or battery, or both, upon the person of another. (Prior Code, Chapter 16, as amended)

State Law Reference: Assault and battery generally, 21 O.S. Sec. 641 et seq.; city's power to prevent, 11 O.S. Sec. 22-110.

SECTION 10-202     ASSAULT DEFINED.

An assault is any willful and unlawful attempt or offer with force or violence to do corporal hurt to another. (Prior Code, Chapter 16, as amended)

SECTION 10-203     BATTERY DEFINED.

A battery is any willful and unlawful use of force or violence upon the person of another. (Prior Code, Chapter 16, as amended)

SECTION 10-204     RECKLESS CONDUCT.

A.     Reckless conduct, as used in this section, consists of an act which creates a situation of unreasonable risk and probability of death or great bodily harm to another and which demonstrates a conscious disregard for the safety of another.

B.     It is unlawful for any person to endanger another's safety by reckless conduct in the operation or handling of any weapon or instrument, including a pistol, revolver or other firearm. (Prior Code, Chapter 16, as amended)

Cross Reference: See also Sections 10-701 et seq. on weapons and firearms.



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#### OFFENSES AGAINST PROPERTY

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Section 10-318	Congregating, parking on premises after hours.
Section 10-319	Unlawful intrusion on land.
Section 10-320	Throwing or shooting at persons or property.
Section 10-321	Throwing out lighted substances or debris prohibited.
Section 10-322	Littering, deposits unlawful.
Section 10-323	Posting advertising matter on building of another.
Section 10-324	Posting advertising matter on utility poles or on or over streets and sidewalks.
Section 10-325	Interference with radio, television or telephone reception of others.
Section 10-326	False weights.
Section 10-327	Electric fences prohibited.
Section 10-328	Unlawful use of another's garbage or refuse container.
Section 10-329	Fireworks prohibited, exceptions.

#### SECTION 10-301      PETIT LARCENY; EMBEZZLEMENT.

No person shall steal, take and carry away by fraud or stealth, with intent to deprive another thereof, any personal property under the value of Fifty Dollars (\$50.00) or embezzle any money, personal property or effects of another under the value of Fifty Dollars (\$50.00). This section does not apply to taking property from the "person" of another. (Prior Code, Chapter 16)

State Law Reference: Larceny, 21 O.S. Secs. 1701 et seq.; embezzlement, 21 O.S. Secs. 1451 et seq.

#### SECTION 10-302      LARCENY BY FALSE PRETENSE.

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No person shall induce, or attempt to induce, any person to give up or pay over any money or other thing of value which money or value does not exceed Fifty Dollars (\$50.00), by any false representation or pretense, or in exchange for any false or bogus coin or check, draft or other false evidence of value, or in consideration of refraining from a lawful or unlawful arrest, or in consideration of refraining from reporting any unlawful act to any public official. (Prior Code, Chapter 16, as amended)

### SECTION 10-303     ALTERING KEYS.

No person shall make or alter or attempt to make or alter any key or other instrument that will open the lock of a building unless requested to do so by some person having the right and authority to make such request.

### SECTION 10-304     POSSESSION OF STOLEN PROPERTY.

No person shall keep in his possession, or dispose of, or conceal any stolen property, or fail promptly to inform some proper official of the possession thereof, under circumstances indicating that such property had been stolen or the possession thereof obtained unlawfully. (Prior Code, Chapter 16, as amended)

State Law Reference: Receiving stolen property, 21 O.S. Sec. 1713.

### SECTION 10-305     DEFRAUDING PUBLIC ACCOMMODATIONS; PROOF; EXCEPTION.

A. No person shall obtain food, lodging or other accommodation 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 pretense 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 other lodging place, without paying or offering to pay for the food, lodging or other accommodation 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 attempt to defraud.

C. No person shall refuse to pay the legal fare of any of the vehicles mentioned in this article 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. (Prior Code, Chapter 16, as amended)

### SECTION 10-306     CONCEALING UNPURCHASED MERCHANDISE; MERCHANT'S AUTHORITY TO DETAIN.

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Any person concealing unpurchased merchandise of any establishment, either on the 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 unpurchased merchandise concealed upon the person or among the belongings 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. (Prior Code, Chapter 16, as amended)

### SECTION 10-307     FAILURE TO PAY FARE FOR PUBLIC CONVEYANCE.

No person shall use or accept the use and services of any street car, taxi cab, omnibus, automobile or any other means of public conveyance or passengers, operating under the code, ordinance, franchise, permit or license of the city or state, and refuse or fail to pay to the operator of the conveyance the usual, customary, regulation or legal charge, or price as fare immediately upon the performance of the service. (Prior Code, Chapter 16, as amended)

### SECTION 10-308     FALSE OR BOGUS CHECKS.

It is unlawful for any person, with intent to cheat and defraud, to obtain or attempt to obtain from any person any money, property or valuable thing of the value of Fifty Dollars (\$50.00) or less by means of any false or bogus check or by any other written or printed or engraved instrument or spurious coin.

The term "false or bogus check" shall include checks or orders given for money or property 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, issuing or delivering of a check, draft or order, payment of which is refused by the drawee, shall be prima facie evidence of intent to defraud and the knowledge of insufficient funds in or credit with, such bank or other depository. Such maker or drawer shall not have paid the drawee the amount due thereon, together with the protest fees, and the check or order shall be presented for payment within thirty (30) days after same is delivered and accepted. (Prior Code, Chapter 16, as amended)

### SECTION 10-309     HARMFUL DECEPTION.

It is unlawful for any person knowingly to deceive another, whether by impersonation, misrepresentation, or otherwise, when such deception results in or contributes to the loss, damage, harm or injury of the person deceived or of a third party, or results in or contributes to the benefit of the deceiver. (Prior Code, Chapter 16, as amended)

### SECTION 10-310     DEFACING BUILDING, DAMAGING PROPERTY.

A. No person shall purposely deface or damage any public or private building or appurtenances thereof, or any fence, street, bridge, sidewalk, driveway, street, or public work.

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B. No person shall:

1. Destroy, injure, deface, damage or molest any structure, building, work or other property, real or personal, belonging to another;
2. Use such property wrongfully to the detriment of the owner or other person entitled to its use; or
3. Interfere wrongfully with the use of any such property by its owner or any other person entitled to its use. (Prior Code, Chapter 16, as amended)

State Law Reference: Destroying property generally, 21 O.S. Sec. 1760.

### SECTION 10-311 REMOVING OR BREAKING PRIVATE PROPERTY.

No person shall willfully, unlawfully or maliciously take and carry or cause to be taken and carried away any part of a house, barn, fence, gate or other structure, or maliciously break, tear down or destroy any part of a house, barn or other structure not his own.

### SECTION 10-312 DAMAGING PRIVATE PROPERTY.

No person shall willfully and wantonly damage or destroy the personal property of another.

### SECTION 10-313 PUBLIC WORKS UNDER CONSTRUCTION.

A. Any person who removes, destroys, disturbs, or in any manner injures any grade stake, stone or other mark or monument set by or under authority of the city to designate or mark grades, lines, corners or bench marks on any public work in the city prior to the completion and acceptance of the contract for which such stakes or monuments are set, without lawful authority, is guilty of an offense.

B. Any contractor or other person constructing any public work in the city shall protect such work by barriers or obstructions. It is unlawful for any person to cross the barriers or to remove them until the work has been completed and opened by authority of the city.

### SECTION 10-314 DAMAGING OR TAMPERING WITH MOTOR VEHICLE.

A. No person, other than a peace officer in the performance of his official duties, shall, with intent and without right to do so, injure or tamper with any vehicle or in any other manner damage any part or portion of the vehicle or any accessories, appurtenances or attachments thereto.

B. No person, other than a peace officer in the performance of his official duties, shall, without right to do so and with intent to commit a crime, climb into or upon a vehicle, whether it is in motion or at rest, attempt to manipulate any of the levers, starting mechanism, brakes or other mechanism or device of the vehicle while the vehicle is at rest and unattended, or set in motion any vehicle while the vehicle is at rest and unattended. (Prior Code, Chapter 16, as amended)

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State Law Reference: Damaging motor vehicles, 21 O.S. Secs. 1787, 1788.

### SECTION 10-315 TAMPERING WITH OR DAMAGING OF UTILITIES.

A. No person shall alter, remove, tamper with, molest, damage or injure any wires, cable, appurtenance, structure, pipes or equipment of any utility of the city, or any public utility, or connect or tamper with the wires, cables or pipes of any electric, water, sewer, cable television or gas utility or of the city without consent of the utility or city having been first obtained.

B. It is unlawful to open up any manhole or opening to a sewer unless authorized by the city, or to leave a manhole or other opening so opened without replacing the fixture or appliances thereto in their proper place and position.

C. No person except a member of the fire department or a person acting on lawful order or permit issued by the city shall open or use water from any fire hydrant or take off the caps or damage the same. No person may block the approach or access to a fire hydrant or attach, fasten, stand or brace anything against or on the hydrant.

D. No person shall in any manner whatsoever:

1. Cut into, attach to or intercept the wires, cables or pipes, of any electric, water, cable television or gas utility or of the city for the purpose of fraudulently taking therefrom electric current, water, transmissions or gas;

2. Cut into, attach to or intercept the wires, cables or pipes for the purpose of conducting around any meter electric current, water or gas in order to prevent the current, water or gas from being measured by the meter, or in such other manner so as to consumer or use the utility or cable service so as to evade payment therefor, with the unlawful intent to defraud the company or city out of the value of the service; or

3. By any device or manipulation whatsoever to cause current, transmissions, water or gas used upon any premises to be fraudulently conveyed upon any premises for the purposes of use thereof, and with the intent to defraud and cheat the utility or city from payment thereof.

E. Each day that any person maintains any such fraudulent connection with any wires, cables or pipes, or fraudulently takes from any such wires, cables or pipes either electric current, transmissions, water or gas shall constitute a separate offense. (Prior Code, Chapter 16, as amended)

Cross Reference: Utilities see Secs. 17-101 et seq. of this code.

### SECTION 10-316 DESTROYING TREES AND SHRUBBERY.

A. No person shall willfully, maliciously and without lawful authority cut down, root up, sever, injure or destroy any fruit tree, shade or ornamental tree, cultivated root or plant, grape or strawberry vine, shrub or plant whatever standing on or attached to the land of another, or pick, destroy, carry away therefrom, or in any way interfere therewith, any of the fruit thereof.

## Offenses and Crimes

B. No person shall willfully or without lawful authority cut down, destroy, root up or in any manner injure any fruit, shade or ornamental tree, shrub or vine planted or growing on any street, land, avenue, alley or other public ground of the city.

### SECTION 10-317 TRESPASSING PROHIBITED, NOTICE, SOLICITING, TRESPASS PROHIBITED.

A. It is unlawful and an offense for any person to commit a trespass within this city upon either public or private property.

B. Trespass shall include each and every actual entry upon the premises of an owner or other person in lawful possession of the premises without the express 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 mean the act of entering upon or remaining on private property when such is plainly forbidden by signs, markings, or otherwise, by verbal command of the owner, his agent, or employee, or after having been directed to do so by a police officer, although this sentence shall not apply to persons including employees whose presence upon the premises is authorized by the owner or by a person in lawful possession of such premises. Trespass shall also include the act of returning to private property after having been directed to vacate the premises by the owner, his agent, employee or police officer under the terms of this section.

C. Any of the following acts by any person shall be deemed a violation of this section:

1. The doing of an injury or misfeasance to the person of another;
2. The doing of any injury or misfeasance to the property of another when done with force and violence, either actual or implied;
3. Each and every actual entry upon the premises of another owner or person in possession of real property, whether the property is public or private, without the owner's or occupant's consent, express or implied;
4. An entry upon the premises, or any part thereof, of another in violation of a notice exhibited thereon prohibiting entry at specified times;
5. An entry upon the premises, or any part thereof, of another in violation of any notice, warning or protest given orally or in writing by any owner or other lawful occupant thereof;
6. An entry upon any public property, including parks or parking areas, in violation of a notice exhibited there prohibiting entry at specified times;
7. An entry upon any public property in violation of any notice, warning or protest given orally or in writing by a city official;

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8. If on the property of another, or upon public property lawfully, a failure or refusal to depart in case of being requested to so depart orally or written, by any owner, lawful occupant, or by a city official;

9. An entry upon any portion of a public park, where the entry involves the use of any vehicle, equipment or device where such use is specifically prohibited;

10. An entry of any public building except for the purpose of dispatching business with the public corporation or consent is obtained from the city council or other public official which is lawfully authorized to give consent; or

11. Remaining on public or 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. The provisions of this paragraph 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 paragraph apply unless hours of business operation are posted upon such premises. Trespass also includes 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 paragraph.

D. For purposes of constituting a violation of this section, the exhibited notice required under paragraphs 4, 5, 6, 7 and 9 of Subsection C hereof shall meet the following criteria:

1. The notice shall be plainly posted in a place or places conspicuous to those who would enter the property;

2. The notice shall be legible so as to afford reasonable warning prior to the commission of a trespass; and

3. If upon property to which the public is invited at least some part of the day, the notice shall clearly specify the days and times of day entry is prohibited, and further specify that entry at such times constitutes a punishable offense under the city code. (Prior Code, Chapter 16, as amended)

### SECTION 10-318 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 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 owner, occupant, lessee or employee thereof, except where such property is provided for public parking and the use for such parking 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

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responsible for 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 sales activities, offices, banks or other financial institutions, manufacturing, professional services (medical, legal, accounting, insurance, consulting).

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 in 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 offense of unlawful parking or leaving 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 and is 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. (Prior Code, Chapter 16, as amended)

Cross Reference: See also Section 15-608 on vehicular trespass.

### SECTION 10-319 UNLAWFUL INTRUSION ON LAND.

A. No person shall intrude or remain upon any lot or piece of land, or in any building



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within the city without license or authority from the owner thereof, or erect or occupy thereon any structure whatever without such license or authority.

B. No person shall place, erect or occupy within the bounds of any street, alley or avenue of the city any structure whatever unless such person is granted a license by the city to do so.

### SECTION 10-320     THROWING OR SHOOTING AT PERSONS OR PROPERTY.

No person shall throw or shoot any object into or across any street or alley, or in any place where he is likely to hit another person wrongfully, or injure property, or to throw any object at any person, vehicle, structure, or property of another, whether public or private, except where such is done in defense of oneself or another person or property. (Prior Code, Chapter 16, as amended)

### SECTION 10-321     THROWING OUT LIGHTED SUBSTANCES OR DEBRIS PROHIBITED.

No person shall throw, drop, deposit or otherwise place in, upon or within the limits of any street, avenue, public ground, public waterway or city owned property or waterway any lighted cigarette, cigar or other flaming or glowing substances, or any substance or thing which may cause a fire.

### SECTION 10-322     LITTERING, DEPOSITS UNLAWFUL.

It is unlawful to throw, deposit or discharge any item or waste material, liquid or solid, on any street or public place in the city or upon the property of another without express authority to do so.

### SECTION 10-323     POSTING ADVERTISING MATTER ON BUILDING OF ANOTHER.

A. No person shall place upon any building any advertising matter of any kind, nor print or exhibit printing on a building or any part thereof, 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, fence, sidewalk, bridge, post, automobile or vehicle or property of another without the consent of the owner or person in charge thereof. (Prior Code, Chapter 16, as amended)

### SECTION 10-324     POSTING ADVERTISING MATTER ON UTILITY POLES OR ON OR OVER STREETS AND SIDEWALKS.

It is unlawful for any person to place any advertising matter of any kind on any utility pole, or to place any advertising on the streets or sidewalks of the city or to place any advertising on any signs or banners stretched over the streets or sidewalks of the city. Nothing herein shall be construed to prevent any permanently located commercial or business establishment in the city from erecting and maintaining business or commercial signs in accordance with the ordinances of the city, nor to prohibit the granting of permission by the city to religious, charitable, patriotic or civic bodies to use

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banners across the streets of the city in such places as may be designated by the city manager for the observance of holidays, charitable drives and the commemoration and celebration of other public or civic occasions.

Cross Reference: See also Section 15-209 prohibiting signs on official traffic signs and political signs.

### SECTION 10-325 INTERFERENCE WITH RADIO, TELEVISION OR TELEPHONE RECEPTION OF OTHERS.

It is unlawful for any person, or any officer or employee of any person, to operate or use any citizen band radio, ham radio or other electrical apparatus or machine which materially and unduly interferes with radio, television or telephone reception of others. (Prior Code, Chapter 16, as amended)

### SECTION 10-326 FALSE WEIGHTS.

It is unlawful for any person to sell any commodity or article of merchandise and in the sale thereof knowingly make or give a false or short weight therefor or for any person owning or keeping or having in charge any scale used in weighing any animal, commodity or article to knowingly and willfully report any false or untrue weight whereby another person shall be defrauded or damaged. (Prior Code, Chapter 16, as amended)

### SECTION 10-327 ELECTRIC FENCES PROHIBITED.

It is unlawful for any person to erect, install or maintain any electrically charged fence within the city, except that 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. (Prior Code, Chapter 16, as amended)

Cross Reference: See also Appendix 2, Fee Schedule, for applicable fees. See Part 5 of this code on building permits.

### SECTION 10-328 UNLAWFUL USE OF ANOTHER'S GARBAGE OR REFUSE CONTAINER.

It is unlawful and an offense for any person to dispose of garbage, refuse, rubbish or waste into any refuse container, dumpster or other receptacle for the deposit of same belonging to or leased by another, whether by rental agreement, lease or agreement with the city or a public or private trash, garbage or refuse hauling service, without the permission of the owner, lessee or other person entitled to the possession or use thereof. (Prior Code, Chapter 16, as amended)

### SECTION 10-329 FIREWORKS PROHIBITED, EXCEPTIONS.

A. For the purpose of this section, "fireworks" shall have the same meaning as in state law, Section 1621 et seq of Title 68 of the Oklahoma Statutes.

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B. It is unlawful for any person to manufacture, display, sell, possess for sale, discharge or use fireworks within the city except as allowed by the city's fire code and as otherwise permitted in this section.

C. Businesses located along U.S. Highway No. 69, State Highway No. 7 and State Highway No. 3, east of its intersection with U. S. Highway No. 69, are permitted to sell any and all fireworks allowed to be sold under state law; however, no such sales are permitted unless the seller has obtained the license required by state law.

D. Pyrotechnic or fireworks displays may be authorized in accordance with the city fire code when under proper control and the time, place and manner of the display is permitted by the city. (Prior Code, Chapter 16, as amended)

Cross Reference: See also Section 13-101 et seq of this code, fire code; Section 9-110 on licensing fireworks dealers; and Appendix 2 of this code, Schedule of Fees and Charges.

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CHAPTER 4

OFFENSES AGAINST PUBLIC PEACE

Section 10-401	Disturbing the peace.
Section 10-402	Disturbing funerals.
Section 10-403	Disorderly conduct.
Section 10-404	Unnecessary noise prohibited.
Section 10-405	Loud sound amplification systems prohibited.
Section 10-406	Parades and public assemblies.

SECTION 10-401     DISTURBING THE PEACE.

A.     It is unlawful to disturb or alarm the peace of another or others by doing any of the acts set out in Subsection B of this section.

B.     Disturbing the peace is the doing of any of the following in such a manner as would foreseeably alarm or disturb the peace of another or others:

1.     Using obscene, offensive, abusive, profane, vulgar, threatening, violent or insulting language or conduct;
2.     Appearing in an intoxicated condition;
3.     Engaging in a fistic encounter;
4.     Lewdly exposing one's person, or private parts thereof, in any public place or in any place where there are present other persons to be offended or annoyed thereby;
5.     Pointing any pistol or any other deadly weapon whether loaded or not at any other person or persons either in anger or otherwise;
6.     Holding an unlawful assembly of two (2) or more persons, including being assembled together and acting in concert, to do any unlawful act against the peace or to the terror of others or preparing for or moving toward such acts, or otherwise assembling unlawfully or riotously;
7.     Interrupting any lawful assembly of people by making noise, by rude, indecent or improper behavior, by profane, improper or loud language, or in any other manner, either within the place of assembly or within hearing distance thereof;
8.     Obstructing the free passage of pedestrians or vehicles on a street, right-of-way or sidewalk, or other public place;
9.     Obstructing, molesting or interfering with any person lawfully in a public place;
10.    Making unnecessarily loud, offensive noises;

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11. Disturbing any congregation or assembly of persons meeting for religious worship by making noise, by rude, indecent or improper behavior, by profane, improper or loud language, or in any other manner, either within the place of worship or within hearing distance thereof; or

12. Committing any other act in such a manner calculated as to unreasonably disturb, interfere or alarm the public or the comfort and repose of any person.

C. Whenever any police officer shall, in the exercise of reasonable judgment, decide that the presence of any person in any public place is causing any of the conditions enumerated in Subsection A herein, he may, if he deems it necessary for the preservation of the public peace and safety, order that person to leave that place; and any who shall refuse to leave after being ordered to do so by a police officer shall be guilty of a violation of this section.

D. This section shall not apply to peaceful picketing, public speaking or other lawful expressions of opinion not in contravention of other laws. (Prior Code, Chapter 16, as amended)

### SECTION 10-402     DISTURBING FUNERALS.

No person shall willfully disturb, interrupt or disquiet any assemblage of people who have met for the purpose of any funeral, or obstruct or detain any person engaged in accompanying any funeral to a place of burial.

### SECTION 10-403     DISORDERLY CONDUCT.

A person shall be guilty of disorderly conduct if, with the intent to cause public inconvenience, annoyance, alarm or recklessly creating the risk thereof he:

1. Acts in a violent or tumultuous manner toward another whereby any person is placed in fear of safety of his life, limb or health;
2. Acts in a violent or tumultuous manner toward another whereby the property of any person is placed in danger of being destroyed or damaged;
3. Endangers the lawful pursuits of another by acts of violence, angry threats and abusive conduct;
4. Jostles or crowds or pushes any person in any public place;
5. Uses "fighting words" directed toward any person and thus creates a turmoil;
6. Causes, provokes or engages in any fight, brawl or riotous conduct so as to endanger the life, limb, health or property of another; or
7. By acts of violence interferes with another's pursuit of a lawful occupation.

State Law Reference: Power of city relating to disorderly conduct, 11 O.S. Sec. 22-110.

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### SECTION 10-404 UNNECESSARY NOISE PROHIBITED.

A. No person shall make, continue or cause to be made or continued any excessive, unnecessary or unusually loud noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others, within the limits of the city.

B. Permits may be granted by the city for certain activities and events which are exempt from the provisions of this section. (Prior Code, Chapter 16, as amended)

State Law Reference: City's power to restrain and prohibit unnecessary noise, 11 O.S. Sec. 22-110.

### SECTION 10-405 LOUD SOUND AMPLIFICATION SYSTEMS PROHIBITED.

A. 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, to emit loud music, noise or words. However, this shall not prohibit religious bodies from playing chimes, bells, carillons or other religious music.

B. No person operating or occupying a motor vehicle on a street, highway, alley, parking lot or driveway shall operate or permit the operation of any sound amplification system from within the vehicle so that the sound is plainly audible at a distance of fifty (50) feet or more from the vehicle.

C. For the purpose of this section:

1. "Sound amplification system" means any radio, tape player, compact disc player, loud speaker or other electronic device used for the amplification of the human voice;

2. "Plainly audible" means any sound produced by a sound amplification system from within the vehicle which clearly can be heard at a distance of fifty (50) feet or more. Measurement standards shall be by the auditory senses, based upon direct line of sight. Words or phrases need not be discernible and base reverberations are included. The motor vehicle may be stopped, standing, parked or moving on a street, highway, alley, parking lot or driveway.

D. It is an affirmative defense to a charge under this section that the operator was not otherwise prohibited by law from operating the sound amplification system, and that any of the following apply:

1. The system was being operated to request medical or vehicular assistance or to warn of a hazardous road condition;

2. The vehicle was an emergency or public safety vehicle;

3. The vehicle was owned and operated by the city or public or private utility company;

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4. The vehicle was used in authorized public activities, such as parades, fireworks, sports events or other activities which have been approved by the city council or city manager. (Ord. No. N.C. 404, 10/7/91)

### SECTION 10-406 PARADES AND PUBLIC ASSEMBLIES.

A. As used in this section, “parade” means any parade, march, ceremony, show, demonstration, exhibition, pageant or procession of any kind, or any similar display, in or upon any street, park or other public place in the city.

B. No person shall use any street, alley, public way, park or other property owned or controlled by the city, except those places specifically designed and intended for such use, for the purpose of holding, conducting, causing or participating in any parade, street fair, street dance carnival, assemblage or activity of any nature which may cause the disturbance or interference of the normal and ordinary use of the property by other persons, without first having obtained a permit for such purpose. The permits may be granted by the city manager under such conditions as deemed appropriate.

C. Permits shall not be required under this section in the case of construction or repairs to or within any such street or property, provided all other requirements of this code are complied with.

D. Not less than two (2) weeks prior to the closing or use of a street or property for a parade, an application shall be submitted by the party to the city. The time requirements may be waived by the city manager at his discretion if sufficient time exists for the proper review of the application as herein provided. The application shall be submitted upon a form prescribed by the city. The application shall provide such other information as requested.

E. The city manager shall issue a permit as provided for hereunder when, from a consideration of the application and from such other information as may otherwise be obtained, he finds that:

1. The conduct of the parade will not substantially interrupt the safe and orderly movement of other traffic contiguous to its route;

2. The conduct of the parade will not require the diversion of so great a number of police officers of the city to properly police the line of movement and the areas contiguous thereto as to prevent normal police protection to the city;

3. The conduct of such parade will not require the diversion of so great a number of ambulances as to prevent normal ambulance service to portions of the city other than that to be occupied by the proposed line of march and areas contiguous thereto;

4. The concentration of persons, animals and vehicles at assembly points of the parade will not unduly interfere with proper fire and police protection of, or ambulance service to, areas contiguous to such assembly areas;

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5. The conduct of such parade will not interfere with the movement of firefighting equipment en route to a fire;

6. The conduct of the parade is not reasonably likely to cause injury to persons or property, to provoke disorderly conduct or create a disturbance; and

7. The parade is scheduled to move from its point of origin to its point of termination expeditiously and without unreasonable delays en route.

F. The city manager, in such cases as shall be determined in his discretion, may require as a condition to the issuance of a permit herein such insurance or bond holding the city harmless from any and all liability for injury or damage of any kind whatsoever occurring during such activity covered by the permit.

G. Without regard to the above provision of this division, the city manager, from his consideration of available, appropriate and necessary information, shall deny the application for a permit provided for by this chapter when, from this information, he has reason to believe that any contemplated advocacy at the proposed event will be directed to inciting or producing imminent lawless action and will likely incite or produce such action.

H. The city manager, in denying an application for a parade permit, may authorize the conduct of the parade on a date, at a time or over a route different from that named by the applicant. An applicant desiring to accept an alternate permit shall so indicate within five (5) days after notice of the action of the city manager. An alternate parade permit shall conform to the requirements of, and shall have the effect of, a parade permit under this section.

State Law Reference: Power of local authorities to regulate assemblies, 47 O.S. Sec. 15-102.

Cross Reference: Funeral processions, Sec. 15-524.



## Offenses and Crimes

### CHAPTER 5

#### OFFENSES AGAINST THE PUBLIC

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### SECTION 10-501 PUBLIC INTOXICATION.

No person shall be in any public place in a state of intoxication. A state of intoxication means the condition in which a person is under the influence of drugs, intoxicating liquors or nonintoxicating beverage to such an extent as to deprive the person of his full mental or physical power or be unable to exercise care for his own safety or the safety of others.

State Law Reference: Drunkards and drunkenness generally, 63 O.S. Secs. 2101, et seq.; intoxication in a public place or at a public gathering, 37 O.S. Sec. 8.

Cross Reference: Drinking in public place, see Secs. 3-109 and 3-212 of this code; alcoholic beverages generally, Secs. 3-101 et seq. of this code.

### SECTION 10-502 POSSESSION OF MARIJUANA OR CONTROLLED DANGEROUS SUBSTANCE.

A. It is unlawful for any person to appear or be on any street, or alley, or in any place of business or other public place within the City of Atoka under the influence of marijuana or any controlled dangerous substance as defined by Oklahoma State Statutes Title 63 O.S. §2-101, et seq.

B. It shall be unlawful and an offense for any person to knowingly or intentionally to be in possession of marijuana unless the person has in possession a current and valid permit or license issued by the State of Oklahoma for such possession, or such substances were obtained directly from a state-licensed physician or from a pharmacist pursuant to a valid prescription.

C. It shall be unlawful and an offense for any person to be possession of any Schedule I, II, III, IV, or V substance as defined by Oklahoma State Statutes Title 63 O.S. §2-204, 2-206, 2-208, 2-210 and 2-212, in the City of Atoka unless such substance was obtained directly from a state-licensed physician or from a pharmacist pursuant to a valid prescription.

D. For purposes of this section marijuana means any part of any plant of the genus Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt derivative, mixture, or preparation of such plant, its seeds or resin, but shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt derivative, mixture, or preparation or such mature stalks (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seed of such plant which is incapable of germination. Marijuana shall not include industrial hemp as defined in Oklahoma State Statutes Title 2 O.S. §3-402 that is possessed by a licensee or an agent of a licensee pursuant to the Oklahoma Industrial Hemp Program, Oklahoma State Statutes Title 2 O.S. 3-401, et seq.

E. Any person violating the provisions of this section shall be guilty of an offense and shall be punished as provided for by Appendix 4 Schedule of Fines and Penalties Atoka City Code.

### SECTION 10-503 PARAPHERNALIA AND INHALANTS.

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A. Definitions. The definitions shall be the same as those used by the State of Oklahoma which can be found in Oklahoma State Statutes Title 63 O.S. §2-101 et seq., as amended from time to time.

1. Paraphernalia. The use, possession, distribution, and manufacture of drug paraphernalia are declared hazardous and detrimental to the public health and well-being of the citizens of the City. No person shall use or possess 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 the Uniform Controlled Dangerous Substances Act except as specifically authorized by Oklahoma State Statutes Title 63 O.S. §2-604 et seq.

2. Inhalants. It shall be unlawful to disturb the peace of any person while intoxicated by any cause including by deliberately smelling, inhaling, breathing, drinking or otherwise consuming any compound, liquid, chemical, narcotic, drug, or any other substance or chemical containing any ketones, aldehydes, organic acetones, ether, or chlorinated hydrocarbons, such as gasoline, glue, fingernail polish, adhesive cement, mucilage, dope, or any other substance or combination thereof containing solvents releasing toxic vapors which can cause the conditions of intoxication, inebriation, excitement, elation, stupefaction, paralysis, irrationality, dulling of the brain or nervous system, or any other changing, distorting or disturbing of the eyesight, thinking processes, judgment, balance or coordination of the person.

3. Exceptions. This provision shall not apply to any person who inhales, breathes, or drinks, or otherwise consumes any of the substances specified pursuant to the direction of any lawful prescription of a licensed medical professional, nor to the consumption of intoxicating liquor or beer in a place and manner as authorized by law.

4. Any person violating the provisions of this section shall be guilty of an offense and shall be punished as provided for by Appendix 4 Schedule of Fines and Penalties Atoka City Code.

SECTION 10-504     RESERVED

SECTION 10-505     CURFEW FOR MINORS.

A. Definitions. As used in this Section 10-505, the following words, terms or expressions shall be interpreted or construed as having the meanings respectively ascribed thereto; to-wit:

1. “BREAK CURFEW” means: to remain in or upon a public place or the premises of an establishment within the City during curfew.

2. “CURFEW” means: the time periods consisting of:

a. 11:30 p.m. on a Sunday, Monday, Tuesday, Wednesday, or Thursday, until 5:00 a.m. on the next following day; and

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b. 12:30 a.m. until 5:00 a.m. on a Saturday or Sunday.

3. “CUSTODIAN” means: a parent; a guardian; or an individual Twenty-One (21) years of age, or older, who has been specifically authorized by a parent or guardian of a minor to have the custody of, or care and control over, such minor for a specified time.

4. “DIRECT COURSE” means: directly, and without any stop, detour and/or other deviation thereof and/or therefrom.

5. “EMERGENCY” means: an unforeseen combination of circumstances or the resulting state that calls for immediate action, including but is not limited to: a fire, natural disaster, automobile accident, or any similar situation requiring immediate action to prevent serious bodily injury or loss of life.

6. “ESTABLISHMENT” means: any school or church (or other similar place of education or worship) or place of business; including any curtilage, walkway, parking, common areas, and/or open areas around, adjacent and/or associated therewith.

7. “GUARDIAN” means:

a. an individual who has been appointed by the Order of a Court of competent jurisdiction to be the guardian of the person, or of the person and property, of a minor; or

b. an individual, or a public or private agency, with whom the custody of, or care and control over, a minor has been placed by the Order of the Court of competent jurisdiction.

8. “HEREOF” means: of this Section 10-505.

9. “MINOR” means: any individual who is under Eighteen (18) years of age, unless such individual:

a. is presently legally married, or

b. has previously been married and such marriage has been terminated by a Decree of Divorce, Annulment or Separate Maintenance made by a Court of competent jurisdiction, or

c. has had his or her disabilities of minority wholly removed (as opposed to a determination that such individual may be prosecuted as an adult on a criminal charge) by the Order of a Court of competent jurisdiction.

10. “OPERATOR” means: any individual, association, partnership, corporation or other similar entity owning, utilizing, operating, managing, conducting and/or otherwise carrying out any establishment and/or the activities thereof. The term includes the members or partners of such an association or partnership or similar entity and the officers such a corporation or similar entity.

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11. “PARENT” means: an individual who:
- a. is a natural parent, or has been Decreed by a Court of competent jurisdiction to be an adoptive parent, of a minor; or
  - b. is a step-parent of a minor, if such individual’s current home is also the current home of both such minor and such a natural or adoptive parent of the minor.
12. “PERMIT” means: to knowingly, or to otherwise by insufficient supervision or control: cause, permit, suffer and/or allow.
13. “PLACE OF BUSINESS” means: any office, shopping center, store, shop, salon, cafe, restaurant, fitness center, bowling alley, theater, video or arcade center, car wash, gas or service station, motel, hotel, pool hall, club, tavern, bar, package store, or other place of business, entertainment or amusement, whether or not privately owned or operated for profit, to which the public in general, or any significant group thereof, is invited or has access or resort; including any curtilage, walkway, parking, common areas or other open areas around, adjacent and/or associated therewith.
14. “PRIOR ADJUDICATIONS” means: the person has received a conviction or deferral of imposition of a judgment and sentence for a violation hereof, within the Twelve (12) calendar months preceding the date of his or her presently alleged violation hereof.
15. “PUBLIC PLACE” means: any place to which (with or without restrictions) the general public, or any significant group thereof, has lawful general access or resort; including but not limited to:
- a. a street, alley, sidewalk, park, and/or playground;
  - b. property owned by or under the control of a governmental entity and/or subdivision, agency, division, department or instrumentality thereof and/or public trust therefor; and/or
  - c. the curtilage and/or, walkway, parking, common areas or other open areas around, adjacent or associated with schools (or other places of education), churches (or other places of worship), transport facilities, hospital and/or medical facilities, apartment and/or public housing or other similar projects and/or centers or complexes, and/or other similar places, and/or establishments.
16. “REMAIN” means: whether or not in a motor vehicle, to:
- a. linger, stay and/or be in, at, on or upon; and/or
  - b. refuse or fail to leave a premises when directed or requested to do so by a police officer, or by the operator or other person in control of the premises, or an employee thereof.

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17. “SERIOUS BODILY INJURY” means: an injury that creates a substantial risk of death, or serious permanent disfigurement, or the protracted loss or impairment a bodily member or organ.

18. “SUPERVISED SPECIAL EVENT” means: an official and valid educational, religious, civic or recreational activity or event, which is properly supervised by adults, and which is sponsored by a governmental, educational, religious, civic or other similar entity that takes responsibility for any minors participating therein.

B. Offenses. Except as provided in Subsection C hereof, it is an offense, punishable as set forth in Subsection D hereof, for:

1. A minor to break curfew.

2. a minor’s custodian to permit such minor to break curfew, unless a custodian of the minor had promptly reported to the Atoka Police Department that the minor, without the consent of a custodian of the minor, was absent from the minor’s home or other location where the minor was lawfully authorized to be.

3. An operator of an establishment, or an employee thereof, to permit a minor to break curfew on the premises of the establishment, unless an operator of the establishment, or employee thereof, had promptly reported to the Atoka Police Department that the minor was then upon such premises, during curfew, and refusing to leave.

C. Defenses. It is a defense to a prosecution for an alleged violation of Subsection B hereof that the minor was:

1. accompanied by, and under the control and supervision of, a custodian of such minor;

2. in the direct course of executing a specific lawful errand for, and at the direction of, a custodian of such minor;

3. In a motor vehicle involve in interstate travel;

4. in the direct course of carrying out a valid employment activity of the employer of the minor;

5. in the direct course of either going to, or returning home from, a valid employment activity of the minor;

6. Involved in an emergency;

7. on a sidewalk abutting the home of such minor; or on a sidewalk abutting the home of a neighbor which adjoins the home of such minor, if such neighbor does or did not complain to the Atoka Police Department about the minor’s presence there;

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8. Participating in a supervised special event;
9. In the direct course of either going to, or returning home from, a supervised special event; or
10. Exercising the minor's First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly.

D. Penalties. Any person who violates a provision hereof shall be punishable, as a separate offense, for each day or part thereof during which the violation is committed, continued or permitted. Further, any person convicted or receiving a deferral of imposition of judgment and sentence for a violation hereof shall, in addition to the costs of the action, be punishable by a fine as follows:

1. If the person has no prior adjudications: then by a fine of not less than \$25.00 and not more than \$100.00;
2. If the person has (only) One (1) prior adjudication: then by a fine of not less than \$75.00 and not more than \$150.00; and
3. If the person has Two (2) or more prior adjudications: then by a fine of not less than \$150.00 and not more than \$200.00.

E. Bail Schedule. Subject to the discretion of the City Judge and/or City Attorney to set a lower bail in appropriate cases and other laws applicable to bail, the bail schedule for a person charged with a violation hereof is set as follows: \$50.00 if the charged is punishable under Subsection D (1) hereof; \$100.00 if the charged is punishable under Subsection D (2) hereof; and \$200.00 if the charged is punishable under Subsection D (3) hereof.

F. Enforcement. An officer observing a person who appears to be a minor who is or has been committing a violation hereof should, before taking enforcement action, ask the person for his/her: name, age, home address and phone number; reason for being in or upon the public place or establishment; custodians' names, home address and phone numbers; and supporting documentation, if any. In any event:

1. if it appears that a minor is or has been committing a violation hereof, then the minor may be: warned, formally or informally; ordered to immediately, and in direct course, go to his/her home; taken to his/her home; detained, and later delivered to a custodian of the minor upon contact therewith, or in the absence of such custodian or contact therewith, to some other suitable adult; referred to State juvenile authorities, with or without being first detained; issued a summons or citation; and/or taken into custody.

2. an officer should not issue a summons or citation to, or make an arrest of, a minor or other person for a violation hereof unless, in addition to reasonably believing the violation occurred, the officer reasonably believes that, based upon the surrounding circumstances and any apparently reliable responses and/or other information received and/or coming to the officer's attention, no

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valid defense set forth in Subsection C hereof appears to exist.

### SECTION 10-506     FALSE REPRESENTATION AS BLIND, CRIPPLED OR PHYSICALLY DEFECTIVE TO OBTAIN MONEY, AID.

No person shall falsely represent himself as blind, deaf, dumb, crippled or physically defective for the purpose of obtaining money or other things of value, or to secure aid or assistance on account of such false representation.

State Law Reference: Offense against public morals being a misdemeanor, 21 O.S. Sec. 22; public decency generally, 21 O.S. Secs. 22.851, et seq.

### SECTION 10-507     PROWLING ON PREMISES.

No person shall be upon the property or premises of another with the intent to peer or peep into the window or door of the dwelling.

State Law Reference: Peeping toms generally, 21 O.S. Sec. 1171.

### SECTION 10-508     MISREPRESENTING AGE BY FALSE DOCUMENTS.

No person shall, for the purpose of violating any statutes of the state or any ordinances of the city, willfully and knowingly misrepresent his age by presenting a false document purporting to state his true age or by presenting a document not his own.

State Law Reference: Misrepresentation of age by false documents, 21 O.S. Secs. 1518-1520.

Cross Reference: Misrepresentation of age by false or altered documentation for purpose of obtaining alcoholic and nonintoxicating beverage, Secs. 3-109 and 3-213.

### SECTION 10-509     OBSCENE, THREATENING OR HARASSING TELEPHONE CALLS.

- A. No person shall by means of a telephone, willfully:
1. Make any comment, request, suggestion or proposal which is obscene, lewd, lascivious, filthy or indecent;
  2. Make a telephone call, whether or not conversation ensues, without disclosing his identity and with intent to annoy, abuse, threaten or harass any person at the called number;
  3. Permit any telephone under his control to be used for any purpose prohibited by this section; or
  4. In conspiracy or concerted action with other persons, make repeated calls or simultaneous calls solely to harass any person at the called number.



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B. Use of a telephone facility under this section shall include all uses made of such a facility between the points of origin and reception. Any offense under this section is a continuing offense and shall be deemed to have been committed at either the place of origin or the place of reception.

State Law Reference: Telephone calls, 21 O.S. Sec. 1172.

### SECTION 10-510    DISORDERLY HOUSE.

A. A disorderly house means any structure or vehicle by which the peace, comfort, health, welfare or decency of the public is disturbed by reason of the people therein committing or resorting to any of the following acts:

1. The sale, distribution, possession or use of any controlled dangerous substance, the sale, distribution, possession or use of which is declared unlawful by state statute;
2. The violation of any of the ordinances of this city or statutes of this state regulating the sale, distribution, possession or use of alcoholic and nonintoxicating beverages as defined by law;
3. The performance of any sexual act declared unlawful by state statute or city ordinance including, but not limited to, soliciting for purposes of prostitution; or
4. The violation of any state statute or city ordinance prohibiting gambling.

B. No person shall keep or maintain, or aid, abet or assist in keeping and maintaining a disorderly house.

C. 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.

D. No person shall knowingly reside in, enter into, or remain in a disorderly house. In any prosecution for violation of this section, the city shall have the burden to prove such knowledge by direct evidence only and not by circumstantial evidence. This section shall not apply to physicians or officers in the discharge of their professional or official duties.

State Law Reference: Municipal power to regulate disorderly houses and indecencies, 11 O.S. Sec. 22-109.

Cross Reference: See also Sec. 10-513 on prostitution.

SECTION 10-511     NUDITY, IMPROPER DRESS, INDECENT EXPOSURE.

It is unlawful for any person to:

1.     Appear in any public place in the city in a state of nudity;
2.     Appear in any public place in the city in any offensive, indecent or lewd dress; or
3.     Make an indecent public exposure of his or her person.

(Prior Code, Chapter 16, as amended)

State Law Reference: Similar provisions, 21 O.S. Sec. 1021.

SECTION 10-512     GAMBLING AND GAMBLING DEVICES.

A.     Any person who plays or carries on, or opens or causes to be opened, or who conducts, either as owner or employee, roulette, craps, or any banking or percentage game, played with dice, cards or any other device, for money, checks, credit or any representative of value, or any other gambling game, is guilty of an offense.

B.     Any person who bets on or plays at any of the prohibited games mentioned in subsection A above, or otherwise gambles, is guilty of an offense.

C.     It is unlawful for any person to exhibit or expose to view in any building, or in any part of or room in any building, any table, cards, dice, roulette wheel or other article or apparatus designed for or used for gambling purposes.

D.     It is unlawful for any person to keep, own, operate, use, conduct or cause to be kept, operated, used or conducted, either as owner, manager, dealer, clerk or employee, and whether for hire or not, any punch board, machine, cards, game, parlay card or any other device or paraphernalia, wherein or whereby any money or property or any representative of either, or other valuable thing, may be played, bet, staked, wagered or hazarded, won, lost or obtained upon any change, combination of numbers, emblems or any uncertain or contingent event or condition, or football or baseball contest.

E.     It is unlawful for any person to play any prohibited game described in this section.

F.     It is unlawful for any person to bar or barricade any building, or any part of or room in any building, in order to render the same difficult of access or ingress to the police officers of the city, in which building, or any part of or room in any such building, any table, cards, dice, roulette wheel or other article or apparatus designed for or being used for gambling purposes are exhibited or exposed to view.

G.     The apparatus and paraphernalia used in the conduct of any of the gambling games prohibited by this section are hereby declared to be a public nuisance and subject to seizure and suppression by any officer, and shall be abated, forfeited and destroyed upon the order and decree of

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any court of competent jurisdiction.

H. It is unlawful for any person to be about in the immediate vicinity where a person or persons are gambling, whether by playing games, operating a slot machine or other device, or otherwise.

I. Nothing herein contained shall be construed to prevent the sponsoring and operation of bingo games by nonprofit religious, fraternal, charitable or educational organizations; provided the organizations are properly licensed and operated in accordance with law. (Prior Code, Chapter 16, as amended)

State Law References: Gambling generally, 21 O.S. Secs. 941 et seq.; punishment for betting on or playing prohibited game, 21 O.S. Sec. 942, bingo generally, 21 O.S. Secs. 995.1 et seq; Oklahoma Horseracing Act, 3A O.S. Secs. 200 et seq; disposition of equipment used for gambling, 21 O.S. Sec. 943; search and seizure of equipment used for gambling, 21 O.S. Sec. 916; 22 O.S. Secs. 1261 et seq.

### SECTION 10-513     PROSTITUTION PROHIBITED

A. As used in this section, "prostitution" means and includes the getting or receiving of the body for sexual intercourse for hire and includes the giving or receiving of the body for indiscriminate sexual intercourse without hire.

B. It is unlawful:

1. To engage in prostitution, lewdness or assignation;
2. To solicit, induce, entice or procure another to commit an act of lewdness, assignation or prostitution; or
3. To aid, abet or participate in the doing of any of the acts herein prohibited.

C. No person shall in any way or manner whatever, keep, harbor or house any prostitute.

D. No person shall entice or attempt to entice any female into a house of prostitution, or have illicit sexual intercourse with any female under eighteen (Prior Code, Chapter 16, as amended) (18) years of age.

E. No person shall keep or maintain a house of prostitution or house of assignation.

F. No person shall lease, let or furnish any building, room, tent or structure of any kind, or any conveyance used or to be used as a place of prostitution or assignation within the city, or knowingly permit the same to be so used.

G. No person shall knowingly accept, receive, levy or appropriate any money or other thing of value without consideration from a prostitute or from the proceeds of any women engaged

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in prostitution.

H. No person shall offer, or offer to secure another for the purpose of prostitution, or for any other lewd or indecent act.

I. No person shall direct, take or transport, or offer or agree to take or transport or aid or assist in transporting, any person to any house, place, building or other structure, vehicle, trailer or other conveyance, or to any other person with knowledge or having reasonable cause to believe that the purpose of such directing, taking or transporting is prostitution, lewdness or assignation.

J. It is unlawful for a person to be present in a public place in a manner and under circumstances manifesting the purpose of inducing, enticing, soliciting or procuring another to commit an act of prostitution. Among the circumstances which may be considered in determining whether such a purpose is manifested are: That such person is a known prostitute or procurer; that such person repeatedly beckons to, stops or attempts to stop or engage passersby in conversation, or repeatedly stops or attempts to stop motor vehicle operators by hailing, waving of arms or any other bodily gesture. No arrest shall be made for a violation of this subsection unless the arresting officer first affords such person an opportunity to explain such conduct, and no one shall be convicted of violating this subsection if it appears at trial that the explanation given was true and disclosed a lawful purpose.

K. For the purpose of this section, a “known prostitute or procurer” is a person who, within one year prior to the date of the suspected violation of this section has, within the knowledge of the arresting officer, been convicted of a violation of this section or has been convicted of violating any statute or ordinance of any jurisdiction which makes prostitution or soliciting for the purpose of prostitution unlawful. (Prior Code, Chapter 16, as amended)

State Law Reference: Definition of prostitution, 21 O.S. Sec. 1030; Soliciting, 21 O.S. 1029; pimping, 21 O.S. 1081.

### SECTION 10-514    OFFENSES NEAR SCHOOLS.

No person shall engage in any of the conduct or acts hereinafter set forth around, in or near any school or school grounds or streets and alleys adjacent to any school:

1. Any conduct that would disturb the orderly conduct of the school;
2. Annoying or molesting any student or employee of the school;
3. Lewd or wanton conduct in, near or around any of the schools or school grounds or streets and alleys adjacent to the schools;
4. Moving or parking any vehicle in the vicinity of any school for the purpose of annoying or molesting any student or employee of the school; or
5. Any other act or conduct calculated to or likely to annoy or molest any student or

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employee of such school.

### SECTION 10-515 SLEEPING IN PLACES, PROPERTY.

It is unlawful for any person, without lawful reason, between the hours of 12:00 midnight and sunrise, to sleep on any street, in any other public place, or on any property of another without the expressed or tacit consent of the owner or person in charge of such place.

### SECTION 10-516 CONTRIBUTING TO DELINQUENCY OF A MINOR.

A. “Any person” as used in this section means any human being, without regard to the legal or natural relationship to a minor, as well as legal or corporate entities. “Minor” means any person under the age of eighteen (18) years.

B. Any person who shall knowingly or willfully cause, aid, abet or encourage a minor to be, to remain, or to become a delinquent child, as defined by state law, shall be guilty of an offense. (Prior Code, Chapter 16, as amended)

State Law Reference: Contributing to delinquency of minors, 21 O.S. 856 et seq.

### SECTION 10-517 TOBACCO TO MINORS PROHIBITED.

It is unlawful and an offense for any person to sell, barer, give or otherwise furnish cigarettes, cigars or tobacco in any form to a minor, or to permit such minor to frequent any premises owned, held or managed by him for the purpose of using or procuring cigarettes, cigars or tobacco in any form. (Prior Code, Chapter 16, as amended)

### SECTION 10-517.0 PREVENTION OF YOUTH ACCESS TO TOBACCO.

The primary purpose for enactment of Sections 10-517.0 through Section 10-517.10, inclusive, of the Atoka City Code is to prevent access to tobacco products by youths, and related activities; and, said Sections may be collectively referred to as the “Atoka City Prevention Of Youth Access To Tobacco Provisions”.

### SECTION 10-517.1 DEFINITIONS OF CERTAIN TERMS.

As used in Sections 10-517.0 through 10-517.10, inclusive of the Atoka City Code, the following words, terms and/or phrases shall be interpreted and/or construed as having the meanings respectively hereinbelow ascribed thereto, to-wit:

1. “Government Issued” means: issued by the Federal Government, the State of Oklahoma, or another State of the United States, in accordance with the laws thereof relating thereto;

2. “Person” means: any individual (regardless of such individual’s age, marital status, or emancipation status) business, retail establishment, company, firm, fiduciary, partnership,

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corporation, trust, or other association, however formed;

3. “Proof of age” means: a valid Government issued photo driver license, a valid Government issued photo identification license, or another similarly reliable and generally accepted Government issued identification which appears to be valid and contains a date of issuance thereof, and the date of birth of, and photograph or other likeness of, the individual purportedly described therein;

4. “Sample Tobacco Product” means: a tobacco product distributed or offered for distribution to the public for no consideration, or for substantially less than its normal prevailing retail price in the City of Atoka, for the purpose of promoting such products;

5. “Sampling” means the distribution or attempted distribution of sample tobacco products and/or displaying such samples as being available for immediate distribution, in a public place;

6. “Tobacco product” means any product that contains tobacco and is intended for human consumption;

7. “Transaction scan” means the use of a “Transaction scan device” to verify the validity of a item or document offered or presented as a proof of age; and

8. “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 proof of age such as a driver license or other government-issued photo identification.

9. “Use or Possess” means: to present, offer, display, consume, ingest, inhale, use, obtain, direct and/or control, or otherwise exercise any dominion and control of or over - whether by act or omission.

10. “Youth” means: an individual who has not attained Eighteen (18) years of age.

### SECTION 10-517.2 USE OR POSSESSION OF TOBACCO PRODUCTS AND/OR FALSE OR MISLEADING IDENTIFICATION OR PROOF OF AGE BY YOUTHS PROHIBITED; PENALTIES.

It is unlawful, and punishable as set forth in Section 10-517.9 hereof, for any youth to:

1. Use or possess any tobacco product (except as otherwise provided by Section 10-517.4 hereof) and/or

2. Use or possess any false, deceptive, misleading altered or invalid proof of age or other document or device purporting to show or establish his age and/or identification for any purposes, including any purpose relating to the use or possession of tobacco products.

## Offenses and Crimes

### SECTION 10-517.3 FURNISHING OR FACILITATING THE POSSESSION OR USE OF TOBACCO PRODUCTS, SAMPLE TOBACCO PRODUCTS, AND/OR FALSE OR MISLEADING IDENTIFICATION OR PROOF OF AGE BY A YOUTH PROHIBITED; EXCEPTIONS; PENALTIES.

Except as otherwise provided by Section 10-517.4 and/or 10-517.6 hereof, it is unlawful and punishable as set forth in Section 10-517.9 hereof, for any person, by any means or manner whatsoever:

1. to purchase on behalf of, obtain on behalf of, or provide, give, barter, sell, deliver, transfer to, or otherwise furnish to any youth:
  - a. any tobacco product or sample tobacco product, and/or
  - b. any false, deceptive, misleading altered or invalid proof of age or other document or device purporting to show or establish his age and/or identification for any purposes, including any purpose relating to the use or possession of tobacco products;
2. and/or to aid, facilitate or otherwise knowingly assist, allow or suffer the use or possession by any youth of any:
  - a. tobacco product or sample tobacco product, and/or
  - b. false, deceptive, misleading altered or invalid proof of age or other document or device purporting to show or establish his age and/or identification for any purposes, including any purpose relating to the use or possession of tobacco products.

### SECTION 10-517.4 EMPLOYMENT RELATED EXCEPTIONS.

Provided further, it shall not be deemed to be a violation of Section 10-517.2 or Section 10-517.3:

1. to employ a person under eighteen (18) years of age at a place of business at which tobacco products are a part of the inventory of such business, if the employer has and maintains strict rules prohibiting such employee's personal use of such tobacco products and any other possession of tobacco products thereby for non-business purposes;
2. Nor for such an employee to handle such tobacco products when so required in the performance of the employee's duties for such employer.

### SECTION 10-517.5 TOBACCO PRODUCT VENDORS REQUIRED TO OBTAIN VALID PROOF OF AGE OF ANYONE APPEARING TO BE UNDER TWENTY-SEVEN (27) YEARS OLD PRIOR TO ANY SALE OR DISTRIBUTION OF TOBACCO PRODUCTS; EXCEPTIONS AND RELATED PROVISIONS; PENALTIES.

## Offenses and Crimes

1. Any person engaged in the sale or other distribution of tobacco products shall demand proof of age from any prospective purchaser or recipient thereof if an ordinary observant person would consider, based upon any actual or presumed knowledge and/or the physical appearance of such purchaser or recipient, that such prospective purchaser may be under Twenty-Seven (27) years of age.

2. Provided further, however, if such vendor, based upon personal knowledge from prior transactions, has been previously provided valid proof of age establishing that said customer is not a youth, then the failure to subsequently require repeated proof of age shall not constitute a violation of this Section.

### SECTION 10-517.6 AFFIRMATIVE DEFENSE BASED ON INNOCENT RELIANCE UPON FALSE PROOF OF AGE.

It shall be considered to be a valid affirmative defense for any person charged with a violation of Section 10-517.3 regarding a tobacco product that such defendant had demanded, was shown, and reasonably relied upon proof of age establishing that the youth involved was not a youth. In order to establish such affirmative defense, it must be established that:

1. The involved youth presented a proof of age which appeared in all respects upon fair examination to be valid, and which established he was (18) years of age or older;

2. The defendant exercised reasonable diligence in determining that the youth was the person identified therein, by exercising reasonable diligence in the examination thereof, and in the comparison thereof to the youth; and

3. The defendant confirmed the apparent validity of such proffered proof of age by conducting a transaction scan thereupon by the use or means of a transaction scan device.

### SECTION 10-517.7 TOBACCO PRODUCT VENDORS PROHIBITED FROM SALE OR OTHER DISTRIBUTION OF TOBACCO PRODUCTS EXCEPT IN ORIGINAL SEALED PACKAGING OR CONTAINER, OR IN ANY UNSECURED LOCATION; PENALTIES.

It is unlawful, and punishable as set forth in Section 10-517.9 for any vendor or other person involved in the distribution or sale of tobacco products to the public:

1. To distribute, sale or offer for sale any tobacco product except in the original, sealed package and/or container in which they were placed by the manufacturer thereof; or

2. To display or offer for sale any tobacco products in any manner that allows public access to the tobacco product without assistance from the person displaying the tobacco product or an employee or the owner of the store.

### SECTION 10-517.8 PROHIBITIONS AND RESTRICTIONS ON DISTRIBUTION OF TOBACCO PRODUCTS AND/OR TOBACCO PRODUCT SAMPLES IN



## Offenses and Crimes

### CERTAIN PUBLIC AREAS; PENALTIES.

It is unlawful, and punishable as set forth in Section 10-517.9 hereof for any person to distribute tobacco products or product samples in or upon any:

1. Public park and/or playground,
2. Public or private school whose students are primarily youths;
3. Any other public facility being then primarily used by or for youths; and/or
4. Any public street or sidewalk within Three hundred (300) feet of any or either such a location.

### SECTION 10-517.9 PENALTIES

Except as otherwise provided in subsection Three (3) of this Section 10-517.9, any person who is given a deferred imposition of judgment and sentence and/or who is convicted for a violation of any of the provisions of Sections 10-517.0 through 10-517.9 hereof, inclusive, shall be punished by imposition of a fine and costs and/or assessment as follows:

1. If the defendant was a youth at the time of the commission of the offense, and is charged with a violation of Section 10-517.2, then: not less than Fifty Dollars (\$50.00), nor more than One Hundred Dollars (\$100.00); and
2. For any other violation of any other provisions of Sections 10-517.0 through 10-517.9, inclusive, hereof by any person, not less than One Hundred Dollars (\$100.00), nor more than Two Hundred Dollars (\$200.00);
3. Provided further, if at the time of the imposition thereof, said person had been previously convicted of, or previously received a deferment upon, a prior violation of Sections 10-517.0 through 10-517.9, inclusive, hereof (as the same may now, or heretofore or hereafter provided) within the immediately preceding five (5) years, then, said minimum and maximum penalties shall be, respectively, multiplied by the number of such prior convictions and/or deferrals; but, in no event shall the same be accessed in excess of Seven Hundred Dollars (\$700.00), regardless of the number of such prior occurrences.

### SECTION 10-517.10 REPORTS OF ADULT DEFERRALS OR CONVICTIONS TO ABLE COMMISSION.

Any deferrals or convictions of a violation of any of the provisions of Sections 10-517.0 through 10-517.9 hereof, inclusive of any person other than a youth shall be reported in writing by the Municipal Court Clerk to the State of Oklahoma Alcoholic Beverage Laws Enforcement (ABLE) Commission within thirty (30) days thereof. Such reports shall be compiled in the manner prescribed by the ABLE Commission.

Offenses and Crimes

CHAPTER 6

OFFENSES AGAINST PUBLIC AUTHORITY

Section 10-601	Escaping custody.
Section 10-602	Conveying instruments to assist escape.
Section 10-603	Assisting prisoner to escape.
Section 10-604	Assaulting city officer.
Section 10-605	Delivery of articles to person in confinement.
Section 10-606	Resisting a police officer.
Section 10-607	Citizens' duty to assist.
Section 10-608	Obedience to orders of police and firefighter.
Section 10-609	Eluding police officer by motor vehicle.
Section 10-610	Use of siren or whistle.
Section 10-611	Impersonating a police officer or any city officer.
Section 10-612	False statements, reports or complaints.
Section 10-613	False alarms.
Section 10-614	Removal of barricades.
Section 10-615	Resisting public officials.
Section 10-616	Duties of the public at fires, emergencies.
Section 10-617	Tampering with signs, equipment.
Section 10-618	Interference with police dog performing functions or duties.
Section 10-619	Destroying, tampering with evidence.

SECTION 10-601     ESCAPING CUSTODY.

No person lawfully in custody or confined in the city jail, before or after conviction for any violation of the ordinances of the city, or held in custody going to the city jail, or working upon the streets or other public grounds of the city or in custody of any officer of the city, shall break or attempt to break such city jail or custody, and escape or attempt to escape therefrom. (Prior Code, Chapter 16, as amended)

SECTION 10-602     CONVEYING INSTRUMENTS TO ASSIST ESCAPE.

No person shall convey into the city jail any disguised instrument or anything proper or useful to facilitate the escape of any prisoner lawfully committed to or detained in the city jail for any violation of the city ordinances, for any criminal offense, or lawfully detained or imprisoned therein, whether such escape is effected or attempted or not.

SECTION 10-603     ASSISTING PRISONER TO ESCAPE.

No person shall in any way aid, remove or assist any person to resist or escape from custody of any police officer or from any lawful confinement in the city. (Prior Code, Chapter 16, as amended)

State Law Reference: Assisting prisoner to escape, 21 O.S. Secs. 437, 441.

## Offenses and Crimes

### SECTION 10-604 DELIVERY OF ARTICLES TO PERSON IN CONFINEMENT.

No person shall deliver any article or thing to any person under arrest without the consent of the officer having charge and custody of the prisoner. (Prior Code, Chapter 16, as amended)

### SECTION 10-605 ASSAULTING CITY OFFICER.

No person shall knowingly commit any assault, battery or assault and batter any city official or police officer or firefighter while in the performance of their duties. (Prior Code, Chapter 16, as amended)

State Law Reference: Assaulting law officer, 21 O.S. Secs. 649, 650.

### SECTION 10-606 RESISTING A POLICE OFFICER.

A. It is unlawful to resist, oppose or assault, prevent, fail to cooperate with or in any way interfere with a police officer or any person duly authorized to act as such, while the officer or person is discharging or attempting to discharge his official duties within the limits of the city.

B. It is unlawful for any person to warn or signal another so as to assist such other person to flee, escape or evade an officer seeking to make an arrest or for any person to bar or lock any door or barrier in the face of or in front of an approaching officer.

C. Resisting an officer is the intentional opposition or resistance to, or obstruction of, an individual acting in his official capacity, and authorized by law to make a lawful arrest or seizure of property, or to serve any lawful process or court order, when the offender knows or has reason to know that the person arresting, seizing property, or serving process is acting in his official capacity.

D. The words "obstruction of" shall, in addition to their common meaning, include:

1. Flight by one sought to be arrested before the arresting officer can restrain him and after notice is given that he is under arrest;

2. Any violence toward or any resistance or opposition to the arresting officer after the arrested party is actually placed under arrest and before he is under arrest; or

3. Refusal by the arrested party to give his name and make his identity known to the arresting officer. (Prior Code, Chapter 16, as amended)

### SECTION 10-607 CITIZENS' DUTY TO ASSIST.

It is the duty of all persons in the city when called upon by any police officer to promptly aid and assist him in the execution of his duties. (Prior Code, Chapter 16, as amended)

### SECTION 10-608 OBEDIENCE TO ORDERS OF POLICE AND FIREFIGHTER.

## Offenses and Crimes

No person shall fail to heed a reasonable order of a police officer or firefighter while such officer is in the discharge of an official duty in maintaining the public safety or welfare.

### SECTION 10-609 ELUDING POLICE OFFICER BY MOTOR VEHICLE.

No operator of a motor vehicle who has received a visual or audible signal, a red light or a siren from a police officer driving a motor vehicle, showing the same to be an official police, sheriff or highway patrol car directing the operator to bring his vehicle to a stop, shall willfully increase his speed or extinguish his lights to elude or attempt to elude such police officer, or attempt in any other manner to elude the police officer.

### SECTION 10-610 USE OF SIREN OR WHISTLE.

A. No person shall use any police whistle or any other instrument used by police officer to give signals to each other, or imitate any signal given by one police officer to another or any special signal used by police officers, for the purpose of improperly or causelessly attracting the attention of the police.

B. No person, except members of police department, fire department or ambulance services, shall ring, use or otherwise sound any gong, siren, whistle or any other device for making similar noise.

### SECTION 10-611 IMPERSONATING A POLICE OFFICER OR ANY CITY OFFICER.

A. No person, other than police officers of the city, shall wear or carry the uniform, apparel, badge, identification card or any other insignia of office like or similar to, or a colorable imitation of that adopted and worn or carried by the police officers of the city.

B. No person shall do or attempt any act to impersonate a police officer.

C. It is unlawful to falsely impersonate any officer or employee of the city, or falsely represent himself to be an officer or employee of the city, by any kind of representation, pretense, insignia, sound, clothing or conduct, or exercise or attempt to exercise any of the duties, functions or powers of an officer or employee of the city without being authorized to do so. (Prior Code, Chapter 16, as amended)

State Law Reference: Impersonating public officers, 21 O.S. Secs. 263, 264, 1533.

### SECTION 10-612 FALSE STATEMENTS, REPORTS OR COMPLAINTS.

A. No person shall knowingly make or file or cause to be made or filed a false or misleading report or misrepresentation, allegation or complaint with the police department or any officer or employee of the city, or on any official application or to commit perjury before any tribunal of the city.

B. No person shall willfully and without probable cause make a false report to any

## Offenses and Crimes

person of any crime, violation of the city's ordinances, or circumstances indicating the possibility of crime or violation having been committed, including but not limited to the unlawful taking of personal property, which report causes or encourages the exercise of police or other official action or investigation.

### SECTION 10-613 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, police department or any other emergency personnel, or summon 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 or unnecessary run to any part of the city or outside the city. (Prior Code, Chapter 16, as amended)

### SECTION 10-614 REMOVAL OF BARRICADES.

It is unlawful for any person except by proper authority to remove any barricade or obstruction placed by authority of the city to keep traffic off any pavement, street, curb, sidewalk or other area. (Prior Code, Chapter 16, as amended)

### SECTION 10-615 RESISTING PUBLIC OFFICIALS.

It is unlawful for any person knowingly or willfully to:

1. Resist, oppose or obstruct the chief of police, any other police officer, the municipal judge, or any other officer or employee of the city in the discharge of his official duties;
2. Obstruct, threaten or otherwise intimidate or attempt to intimidate any officer or employee from the discharge of his official duties; or
3. Assault or beat, or revile, abuse, be disrespectful to, use abusive or indecent language toward or about, any such officer or employee while such officer or employee is in the discharge of his official duties. (Prior Code, Chapter 16, as amended)

### SECTION 10-616 DUTIES OF THE PUBLIC AT FIRES, EMERGENCIES.

A. All persons at fires or other emergencies or accidents shall conduct themselves in an orderly and lawful manner and to assist in maintaining law and order.

B. No person at or near any fire or emergency shall conduct himself in a disorderly manner or neglect or refuse to promptly obey any order of the fire chief or his assistants relative to such fire; and no person shall resist, obstruct, hinder or abuse any officer of the fire department or any firefighter in the proper discharge of his duty.

C. Every police officer present at a fire shall keep back all persons who are in the way or impeding the work of the fire department, and so far as possible protect all property from loss or

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injury, and cooperate with and assist the fire department in every way possible while at the fire. The fire chief or an assistant fire chief or any police officer shall have the power to designate persons to guard any goods.

D. No person shall follow or block the way of any emergency vehicle engaged in emergency run, or knowingly interfere with officers at the location of any fire or emergency. (Prior Code, Chapter 16, as amended)

State Law Reference: Interfering with firefighters 21 O.S. Sec. 127.

### SECTION 10-617 TAMPERING WITH SIGNS, EQUIPMENT.

It is unlawful for any person to tamper with any signs, signal equipment or other device placed, operated and maintained by the city in connection with the administration of its code provisions, ordinances, regulations, services, functions or performance of duties thereto. (Prior Code, Chapter 16, as amended)

Cross Reference: See also tampering with public utilities, Section 10-314.

### SECTION 10-618 INTERFERING WITH POLICE DOG IN PERFORMING FUNCTIONS OR DUTIES.

It is unlawful and an offense for any person to interfere with, tease, meddle with, throw objects at or toward, torture, torment, injure, beat, strike, kick, mutilate, disable or kill any dog used by the police department of the city, or any member thereof, in the performance of the functions or duties of the department. (Prior Code, Chapter 16, as amended)

### SECTION 10-619 DESTROYING, TAMPERING WITH EVIDENCE.

It is unlawful to destroy, alter, conceal or disguise physical evidence, plant false evidence or furnish false information to an officer which impedes that or another officer in the performance of his duties, or which is intended to prevent the apprehension or to obstruct the prosecution or defense of any person. (Prior Code, Chapter 16, as amended)

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### CHAPTER 7

#### WEAPONS AND FIREARMS

Section 10-701	Definitions.
Section 10-702	Carrying weapons, exceptions.
Section 10-703	Discharging Firearms, Air Rifles, BB Guns, Pellet Guns, etc.; - Exceptions.
Section 10-704	Conditions under which firearm may be carried.
Section 10-705	Firearms in motor vehicle.
Section 10-706	Carrying concealed weapons.

#### SECTION 10-701     DEFINITIONS.

As used in this chapter:

1.     “Pistol” means any firearm capable of discharging projectile composed of any material which may reasonably be expected to be able to cause lethal injury with a barrel or barrels less than sixteen (16) inches in length and using either gunpowder, gas or any means of rocket propulsion, but not to include flare guns, underwater fishing guns or blank pistols;

2.     “Rifle” means any firearm capable of discharging a projectile composed of any material which may reasonably be expected to be able to cause lethal injury with a barrel or barrels more than sixteen (16) inches in length and using either gunpowder, gas, or any means of rocket propulsion, but not to include archery equipment, flare guns or underwater fishing guns. In addition, any rifle capable of firing shot but primarily designed to fire single projectiles will be regarded as a rifle; and

3.     “Shotgun” means any firearm capable of discharging a series of projectiles of any material which may reasonably be expected to be able to cause lethal injury with a barrel or barrels more than eighteen (18) inches in length and using either gunpowder, gas or any means of rocket propulsion, but not to include any weapon so designed with a barrel less than eighteen (18) inches in length. In addition, any shotgun capable of firing single projectiles but primarily designed to fire multiple projectiles such as shot will be regarded as a shotgun. (Prior Code, Chapter 16, as amended)

Charter Reference: Right to bear arms, Sec. 13-1 of the charter.

State Law Reference: Carrying firearms, regulations, 21 O.S. 1289.1, et seq.

#### SECTION 10-702     CARRYING WEAPONS, EXCEPTIONS.

It is unlawful for any person to carry upon or about his person, or in his portfolio or purse, any pistol, revolver, dagger, bowie knife, dirk knife, switchblade knife, spring-type knife, sword cane, knife having a blade which opens automatically by hand pressure applied to a button, spring or other device in the handle of the knife, blackjack, loaded cane, billy, hand chain, metal knuckles, or any other offensive weapon, except as otherwise provided in this chapter. This section shall not prohibit the proper use of guns and knives for hunting, fishing or recreational purposes, nor shall this

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section be construed to prohibit any use of weapons in a manner otherwise permitted by law. (Prior Code, Chapter 16, as amended)

Cross Reference: See also Section 10-204 of this code on reckless conduct.

### SECTION 10-703      DISCHARGING FIREARMS, AIR RIFLES, BB GUNS, PELLET GUNS, ETC.; - EXCEPTIONS.

It is unlawful (except as below set forth in Subsection C of this Section 10-703) for any person to:

A. discharge any firearm, air rifle, BB gun, pellet rifle, pellet gun, or other similar gun, rifle, firearm or weapon within the city limits, and/or

B. to allow or permit another person to discharge any firearm, air rifle, BB gun, pellet rifle, pellet gun, or other similar gun, rifle, firearm or weapon upon property or premises owned and/or controlled thereby, located within the city limits,

C. unless and except when (if and only if) such discharge occurs:

1. In the line of duty, by a peace Officer;

2. While in the lawful defense of oneself, and/or of another person and/or of property in a manner and circumstances such that such discharge would otherwise be lawful but for the otherwise applicable provisions of this Section 10-703;

3. While lawfully participating in a skeet, trap or other similar competitive shooting event - but only if:

a. such event is properly controlled by persons whose training and experience had been previously thereto approved by the Chief of Police;

b. and which is wholly and exclusively confined to a premises which has been duly inspected and approved by the Chief of Police and Fire Chief for such event,

c. and which such premises, and such persons so controlling the same, at the time of such discharge, had and displayed a permit therefor which had been previously issued by the City Manager of the City of Atoka, and

d. such participation, discharge or event does not create an unreasonable risk of harm to another, and

e. the manner and circumstances of such discharge are such as to not demonstrate a conscious disregard for the safety of other persons or property, and

f. otherwise occurs in a manner and circumstances such that such discharge



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would otherwise be lawful but for the otherwise applicable provisions of this Section 10-703;

4. While doing so in the lawful participation in a training, practice or competitive shooting event conducted entirely within an indoor shooting range or gallery premises - but only if:

a. such event is properly controlled by persons whose training and experience had been previously thereto approved by the Chief of Police;

b. and wholly within a building, located at a premises, which said building and said premises had been previously thereto duly inspected and approved by the Chief of Police and Fire Chief for such an indoor shooting range or gallery;

c. and which such building, premises, and persons so controlling the same, at the time of such discharge, had and displayed a permit therefor which had been previously issued by the City Manager of the City of Atoka, and

d. such participation, discharge or event does not create an unreasonable risk of harm to another, and

e. the manner and circumstances of such discharge are such as to not demonstrate a conscious disregard for the safety of other persons or property, and

f. otherwise occurs in a manner and circumstances such that such discharge would otherwise be lawful but for the otherwise applicable provisions of this Section 10-703; and/or

5. In a manner and/or under circumstances otherwise specifically authorized by law or ordinance. (Prior Code, amended by Ordinance No. N. C. 428, 8/30/95)

Cross Reference: See also Section 10-204 on reckless conduct.

### SECTION 10-704     CONDITIONS UNDER WHICH FIREARM MAY BE CARRIED.

A person shall be permitted to carry a shotgun, rifle or pistol, open and not concealed, under the following conditions:

1. When going to, during participation in or coming from hunting animals or fowl, including moving from place to place by vehicle. However, a rifle or shotgun may be carried in a landborne motor vehicle over a public highway or roadway when clip or magazine loaded and not chamber loaded when carried in a locked compartment of the vehicle, such as the trunk of an automobile;

2. When going to, during competition in or practicing or coming from safety or hunter safety class, target shooting, skeet, trap or other recognized sporting events;

3. When unloaded, going to or coming from a gunsmith;

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4. When unloaded, going to or coming from a store for purposes of repair, trade, barter or sale;
5. Going to or coming from a military function of the state military forces to be defined as the Oklahoma Army or Air National Guard, Federal Military Reserve and active military forces;
6. Going to or coming from a recognized police function or either a municipal, county or state government as functioning police officials;
7. When unloaded, going to or coming from a place of publicly recognized firearms display such as a gun show where the public is invited;
8. When unloaded, going to or coming from a point of private trade for purposes of transferring the firearm to another private citizen in exchange for moneys, payment for services or trade;
9. When going to, coming from and during a performance for entertainment purposes; or
10. For any legitimate purpose not in violation of this code or any legislative enactment regarding the use, ownership and control of firearms. (Prior Code, Chapter 16, as amended)

### SECTION 10-705 FIREARMS IN MOTOR VEHICLE.

A person may carry or transport in a motor vehicle a rifle, shotgun, or pistol, unloaded, at any time except when loaded in a landborne motor vehicle over a public highway. However, a rifle or shotgun may be transported when clip or magazine loaded and not chamber loaded when transported in a locked compartment of the vehicle, such as the trunk. (Prior Code, Chapter 16, as amended)

### SECTION 10-706 CARRYING CONCEALED WEAPONS.

It is unlawful for any person, except a law enforcement officer, a registered security officer or a person employed by an armored car firm licensed by the state corporation commission to carry a concealed weapon other than permitted by this chapter. (Prior Code, Chapter 16, as amended)

Parks, Recreation and Cemetery

**PART 11**

**PARKS, RECREATION AND CEMETERY**

CHAPTER 1

PARKS AND RECREATION

Section 11-101	Rules and regulations adopted.
Section 11-102	Parks and recreation board.
Section 11-103	Swimming pool.
Section 11-104	Penalty.

CHAPTER 2

CITY LAKE AND LAKE ATOKA RESERVOIR RESERVATION

ARTICLE A

CITY LAKE

Section 11-201	Rules and regulations for City Lake.
Section 11-202	Motor boats prohibited.
Section 11-203	Penalty.

ARTICLE B

LAKE ATOKA RESERVOIR RESERVATION

Section 11-211	Definitions.
Section 11-212	Sports permitted.
Section 11-213	Closing of lakes or parts thereof.
Section 11-214	Prohibited acts.
Section 11-215	Acts prohibited in certain areas.
Section 11-216	Fishing license.
Section 11-217	Time and place of fishing.
Section 11-218	Manner of fishing.
Section 11-219	Bag limit.
Section 11-220	Hunting permits and regulations.
Section 11-221	License forms.
Section 11-222	License, release from liability for accidents.
Section 11-223	Concessions.
Section 11-224	Boating permit fees.
Section 11-225	Boating requirements, inspection.
Section 11-226	Canoes, dimensions, passengers, requirements.
Section 11-227	Boating regulations.

## Parks, Recreation and Cemetery

Section 11-228	Safety requirements for water skiing.
Section 11-229	Enforcement by chief ranger.
Section 11-230	Authority of chief ranger.
Section 11-231	Violations.
Section 11-232	Overcharges, penalty.
Section 11-233	Penalty.

### CHAPTER 3

#### CEMETERY

Section 11-301	Designation of cemeteries.
Section 11-302	Conditions of lot purchases.
Section 11-303	Purchase of lots.
Section 11-304	Transfer of lots.
Section 11-305	Rates for burial lots.
Section 11-306	Rates for interment, disinterments.
Section 11-307	Interments and disinterments.
Section 11-308	Grave excavations not to be left open overnight.
Section 11-309	Rules and regulations.
Section 11-310	Children.
Section 11-311	Property damage, financial responsibility.
Section 11-312	Traffic regulations.
Section 11-313	Supervision of lot plantings and improvements.
Section 11-314	Lot care.
Section 11-315	Conditions before interment.
Section 11-316	Preparation of graves.
Section 11-317	Disinterment and removal.

Parks, Recreation and Cemetery

CHAPTER 1

PARKS AND RECREATION

Section 11-101	Rules and regulations adopted.
Section 11-102	Parks and recreation board.
Section 11-103	Swimming pool.
Section 11-104	Penalty.

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     PARKS AND RECREATION BOARD.

A.     There is hereby created a parks and recreation board consisting of five (5) members, four (4) of which shall be appointed by the mayor, subject to confirmation by the council, and the remaining member shall be the mayor. All members other than the mayor shall serve four-year staggered terms.

B.     The board shall elect one of its number chairman and one as secretary. The board shall keep a correct record of its proceedings and shall meet on the second Monday of each month in the city council chamber at 7:00 p.m., or at other times designated by motion or resolution of the board. Three (3) members shall constitute a quorum for conducting business, and the approval of any item of business, resolution or action shall require the vote of the majority of those members present.

C.     The parks and recreation board shall have control, superintendence and charge of all public parks, public recreation areas and any lands or lots, hereto or hereafter devised or bequeathed to the city for park purposes, and shall direct the ornamenting, adorning, laying out and improving of the grounds of the parks, the supervision of the city swimming pool or pools, and the supervision of summer recreation programs for children and adults, such as baseball and other sports programs.

D.     The board may, subject to the approval of the city council, recommend employment of some competent person to supervise the recreation facilities of the city so that the facilities may receive optimum use, which person shall also supervise the public recreation facilities and direct the summer recreation and sports programs and perform other related duties as may be assigned. The salary of the supervisor shall be set by the city. The parks and recreation supervisor shall not necessarily be a full-time position.

E.     All receipts on account of city parks, whether arising from rentals, donations or from some other source, shall be exclusively expended and applied under the direction and control of the parks and recreation board.

## Parks, Recreation and Cemetery

F. The board shall receive a yearly appropriation from the city council with which to carry out its duties and shall make expenditures in accordance with its defined functions as set forth above and as allowed or limited by law. The board shall collect all funds received from rentals, fees, donations and other sources and shall deposit these with the city treasurer who shall be the treasurer for the board. All expenditures made by the board shall be paid from the appropriated monies of the board by warrant in the same manner as other claims against the city are paid. (Prior Code, Secs. 17-1 to 17-6)

### SECTION 11-103     SWIMMING POOL.

The city council may from time to time adopt regulations governing the city swimming pool. Fees for use of the pool for daily use, parties, lessons and passes shall be as set by the council by motion or resolution.

Cross Reference: See Fee Schedule, Appendix 2, for applicable fees.

### SECTION 11-104     PENALTY.

It is unlawful for any person to use any 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.

Parks, Recreation and Cemetery

CHAPTER 2

CITY LAKE AND LAKE ATOKA RESERVOIR RESERVATION

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CITY LAKE

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Parks, Recreation and Cemetery

ARTICLE A

CITY LAKE

SECTION 11-201     RULES AND REGULATIONS FOR CITY LAKE.

Use of the premises at the City Lake shall be at the risk of the person entering thereon. Persons shall abide by the following rules and regulations:

1.     No person shall commit any nuisance or engage in disorderly conduct;
2.     No person shall enter or remain upon the premises in an intoxicated condition, or use or possess intoxicating beverages thereon;
3.     No person shall build or light any fire upon the premises except in picnic ovens, which may hereafter be constructed by the city;
4.     No person shall molest public or private property;
5.     No person shall bathe or swim in the reservoir or pollute the reservoir areas in any manner; and
6.     No person shall park an automobile on the dam or in any restricted parking area longer than necessary to load or unload a boat. (Ord. No. N.C. 347, 9/21/87)

SECTION 11-202     MOTOR BOATS PROHIBITED ON CITY LAKE.

It is unlawful to operate a motor boat on City Lake at any time. (Prior Code, Sec. 7-29)

SECTION 11-203     PENALTY.

Any violation of the city's rules applicable to the city lake shall be punished as provided in Section 1-108 of the city code. (Prior Code, Sec. 17-30).

ARTICLE B

LAKE ATOKA RESERVOIR RESERVATION

SECTION 11-211     DEFINITIONS.

For the purpose of this article:

1.     "Association" means the Lake Atoka Reservation Association;
2.     "Atoka Reservoir Reservation" or "Reservation" shall mean and include the public water supply reservoir known as Lake Atoka, its associated dam and spillway section and



## Parks, Recreation and Cemetery

all land and property owned by the City of Oklahoma City and the Oklahoma City Municipal Improvement Authority immediately surrounding and adjacent thereto. (Prior Code, Sec. 17-7)

### SECTION 11-212    SPORTS PERMITTED.

The entering upon, fishing, hunting, boating, water skiing or engaging in other sporting activities on the reservation with license and permit as herein provided, is hereby authorized subject to state and federal laws prescribing open and closed seasons for fishing and hunting and regulating the same and all the provisions of this article. Water skiing shall be permitted only in those areas designated and marked by buoys and water skiing shall be subject to safety regulations issued by the association. (Prior Code, Sec. 17-8)

### SECTION 11-213    CLOSING OF LAKES OR PARTS THEREOF.

The association is hereby authorized to close the reservation to fishing during the spawning season, and to designate any particular area or areas as closed to the public when in the judgment of the association such closing is necessary for the public safety and welfare or for the protection of public property and the public water supply. There shall be selected and located in the most appropriate sections of the reservation in as widely separated locations as possible, areas to be properly marked and designated as spawning or propagating areas, and all wading, shooting, fishing or boating in or upon such areas is hereby prohibited. (Prior Code, Sec. 17-9)

### SECTION 11-214    PROHIBITED ACTS.

The following acts or omissions, among other acts and omissions dangerous to human life and health or injurious to public health, are hereby prohibited upon the reservation:

1.     Camping upon any part of the reservation;
2.     Swimming, bathing or wading in any of the waters of the reservation, except that which is incidental to water skiing activities. Nothing herein shall be construed to prohibit persons wearing water-tight wading boots or other water-tight clothing from wading in water not exceeding the height of the wading boots or clothing;
3.     Throwing or depositing in or upon the waters of the reservation, or upon the land within the immediate drainage area of the water supply reservoir of any filthy water or like waste, scraps of food, flesh, offal, refuse of any kind, dead animals or fish, excretions or any body discharge, or any substance, which by its decay or putrefaction, would tend to contaminate the waters or adjacent soil or become offensive. Nothing herein contained shall be construed to prohibit the use of animal or fish flesh as bait when actually used upon hooks;
4.     The moving or displacing of rock, gravel or soil or digging of holes or the building of mounds or the moving or displacing of the bank protection or riprapping;

## Parks, Recreation and Cemetery

5. The damage, destruction, displacement or removal of trees, shrubs, picnic tables, or picnic seats, signs, fences, guard rails or buildings or any other public property whether constructed or naturally growing;

6. The use of drinking or intoxicating beverages, drunkenness, gambling or engaging in disorderly, unchaste or lewd conduct, habitual loafing, sleeping on the ground or benches, or the making, aiding or assisting in making any disorderly noise, riot or breach of the peace;

7. Skin or scuba diving, except by express permission of the general manager or his designated assistant during an emergency or salvage operation. (Prior Code, Sec. 17-10)

### SECTION 11-215 ACTS PROHIBITED IN CERTAIN AREAS.

No fishing shall be permitted within five hundred (500) feet of the intake tower or walkway to the tower or concrete spillway section of the dam. (Prior Code, Sec. 17-11)

### SECTION 11-216 FISHING LICENSE.

A. Licenses for fishing in and upon the waters of the reservation shall be issued by or under the supervision of the association. Such fishing license shall be issued for the period, and at the rate not to exceed the amounts indicated in the fee schedule, for one day or annual licenses, and shall be subject to the limitations and restrictions set forth in this article.

B. Any annual license shall expire on the 30th day of April next following the issuance thereof, and may be issued at any time during the permit year for the remainder of such permit year.

C. No license shall be required for any honorably discharged veteran of the Armed Forces of the United States who is suffering a sixty percent (60%) or greater disability, persons over sixty-five (65) years of age or persons under sixteen (16) years of age when accompanied by parents or other adults having license, and all other excluded by the statutes of the state. The association may make such rules as may be reasonably necessary to establish such eligibility. (Prior Code, Sec. 17-12)

### SECTION 11-217 TIME AND PLACE OF FISHING.

Fishing permits shall allow fishing for a twenty-four-hour period from time of issuance. Such permits shall allow fishing only at periods and times authorized by the state and federal laws and shall not permit fishing in or upon any areas designated as spawning areas, or areas that may be otherwise restricted as hereinafter provided. During the hunting season, the holder of a fishing license shall not be entitled to fish on the premises at any place where, in the judgment of the association, such fishing will interfere with hunting thereon. (Prior Code, Sec. 17-13)

### SECTION 11-218 MANNER OF FISHING.

The following rules apply to manner of fishing:

## Parks, Recreation and Cemetery

1. No more than one fishing permit shall be issued to any one person;
2. A fishing permit shall entitle the holder thereof to the use of not to exceed three (3) poles. Not more than three (3) hooks shall be used upon any one line. This shall not apply to artificial lures with more than three (3) hooks;
3. No net, trap, gig, spear, trammel net or seine of any kind, nor trot or throw lines shall be used;
4. The following species of fish may be taken by bow and arrow: Shad, buffalo, carp, drum, gar, and snakes, with no bag limit;
5. No bow lighter than thirty (30) pounds shall be used, and no arrow with more than three (3) points or with more than two (2) barbs on each point shall be permitted. One end of a line not lighter than forty (40) pound test shall be attached to the arrow, the other end of the line to be attached either to the bow or to a fishing rod with reel;
6. Archers shall be permitted to shoot from reservoir banks, boat or while wading in shallow water, but in no case shall be permitted to shoot in the direction of other archers, fishermen, buildings, boats or in any direction except downward into the water. Such fishing shall be permitted between sunup and midnight only. No fish shall be left in the water or at any other place on the lake reservation, the removal and disposition of fish taken being the sole responsibility of archery-fishermen;
7. All state and federal regulations regarding the use of the bow and arrow for the taking of such fish and snakes must be observed by the archer. Trot lines may be used;
8. The practice of “snagging” or “pulling” or “jerking” an unbaited hook through the water for the purpose of hooking or snagging fish is hereby prohibited;
9. Each person holding a permit to fish shall be allowed to use one minnow trap having a funnel entrance and which shall not exceed eighteen (18) inches in any dimension;
10. No game fish from the lakes shall be used as bait. (Prior Code, Sec. 17-14)

### SECTION 11-219    BAG LIMIT.

A. The following are classified as game fish in the state: largemouth black bass, small mouth black bass, spotted black bass, rock bass (goggle eye), black crappie, white crappie, trout, blue catfish under twenty-four (24) inches are defined to mean “forked tail” catfish.

B. It is illegal to take game of any length in any waters of the state by any means other than by hook-and-line.

## Parks, Recreation and Cemetery

C. The angler may take game fish limits shown as hereinafter set forth in any one day from midnight to midnight. Licensed nonresident fishermen shall not have in their possession on leaving the state more than a legal two-day catch of any species of game fish:

	Species	Minimum Length	Daily Catch Limit	Possession Limit on Leaving State
1.	Largemouth, smallmouth or spotted black bass	No minimum in state controlled waters	10 aggregate	20 aggregate
2.	Channel or blue catfish	No minimum in state controlled waters	15 aggregate	30 aggregate
3.	Crappie	No minimum in state controlled waters	25 aggregate	50 aggregate
4.	Trout	No minimum in state controlled waters	10 aggregate	20 aggregate
5.	Rock Bass (goggle eye)	No minimum in state controlled waters	Unlimited	Unlimited
6.	Walleyed Pike (yellow piked perch)	No minimum in state controlled waters	3 aggregate	6 aggregate
7.	White bass	No minimum in state	Unlimited	Unlimited

In the event the bag limit as heretofore set forth does not comply with the statutes of the state, the statutes of the state shall apply. (Prior Code, Sec. 17-15)

### SECTION 11-220 HUNTING PERMITS AND REGULATIONS.

Permits for water fowl shooting upon the reservation, with shotgun only, shall be issued for the season or for one day, and rates as in the fee schedule subject to the limitations and restrictions set forth.

The licenses shall be issued by or under the supervision of the association. The following rules apply:

1. No person shall hunt with rifle of any size or caliber;
2. No person shall take, shoot, kill or trap any quail or doves upon the premises at any time;

## Parks, Recreation and Cemetery

3. No person shall take or kill more wild ducks, or wild geese, than permitted by the state and federal laws;

4. No person shall shoot at or kill any game birds or nongame birds or animals at any time, either in daytime or night-time, when such shooting is prohibited by state and federal laws or both. Nothing herein shall be construed as legalizing the killing of quail or doves at any time;

5. No person shall shoot at or kill any variety of bird or water fowl protected by the laws of the state or of the United States. (Prior Code, Sec. 17-16)

### SECTION 11-221     LICENSE FORMS.

There shall be printed license forms, which forms shall contain ample and appropriate space for identification of the licensee and the specific activity, or combination of activities, for which such licenses are issued, and the date of expiration. A pledge shall be printed thereon with substantially the following language:

“In consideration of the issuance to me of this license, I hereby agree faithfully to observe any rules of safety, sanitation and sportsmanship, together with all provisions of the ordinances of the City of Oklahoma City, the City of Atoka, and the State Game and Fish laws while upon the land or waters included in the Atoka Reservoir Reservation and to hold the Lake Atoka Reservation Association harmless for any injury to life or limb or property incident to the exercise of the privileges hereby granted.”

Such books of license forms shall be supplied to the chief ranger or his assistants on the premises and also to other persons who may be authorized by the association to issue and sell, upon application, licenses for the privileges herein specified. (Prior Code, Sec. 17-17)

### SECTION 11-222     LICENSE, RELEASE FROM LIABILITY FOR ACCIDENTS.

Before any license shall be issued under the provisions of this article, the party applying for the license, in consideration of the issuance of the same, shall agree in writing to release the association, the city, the City of Oklahoma City, and the Oklahoma City Municipal Improvement Authority, from all liability from any accident that might occur on the land or waters of the reservation, regardless of whether such accident is caused by the negligence of the association, the city, the City of Oklahoma City or the Oklahoma City Municipal Improvement Authority. The agreement shall be binding upon the heirs, executors, administrators and assigns of the party for whom the application for license is made. (Prior Code, Sec. 17-18)

### SECTION 11-223     CONCESSIONS.

The association is reserved the right to negotiate and enter into contracts granting concessions upon the reservation, covering the privileges of selling cold drinks, lunches and confections, live minnows, cray fish, or other natural or artificial bait. The association is further reserved the right to negotiate and enter into contracts for the privilege of placing boats upon the

## Parks, Recreation and Cemetery

waters of the reservation for hire or rental to the public. Nothing herein shall be construed as prohibiting the placing and operation of privately owned boats upon the waters of the reservation. The rate to be charged for the public by any concessionaire for rental boats shall not exceed the maximum fee set in the city's fee schedule per day or per twenty-four (24) hours, or per three (3) hours or thirty (30) days. (Prior Code, Sec. 17-19)

### SECTION 11-224 BOATING PERMIT FEES.

A. For the placing of and operating privately owned boats upon the waters of the reservation, there shall be charged an annual permit fee which shall become due and payable on May 1 of each year, and shall expire on April 30 of each year.

B. Daily permits may be issued. The permit fee for daily permits shall be as shown in the city fee schedule. Such daily permit fee shall be waived for nonresidents of the city and the City of Oklahoma City participating in boating events or contests sponsored by duly authorized local boating clubs.

C. The amount of the annual fee and the pro-rated charge per month for permits issued after July 1 for the remainder of the license year, and the minimum charge for any permit issued for a period in excess of one day shall be in accordance with the city fee schedule, based on the length of boat (up to eighteen (18) feet, eighteen (18) to twenty-two (22) feet, twenty-two (22) to twenty-six (26) feet, twenty-six (26) to thirty-four (34) feet, and thirty-four (34) feet to forty (40) feet).

D. Permits are not transferable from one party to another beyond the current year of issuance. Such permit shall be issued and such fee shall be collected by such person as the association may from time to time designate. If any permit provided for herein be not renewed within thirty (30) days from the date such permit expires, or the boat so permitted shall not be removed from the lake, the association shall have the right to take possession of such boat and such boat shall not be released to the owner thereof until such owner has paid, in addition to the permit fee, a penalty as set by the city plus a sum per month for such time as the permit fee on such boat has been in arrears. The association shall have a lien on such boat for all rates and penalties due hereunder. Neither the Association, the city, the City of Oklahoma City nor the Oklahoma City Municipal Improvement Authority shall be liable for any damage to such boat while it is being held for such fees. There shall be no rebates for any fees heretofore paid for any permit. The owner of any boat holding a valid permit for the waters shall have the right to designate by written order who may use the boat and shall be entitled to take as many passengers in the boat as the capacity for which the boat is rated. (Prior Code, Sec. 17-20)

### SECTION 11-225 BOAT REQUIREMENTS, INSPECTION.

A. All boats, whether privately owned or otherwise, shall be inspected and approved by the chief ranger or his designated assistant, before a permit shall be issued. Such approval shall specify the number of passengers permitted in such boat and the zones in which such boat shall be permitted to operate.

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B. Pontoon vessels shall be considered as boats and all provisions of existing ordinances applicable to boats shall apply to pontoon vessels except that no pontoon vessels shall receive a permit to be admitted to the waters of the reservation unless it meets the following minimum requirements: Such vessels shall be at least fourteen (14) feet in length, seven (7) feet in width and the decking shall not exceed beyond the sides of the pontoons on the ends, nor more than six (6) inches beyond the sides of the pontoon, and the flotation area of the pontoon shall be not less than two hundred fifty-four (254) cubic inches per lineal inch of pontoon.

C. No pontoon vessel shall be permitted on the waters of the reservation carrying more than one passenger for each foot of width plus one additional person per each three (3) feet the vessel extends the fourteen (14) foot minimum length.

D. No pontoon vessel shall be used for parties or picnics, nor shall food or alcoholic beverages be consumed in the vessels while on the waters of the reservation.

E. All persons shall wear a U.S. Coast Guard approved orange-colored life jacket or vest at all times while in, on or using boats placed upon the waters of any city-owned reservation whose dimensions are smaller than:

1. Eleven (11) feet in length measured from bow to stern;
2. Forty-eight (48) inches wide measured between the sides of the bow at the top of the sides at its widest point;
3. Fifteen (15) inches in width measured from bow to stern.

F. Passenger capacity shall be determined on the basis of the size of the normal passenger carrying area, allowing one passenger for each full three (3) lineal feet of the length of the normal passenger carrying areas for boats up to sixty (60) inches in width. The passenger capacity of boats whose width is in excess of sixty (60) inches or any other unusual condition shall be determined on the basis of safety by the sole judgment of the chief ranger or his designated assistant. (Prior Code, Sec. 17-21)

### SECTION 11-226 CANOES, DIMENSIONS, PASSENGERS, REQUIREMENTS.

A. A canoe is defined as a boat that is long relative to its width, that has curbed sides, and is tapered to two (2) pointed ends, unless the stern shall have been designed by the manufacturer in a square configuration specifically for the purpose of mounting an outboard motor, and that is generally of traditional shape.

B. Canoes shall be considered as boats and all provisions of the ordinances applicable to boats shall apply to canoes except that no canoe shall receive a permit, be admitted to or operate upon the waters of the reservation unless it is of commercial manufacture and meets the following requirements:

## Parks, Recreation and Cemetery

1. A minimum length of fifteen (15) feet, a minimum width of thirty-five (35) inches, and a minimum depth of twelve (12) inches. The length of canoes shall be determined by measuring distance from bow to stern. The width of canoes shall be determined by measuring the distance between the sides of canoe at its widest point. The depth of canoes shall be determined by measuring the distance from the top of the sides at the widest point to the bottom of the canoe;

2. No canoe shall be operated upon the waters of the reservation carrying passengers in excess of the following standards relative to canoe length:

- a. Under seventeen (17) feet--two (2) persons;
- b. Seventeen (17) feet to and including nineteen (19) feet--three (3) persons;
- c. Over nineteen (19) feet to and including twenty-one (21) feet--four (4) persons;

The passenger capacity of any canoes over twenty-one (21) feet shall be determined on the basis of safety and at the discretion of the chief ranger or his designated assistant;

3. All occupants of a canoe shall wear a U. S. Coast Guard approved orange-colored life jacket or vest at all times while afloat;

4. No canoe shall be propelled by any means other than by the use of paddles or oars. (Prior Code, Sec. 17-22)

### SECTION 11-227 BOATING REGULATIONS.

All boating on the premises shall comply with state boating act as set out in the Oklahoma Statutes in addition to the following requirements:

1. All boats shall move generally in a counter-clockwise direction;
2. All boats shall be equipped with one approved life preserver for each person in such boat. Each life preserver shall be in good condition and approved by the chief ranger or his designated assistant;
3. Children who have not attained the age of twelve (12) years shall wear an approved, vest-type life preserver at all times they are in any boat which is upon the waters of the reservation;
4. A boat whether privately owned or otherwise shall be marked as provided in the Oklahoma Boat and Water Safety Act;
5. All motor boats and boats operating at night shall be equipped with combination red and green lights placed in the fore part of the boat, in such position as to be clearly visible at



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all times to the occupants of other boats in the vicinity. All motor boats operating at night shall also be equipped with a white light in the stern, placed in such position as to be clearly visible to occupants of other boats in the vicinity. All boats propelled by a motor in excess of five (5) horsepower shall be equipped with headlights illuminating the forward path of such boats. All other boats operating at night shall display a white light while such boat is in use on the lake. Lights shall be kept burning at night at all times while the boat is in use, whether running or anchored in the lake;

6. Fire extinguishers approved by the chief ranger shall be required on all inboard motor boats;

7. Horns approved by the state boating act and by the chief ranger shall be required on all boats except rowboats and canoes;

8. All metal or fiberglass boats shall be equipped with an air chamber or chambers or other buoyant materials approved by the chief ranger of sufficient displacement to ensure buoyancy of the craft, accessories and passengers in the event of capsizing;

9. All persons under the age of sixteen (16) years are prohibited from operating a boat unless accompanied by an adult;

10. All persons are prohibited from operating any boat upon such waters at any time when in the judgment of the chief ranger the waters are sufficiently rough to be dangerous;

11. No person shall operate a boat over or upon any area which has been designated and marked as a spawning or fish propagating area;

12. Rowboats and canoes shall have the right of way at all times over sail boats and motor propelled boats. Sail boats shall have the right of way at all times over motor propelled boats;

13. Motor boats shall, at all times, keep a safe distance from other boats. Motor boats, while cruising, shall not come nearer than one hundred (100) feet to any bank or two hundred (200) feet to any anchored boat. Motor boats shall be allowed in any neck or bay only for the purpose of fishing and shall move only at idling speed;

14. No person shall operate any motorboat of inboard design upon the waters of the reservation unless such boat is equipped with a muffler which is operating and in good working condition. The terms of this paragraph shall not apply to any boat whose motor is being tested. Such testing shall be permitted only between the hours of 8:00 A.M. and 5:00 P.M., on one day each week except Sunday for a period not to exceed two (2) hours, such day and period to be designated by the chief ranger, and all such tests shall be confined to the central portion of the particular lake being used;

15. No person shall use any boat upon the waters of the reservation for parties or picnics, and the use of such boats shall be limited to boat riding and fishing;

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16. No person shall use, consume or possess any intoxicating beverage while operating a boat or riding in a boat or operate or ride in a boat while under the influence of an intoxicating liquor or in a drunken condition. (Prior Code, Sec. 17-23)

SECTION 11-228 SAFETY REQUIREMENTS FOR WATER SKIING.

A. Water skiing shall follow prescribed course marked by buoys, and shall run in a counter-clockwise direction.

B. All boats shall move generally in a counter-clockwise direction.

C. Life preservers shall be provided for all boat passengers and ski belts shall be worn by all skiers.

D. Water skiing shall be allowed only during daylight hours from sunup to sundown each day.

E. The ski tow boat shall have either second person in the boat, in addition to the driver, or a rear vision mirror for observing the person being towed.

F. Tow ropes shall be not less than seventy-five (75) feet in length.

G. Not more than two (2) skiers may be towed by any one boat at the same time. (Prior Code, Sec. 17-24)

SECTION 11-229 ENFORCEMENT BY CHIEF RANGER.

There is hereby created in the police department of the city the office of chief ranger. (Prior Code, Sec. 17-25)

SECTION 11-230 AUTHORITY OF CHIEF RANGER.

The chief ranger and those under his supervision are hereby vested with power and authority to enforce all reasonable rules of safety and sanitation, and all rules and regulations as may be provided by ordinance relating to the reservation or by rules properly promulgated by the association. Assistants are appointed as may in the judgment of the council of the city be necessary. (Prior Code, Sec. 17-26)

SECTION 11-231 VIOLATIONS.

Any person who shall violate any of the provisions of this article shall be deemed guilty of an offense and upon conviction shall be punished as provided in Section 1-108 of this code. The violation of any of the rules and regulations herein or any ordinary rules of safety, sanitation or conservation, or of any of the laws of the state or of the United States is hereby prohibited, and any person violating the rules or laws shall be subject to immediate ejection from the reservation and immediate cancellation of license provided for herein. The violation by any

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person of any rules or laws more than once shall render such person ineligible to obtain future license or privileges or to enter upon the property, and the chief ranger and those under his supervision as provided for herein are hereby authorized and directed to take all necessary steps to prosecute in the proper courts any person violating the rules, regulations or laws upon the property. (Prior Code, Sec. 17-27)

### SECTION 11-232    OVERCHARGES, PENALTY.

It is unlawful and an offense for any person to charge fees for any license or permit to use the waters and grounds herein authorized in excess of those prescribed herein. Such unlawful and excessive charges shall not only subject such person to the payment of a fine and costs but shall operate to terminate immediately any lease, contractor authority which any person has under this section or any other ordinance to grant permits, or licenses, upon the premises hereinbefore described. (Prior Code, Sec. 17-28)

### SECTION 11-233    PENALTY.

Any person violating any provision of this article shall be guilty of a misdemeanor and upon conviction shall be punished as provided in Section 1-108 of this code. (Prior Code, Sec. 17-30)

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CHAPTER 3

CEMETERY

Section 11-301	Designation of cemeteries.
Section 11-302	Conditions of lot purchases.
Section 11-303	Purchase of lots.
Section 11-304	Transfer of lots.
Section 11-305	Rates for burial lots.
Section 11-306	Rates for interment, disinterments.
Section 11-307	Interments and disinterments.
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Section 11-310	Children.
Section 11-311	Property damage, financial responsibility.
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Section 11-313	Supervision of lot plantings and improvements.
Section 11-314	Lot care.
Section 11-315	Conditions before interment.
Section 11-316	Preparation of graves.
Section 11-317	Disinterment and removal.

SECTION 11-301     DESIGNATION OF CEMETERIES.

A. All cemeteries so designated by the city council are city cemeteries governed by the terms of this chapter.

B. There is dedicated the Green Meadows Cemetery consisting of certain lands owned by the city, consisting of the East four hundred ninety-five (495) feet of the north nine hundred ninety (990) feet of the SE 1/4 of the NE 1/4 of Section nine (9), Township two (2) South, range eleven (11) east, containing in all 11.25 acres of land, more or less, according to the official survey thereof, and any additions thereto. (Prior Code, Sec. 6-18)

SECTION 11-302     CONDITIONS OF LOT PURCHASES.

All lots shall be sold subject to the rules and regulations of this chapter, or those adopted by the council. The deed of title for cemetery lots shall state that the sales are subject to these conditions. No lot shall be used for any purpose than the burial of human remains and the placing of appropriate monuments and memorials. When interment is to be made, a permit must be obtained from the city clerk and signed by one of the heirs. Burial lots are exempt from ordinary taxes and cannot be seized on execution. The city may impose specific charges against lots. No mortgage or other encumbrance shall be given on any lot. An interment once properly made shall not be disturbed except on written consent of the original owners or their heirs or as allowed by state law, and then also only when permission of the city is obtained. (Prior Code, Sec. 6-1).

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SECTION 11-303 PURCHASE OF LOTS.

When a lot is paid for in full, a deed of title, for cemetery purposes only, shall be issued to the purchase by the city clerk. This section does not apply to indigent interment cases. (Prior Code, Sec. 6-2)

Cross Reference: See Fee Schedule, Appendix 2, for applicable fees.

SECTION 11-304 TRANSFER OF LOTS.

The transfer of lots or parts of lots to another person shall be reported to the city clerk for recording. No person shall be recognized as owner or part owner unless so recorded. All transfers of parts of lots less than that conveyed from the city to the lot owners must be approved by the city clerk. (Prior Code, Sec. 6-3)

SECTION 11-305 RATES FOR BURIAL LOTS.

The rate charged for each burial lot in a city cemetery shall be as set by the city council. (Prior Code, Sec.6-4; Ord. No. N.C. 355, 4/18/88)

Cross Reference: See Fee Schedule, Appendix 2, for applicable fees.

SECTION 11-306 RATES FOR INTERMENT, DISINTERMENTS.

A. The rate charged for interment in the cemetery shall be as set by the council by motion or resolution per grave. However, this charge shall not include removal or replacement of shrubbery, walkways, curbing, flowers, decorative gravel or stone, or permanent stone grave memorials weighing in excess of twenty-five (25) pounds. The rate shall apply only for interments which are started and completed between the hours of 7:00 a.m. and 5:00 p.m. on the same day.

B. The rate charged for interment in the cemetery which requires grave opening and closing on either a Saturday or Sunday shall be as set by the council by motion or resolution.

C. The rate charged for disinterment of a grave in the city cemetery shall be as set by the council by motion or resolution. Disinterments shall only take place between 7:00 a.m. and 5:00 p.m. on weekdays, Monday through Friday. (Prior Code, Secs. 6-5, 6-7; Ord. No. N.C. 355, 4/18/88)

Cross Reference: See Fee Schedule, Appendix 2, for applicable fees.

SECTION 11-307 INTERMENTS AND DISINTERMENTS.

All interments and disinterments done in the cemetery shall be performed only by city employees. Disinterments shall be performed only under the supervision of those persons properly authorized by state law to supervise the same. (Prior Code, Sec. 6-6)

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SECTION 11-308 GRAVE EXCAVATIONS NOT TO BE LEFT OPEN OVERNIGHT.

No excavations of grave sites shall be left open overnight. All graves opened shall be filled on the date same are opened. (Prior Code, Sec. 6-7)

SECTION 11-309 RULES AND REGULATIONS.

No person shall:

1. Enter a cemetery except through established gates;
2. Throw rubbish or debris on walks or drives or any part of cemetery grounds;
3. Pick or mutilate any flowers, either wild or domestic, or disturb any trees, shrubs, or other plants;
4. Consume refreshments or liquors within a cemetery or carry same onto the premises;
5. Permit any dog to enter or remain in a cemetery;
6. Discharge any firearms or air rifles in or adjacent to a cemetery. This regulation shall not apply to authorized volleys at burials. (Prior Code, Sec. 6-9)

SECTION 11-310 CHILDREN.

No children shall enter a cemetery unless accompanied by adults responsible for the children's conduct. (Prior Code, Sec. 6-10)

SECTION 11-311 PROPERTY DAMAGE, FINANCIAL RESPONSIBILITY.

The city shall not be responsible for any damage to lots, structure or objects thereon, or for flowers or articles removed from any lot or grave. (Prior Code, Sec. 6-11)

SECTION 11-312 TRAFFIC REGULATIONS.

All traffic laws of the city that are applicable to the operation of vehicles shall also apply in the cemetery. Persons driving in cemeteries shall be responsible for any damage done by their vehicle or animal or both in the driver's charge. In addition, no person shall:

1. Drive a vehicle in excess of fifteen (15) miles per hour on any cemetery road;
2. Drive off the established roads unless permission is given in writing by the superintendent of the cemetery;
3. Make a U-turn on cemetery road;

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4. Use a cemetery road as a public thoroughfare. (Prior Code, Sec. 6-12)

### SECTION 11-313 SUPERVISION OF LOT PLANTINGS AND IMPROVEMENTS.

All plantings and other improvements to lots shall be done with the approval of the superintendent of the cemetery or his assistants. (Prior Code, Sec. 6-13)

### SECTION 11-314 LOT CARE.

The following rules shall be observed in the care of cemetery lots:

1. Copings, fences, structures of wood, and hedges are prohibited;
2. Those structures or enclosures established on any lot previous to the adoption of these regulations which have in the judgment of the cemetery management become unsightly by reason of neglect or age shall be removed;
3. No elevated mounds shall be built over graves, and no lot shall be filled above the grade established by the city;
4. Receptacles for cut flowers shall be installed flush with the surface of the lawn;
5. Chairs, settees, benches and vases shall be permitted only if properly installed and maintained. Failure to properly install and maintain shall be cause for removal.
6. Rubbish, refuse and unused containers shall not be left on lots. (Prior Code, Sec. 6-14)

### SECTION 11-315 CONDITIONS BEFORE INTERMENT.

No interment shall take place without a burial permit, nor until all laws, ordinances, rules and regulations relative to burials have been complied with. No grave shall be opened unless the grave space has been paid for, with the exception of indigent cases, or when the funeral director assumes responsibility of payment for such grave space or spaces. Funeral directors making arrangements for burials shall be responsible for all interment charges if not paid by the owner or agent. If the deceased to be interred is not a member of the immediate family of the lot owner, permission in writing from such owner must be filed with the superintendent of the cemetery. This permission must be filed before the interment is made. (Prior Code, Sec. 6-15)

### SECTION 11-316 PREPARATION OF GRAVES.

Only one interment in any one grave shall be permitted. The superintendent of the cemetery shall not be held responsibility for errors in location of graves on lots arising from improper instruction of lot owners. Orders from funeral directors shall be construed as orders from owners. Under no circumstances shall the city assume responsibility for error in opening graves when orders are given by telephone. (Prior Code, Sec. 6-16)

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SECTION 11-317    DISINTERMENT AND REMOVAL.

Disinterment and removal of a body shall not be made without the permission of the superintendent of the cemetery, the lot owner or his heirs, or as allowed by state law. Graves shall not be opened for inspection except for official investigation. (Prior Code, Sec. 6-17)



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SECTION 12-101 PLANNING COMMISSION CREATED.

There is hereby created a planning commission of the city. The commission shall be composed of seven (7) members, nominated by the mayor and confirmed by the city council. The mayor shall be an 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 unexpired terms by the mayor with confirmation by the city council. The mayor and members of



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the commission shall receive no compensation for service on the commission. (Prior Code, Sec. 18-1 to 18-3, 18-5)

State Law Reference: Planning commissions, 11 O.S. 45-101 et seq.

### SECTION 12-102 QUORUM.

Four (4) 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 entitled to vote. (Prior Code, Sec. 18-4)

### 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 Part 12 of the city code. (Prior Code, Sec. 18-6)

### 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. (Prior Code, Sec. 18-7)

### 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. (Prior Code, Sec. 18-8)

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### 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. (Prior Code, Sec. 18-8)

### 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. (Prior Code, Sec. 18-9)

### 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. (Prior Code, Sec. 18-10)

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### 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. (Prior Code, Sec. 18-11)

## ARTICLE B

### BOARD OF ADJUSTMENT

#### SECTION 12-121 BOARD OF ADJUSTMENT CREATED.

There is hereby created within and for the city a board of adjustment consisting of five (5) members, each to be appointed for a term of three (3) years and removable for cause by the appointing authority, upon written charges and after public hearing. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. It is specifically provided, however, that on the effective date of this article, such board of adjustment as was legally in existence immediately prior to such date shall be constituted as the board of adjustment hereby created, and the terms of the then members of the board shall expire after a period of three (3) years, or until their successors are duly appointed and qualified. The board of adjustment shall be appointed by the mayor and confirmed by the city council. (Prior Code, Art. 7)

State Law Reference: Boards of adjustment, 11 O.S. Secs. 44-101 et seq.

Cross Reference: See the City's zoning ordinance for details on the board of adjustment.

#### SECTION 12-122 PROCEDURE.

The zoning board of adjustment shall elect one of its members as chairman, who shall serve for the duration of his term. The board shall adopt rules in accordance with the provisions of this part. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. The chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses by subpoena. The board shall keep the minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examination and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record. All meetings of the board shall be open to the public. (Prior Code, Art. 7)

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### SECTION 12-123 APPEALS.

Appeals to the board of adjustment may be taken by any person aggrieved of by any officer, department, board or bureau of the city affected by any administrative decision based on the zoning regulations. Such appeal shall be taken within thirty (30) days by filing with the city clerk and the board of adjustment a notice of appeal specifying the grounds thereof. The city clerk shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken. (Prior Code, Art. 7)

### SECTION 12-124 PUBLIC HEARING REQUIRED.

The zoning board of adjustment shall fix a reasonable time for the hearing of the appeal or other matter referred to it, give fifteen (15) days public notice thereof in a newspaper of general circulation, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person, or by agent, or by attorney. (Prior Code, Art. 7)

### SECTION 12-125 POWERS.

A. The zoning board of adjustment shall have the following powers;

1. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the chief administrative officer in the enforcement of the city's zoning regulations;

2. To authorize upon appeal in specific cases such variances from the terms of the zoning ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of the zoning ordinance will, in any individual case, result in unnecessary hardship, so that the spirit of the zoning ordinance 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:

a. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography;

b. The application of the zoning ordinance to this particular piece of property would create an unnecessary hardship, not self-imposed by the owner or developer;

c. Such conditions are peculiar only to the particular piece of property involved;

d. Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of this zoning ordinance; provided, however, that no variance may be granted for a use of land or building or structure that is prohibited by the zoning ordinance.

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B. In exercising the above powers, the board shall have the concurring vote of at least four (4) of its members in order that it may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination and to that end shall have all the powers of the chief administrative officer for directing the issuance of a permit. (Prior Code, Art. 7)

### SECTION 12-126 APPEALS TO DISTRICT COURT.

A. An appeal from any action, decision, ruling, judgment or order of the board may be taken by any person, jointly or severally, or any taxpayer, or any officer, department, board or bureau of the city to the district court by filing a notice of appeal with the city clerk and with the board of adjustment within sixty (60) 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 forthwith to the court clerk of the county 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 stays all proceedings in furtherance of the action appealed from, unless the chairman of the board, from which the appeal is taken, certifies to the court clerk, after the notice of appeal shall have been filed, that by reason of the facts stated in the certificate a stay in his opinion would cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the district court upon application or notice to the administrative officer in charge of the enforcement of the terms and provisions of the zoning ordinance, and upon notice to the chairman of the board 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. (Prior Code, Art. 7)

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CITATION, PURPOSE, INTERPRETATION AND DEFINITIONS

SECTION 12-201 CITATION.

These regulations are enacted in pursuance of the authority granted by the Legislature of the State of Oklahoma in Sections 401 through 410 of Chapter 7 of Title 11 of the Oklahoma Statutes, and shall be known as the “Zoning Ordinance of the City of Atoka”, and shall be cited as such. (Prior Code, Secs. 18-14)

Cross Reference: See Fee Schedule, Appendix 2, for applicable fees.

SECTION 12-202 PURPOSE.

These regulations are enacted for:

1. The purpose of promoting the health, safety, morals, convenience, order, prosperity and general welfare of the present and future inhabitants of the city;
2. To secure safety from fire, panic, and other dangers;
3. To provide adequate light and air to prevent the overcrowding of land;
4. To avoid undue concentration of population;
5. To facilitate provision of adequate facilities for transportation, water, sewage, schools, parks and other public requirements;
6. Promote a more homogeneous relationship of land use within the incorporated limits of the city;
7. To protect property values;
8. To regulate the use of the land; and to promote the orderly development of the community in accordance with the comprehensive plan as adopted by the planning commission and approved by the city council; and
9. All other accepted purposes of zoning. (Prior Code, Secs. 18-14)

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### SECTION 12-203 INTERPRETATION AND APPLICATION.

As concerns interpretation and application, the provisions of these regulations shall be held to be minimum requirements. Where these regulations impose a greater restriction than is imposed or required by other provision of law or by other rules or regulations or ordinance, the provisions of these regulations shall control. (Prior Code, Secs. 18-14)

### SECTION 12-204 INTERPRETATION OF WORDS AND TERMS.

Unless otherwise stipulated or required, the following definitions shall be used in the interpretation and construction of these regulations, and words used in the present tense include the future; shall include the plural, and the plural the singular; the word “building” shall mean as well the word “structure”; the word “used” shall include “arranged,” “designed,” “constructed,” “altered,” “converted,” “rented,” “leased,” or “intended to be used,” and the word “shall” is mandatory and not directory:

1. “Accessory or auxiliary use or structure” means a use or structure customarily incidental, appropriate, and subordinate to the principal use of a building or to the principal use of land and which is located upon the same lot therewith;

2. “Advertising sign or structure” means any material or structure of any character whatsoever, placed for outdoor advertising purposes. The term “placed” shall include making visible in any manner whatsoever. The area of the advertising structure shall be determined as the area of the largest cross section of the structure. Neither directional, warning or other signs posted by public officials in the course of their public duties shall be construed as advertising signs for the purpose of these regulations;

3. “Agriculture” means the use of land for agricultural purposes including farming, dairying, pasturage, horticulture, animal and poultry husbandry and the necessary accessory uses for packing, treating, or storing the produce; provided, however, that the operation of any such accessory shall be secondary to that of normal agricultural activities and provided further that the above uses shall not include the commercial feeding of garbage to swine or other animals, stockyards or commercial feed lots for cattle;

4. “Alley” means a minor right-of-way, dedicated to public use, not more than thirty (30) feet wide affording a secondary means of access to abutting property and not intended for general traffic circulation;

5. “Automobile or trailer sales area” means an open area, other than a street, used for the display, sales or rental of new or used motor vehicles or trailers in operable condition where no repair work is done;

6. “Automobile repair, major” means general repair, rebuilding or reconditioning of engines, motor vehicles or trailers; collision services including body, frame, or fender straightening or repair; overall painting or paint shop; vehicle steam cleaning;

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7. “Automobile repair, minor” means incidental replacement of parts and motor service to passenger cars and trucks not exceeding one and one-half (1 1/2) tons capacity;

8. “Automobile service station or filling station” means any area used for retail sale of gasoline or oil fuels, or automobile accessories, and incidental services including facilities for lubricating, and washing and cleaning, but not including painting, major repair, or the sale of butane or propane fuels;

9. “Automobile wash or automatic car wash” means a building or structure containing chain conveyors, blowers, steam cleaners and other mechanical devices used primarily for the purpose of washing motor vehicles;

10. “Basement” means a story wholly or partly 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;

11. “Block” refers to the legal description in describing the boundaries of a district. In all other cases the word “block” refers to the property abutting on one side of the street between two (2) intersecting streets or a street and a railroad right-of-way or watercourse;

12. “Boarding house and rooming house” mean where meals or lodging are provided for persons other than the family or their relation excluding facilities for transient persons such as hotels, motels, inns and other such facilities;

13. “Board of adjustment” means the board of adjustment for the city, also referred to as the board;

14. “Building” means any structure having a roof supported by columns or walls that is used or intended to be used for the shelter or enclosure of persons, animals, or property. When such a structure is divided into separate parts by one or more unpierced walls extending from the ground up, each part is deemed a separate building, except as regards minimum side yard requirements as herein provided;

15. “Building accessory” means the subordinate building, the use of which is customarily incidental to that of a principal building on the same lot;

16. “Building line” means a line established beyond which no part of a building shall project, except as otherwise provided by these regulations;

17. “Building, principal” means a building or buildings in which the principal use of the building site is conducted. In any residential district any dwelling shall be deemed to be the principal building on the building site;

18. “Bulk limitations (floor area ratio)” means the number of square feet of floor area as defined herein which is permitted for each square foot of lot area;

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19. "Bulletin board" means any board or sign erected for announcement purposes;
20. "Cellar" means that portion of a building between floor and ceiling, partly underground, but having one-half (1/2) or more than one-half (1/2) of its clear height below the adjoining finished grade;
21. "Cemetery" means land used or intended to be used for the burial of the human dead and dedicated for cemetery purposes;
22. "Child care center" means any place, home or institution which receives three (3) or more children under the age of sixteen (16) years, for care apart from their natural parents, legal guardians or custodians, and received for regular periods of time for compensation; provided, however, this definition shall not include public and private school organized, operated or approved under the law of this state, custody of children fixed by a court, 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 their institutional building while their parents or legal guardians are attending services or meetings or classes and other church activities;
23. "City building inspector" means the building inspector of this city;
24. "City engineer" means the city engineer of this city;
25. "City planning commission" means the Atoka Planning Commission, as established by the statutes hereinbefore cited, the City of Atoka, County of Atoka, State of Oklahoma, also referred to as commission;
26. "Clinic" means a place used for the care, diagnosis and treatment of sick, ailing, infirm and injured persons and those in need of surgical or medical attention but who are not provided with board and room or kept overnight on the premises;
27. "Club" means a nonprofit association of persons who are bona fide members, paying regular dues, and organized for some common purpose, but not including a group organized solely or primarily to render a service customarily carried on as a commercial enterprise;
28. "Comprehensive plan" means the plan of the city; and also refers to the specific document, the Comprehensive General Plan of the City of Atoka, Oklahoma;
29. "Convalescent home, nursing home, or a rest home" means a home for the aged, recuperating, chronically ill, or incurable persons, in which two (2) or more persons not of the immediate family are received, kept, or provided with food and shelter or care for compensation, but not including hospitals, clinics, or similar institutions devoted primarily to the diagnosis and treatment of disease or injury;

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30. “Council” means the city council of Atoka, Oklahoma and includes the use of the words council, city commission, and board of commissioners;
31. “Coverage” means the lot area covered by all buildings located thereon, including the area covered by all the hanging roofs;
32. “Dwelling” means any building or portion thereof designed or used exclusively as a residence or sleeping place of one or more persons, but not including a tent, cabin, trailer or trailer coach, boarding or rooming house, hotel or motel;
33. “Dwelling, single-family” means a building designed for or used exclusively for residential purposes by one family or housekeeping unit;
34. “Dwelling, two-family” means a building designed for or used exclusively by two (2) families or housekeeping units;
35. “Dwelling, multi-family” means a building or portion thereof designed for or used by three (3) or more families or housekeeping units;
36. “Dwelling unit” means one or more rooms, designed for or used by one family;
37. “Essential services” means the erection, construction, alteration or maintenance by public utility or municipal or other governmental agencies, of underground or overhead gas, electrical, steam or water transmission or distribution systems, collection, communication, supply or disposal systems, including poles, wires, mains, drains, sewer, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories thereof; reasonably necessary for the furnishing of adequate services by such public utilities or municipal or other governmental agencies or for the public health or safety or general welfare, but not including buildings;
38. “Exception” means a variance from the requirements of these regulations properly authorized by the board of adjustment;
39. “Family” means a person living alone or two (2) or more persons living together, related by blood or marriage, as a single housekeeping unit using a single facility for culinary purposes in a dwelling unit, as distinguished from a group occupying a boardinghouse, lodging house, hotel, motel, fraternity house, or sorority house;
40. “Floor area” means the sum of the gross horizontal areas of the several floors of a building or buildings measured from the exterior faces of the exterior walls or from the center lines of walls separating two (2) buildings;
41. “Frontage” means the width of a lot measured at right angles to the depth on the front or street side of the lot;

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42. “Garage apartment” means a dwelling for one family erected as a part of a private garage;
43. “Garage, parking” means any building or portion thereof used for the storage of four (4) or more automobiles in which any servicing that may be provided is incidental to the primary use for storage purposes, and where repair facilities are not provided;
44. “Garage, public” means the structure or portion thereof, other than a private garage, used for the storage, sale, hire, care, repairing or refinishing of any vehicles;
45. “Garage, private” means a detached accessory building or a portion of the principal building used or intended for use by the occupants of the premises for storage of passenger vehicles or trailers;
46. “Garage, repair” means a building in which are provided facilities for the care, servicing, repair, or equipping of automobiles;
47. “Height” means the vertical measurement of any building or structure on any parcel of land measured from the average elevation of the lot or parcel to the uppermost point of the structure or building;
48. “Height limit” means the limit of height as imposed in these regulations for any structure or building or permitted use within the zoning district;
49. “Home occupation” means any occupation carried on solely by the inhabitants of a dwelling which is clearly incidental and secondary to the use of a dwelling for dwelling purposes, which does not change the character thereof, and which is conducted entirely within the main or accessory building; provided that no trading and merchandising is carried on and in connection with which there is no display or merchandise or advertising sign other than one nonilluminated name plate, not more than two (2) square feet in area attached to the main or accessory building, and no mechanical equipment is used except such as is customary for purely domestic or household purposes;
50. “Hospital” means a building or portion thereof used for the accommodation of sick, injured or infirm persons;
51. “Hotel” means a building or group of buildings under one ownership containing six (6) or more sleeping rooms occupied or intended or designed to be occupied as the more or less temporary abiding place of persons who or lodged with or without meals for compensation but not including trailer court or camp, hospital, asylum, orphanage, or building where persons are housed under a restraint;
52. “Industry” means storage, repair, manufacture, preparation or treatment of any article, substance, or any commodity for commercial use;

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53. “Institutional uses” mean those uses organized, established, used or intended to be used for the promotion of a public, religious educational, charitable, cultural, social, philanthropic activities and normally operated on a nonprofit basis;

54. “Junk or salvage yard” means a place where waste, discarded or salvage materials are bought, sold, exchanged, bailed, packed, disassembled or handled, including all wrecking yards, house wrecking yards, used lumber yards and places or yards for storage of salvaged house wrecking and structural steel materials and equipment; but not including such places where such uses are conducted entirely within a completely enclosed building, and not including pawn shops and establishments for the sale, purchase, or storage of used furniture and household equipment, used cars inoperable condition, or salvage material incidental to manufacturing operations;

55. “Kennel” means any structure of premises on which five (5) or more dogs over four (4) months of age are kept;

56. “Loading space” means an off-street space or berth on the same lot with the building or contiguous to a group of buildings, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials;

57. “Lot” means a piece or parcel of land occupied or intended to be occupied by a principal building or a group of such buildings and accessory buildings, or utilized for a principal use and uses accessory thereto, together with such open spaces as required by these regulations, and having access on a public street;

58. “Lot, corner” means a lot which has at least two (2) adjacent sides abutting 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°);

59. “Lot, depth” means the mean horizontal distance between the front and rear lot lines;

60. “Lot, double frontage” means a lot having a frontage on two (2) nonintersecting streets, as distinguished from a corner lot;

61. “Lot, interior” means a lot other than a corner lot;

62. “Lot, wedge shaped” means a lot situated so that the front is either wider or narrower than the rear of the lot;

63. “Lots of record” means herein designated as a separate and distinct parcel on a legally recorded subdivision plat or a legally recorded deed filed with the county clerk or register of deeds of Atoka County, State of Oklahoma;

64. “Maximum coverage” means the maximum amount of land that may be covered by buildings on any lot;

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65. “Mean lot elevation” means the average elevation of a lot;
66. “Mobile home court” means a parcel of land under single ownership which has been planned and improved for a placement of mobile homes for nontransient use;
67. “Mobile home lot” means a parcel of land for the exclusive use of the occupants of a single mobile home;
68. “Mobile home stand” means the part of an individual lot which has been reserved for the placement of the mobile home;
69. “Nonconforming use” means a parcel of land lawfully occupied by a use that does not conform to the regulations of the district in which it is located;
70. “Off-street parking” means the provision of space reserved exclusively for the parking of motor vehicles entirely off the public street and lying wholly within the property boundaries of the parcel of land affected;
71. “Open space” means the area included in any side, rear, or front yard, or any other unoccupied space on a lot that is open and unobstructed to the sky except for the ordinary projection of cornices and eaves of porches;
72. “Parcel” means a lot as defined herein;
73. “Parking area, private” means an open area for the same uses as private garage;
74. “Parking area, public” means an open area, other than a street or other public way, used for the parking of automobiles and available to the public whether for fee, free or as an accommodation for clients or customers;
75. “Parking space” means a permanently surfaced area of not less than two hundred (200) square feet, either within a structure or in the open, exclusive of driveways or access drives for the parking of motor vehicles;
76. “Permitted uses” means the use of a structure or of a tract of land allowed by the use regulations of these regulations;
77. “Rooming house” - See Boarding House;
78. “Sign, illuminated” means a sign designed to give forth any artificial light, or designed to reflect light from one or more sources, natural or artificial;
79. “Sign, projecting” means a sign erected on the face or outside wall of a building which projects out at any angle therefrom;



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80. “Sign, temporary” means signs of the temporary nature used to advertise the premises for sale, rent, or lease;

81. “Sign” means any structure or part thereof, or any device attached to, painted on, or represented on a building or other structure, upon which is displayed or included any lettering, model, banner, flag, pennant, insignia, decoration, device, or representation used as, or which is in the nature of, an announcement, direction, advertisement, or other attention-directing device. A sign shall not include the similar structure or device located within a building except for illuminated signs within show windows. The sign includes any billboard, but does not include the flag, pennant, or insignia of any nation or association of nations, or any state, city, or other political, charitable, educational, philanthropic, civic, professional, religious, or like campaign, drive, movement, or event;

82. “Story” means that portion of a building, included between the surface of any floor and the surface of the floor next above it; or, if there be no floor above it, then the space between the floor and the ceiling next above it;

83. “Story, first” means the lowest story or the ground story of any building, the floor of which is not more than twelve (12) inches below the average contact ground level at the exterior walls of the building; except that any basement or cellar used for residence purposes shall be deemed the first story; provided that a basement or cellar used purely for recreational purposes shall not be deemed the first story;

84. “Story, mezzanine” means a story which covers, one-third (1/3) or less of the story directly underneath it;

85. “Street” means a public right-of-way more than twenty (20) feet in width which provides a public means of access to abutting property and used primarily for vehicular circulation. The term street shall include avenue, drive, circle, road, parkway, boulevard, land, place, highway, thoroughfare, and any other similar term;

86. “Street, collector” means those residential streets designed to carry intracity traffic connecting neighborhood areas to a major street whose purpose is to collect traffic from other minor streets and to serve as the most direct route to a major street or to a community facility as described and shown on the thoroughfare plan;

87. “Street, intersecting” means any street which adjoins another street at an angle whether or not it crosses the other;

88. “Street, major” means an arterial street which is designated on the thoroughfare plan and designed to carry intercity traffic and to relate the various neighborhoods within the city;

89. “Street, minor” means any street not designated as a major or collector street and intended to serve or provide access exclusively to the properties abutting thereon;

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90. “Structural alteration” means any change in the structure members of a building such as walls, columns, beams or girders;

91. “Structure” means anything constructed, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground (not including sidewalks, driveway and similar improvement areas);

92. “Thoroughfare-expressway” means a primary thoroughfare with divided roadways, partial or full control of access, in general, and with grade separations at intersections. A freeway shall mean an expressway with full control of access and meeting the standards of the Bureau of Public Roads, U.S. Department of Commerce;

93. “Thoroughfare-primary or secondary” means an officially designated federal or state numbered highway or county or other road or street designated as a primary thoroughfare on the official thoroughfare or major street plan for the city, or county or other road or street designated as a secondary thoroughfare on the plan, respectively;

94. “Thoroughfare plan” means the part of the comprehensive general plan referring to transportation development goals, principles, and standards and also includes use of the words major street plan and trafficways plan;

95. “Tourist court” means an area containing one or more buildings designed or intended to be used as temporary sleeping facilities of one or more transient persons;

96. “Traffic signaling device” means a sign, device of mechanical contrivance, used for the control of motor vehicular and pedestrian movement;

97. “Trailer or mobile home” means a portable or mobile living unit used or designed for human occupancy on a permanent basis;

98. “Use” means the purpose for which land or a building or structure is arranged, designed or intended, or for which either land, building or structure is or may be occupied or maintained;

99. “Utility service installation” means any structure or installation by utility company deemed to be necessary for the safe or efficient operation of that utility;

100. “Variance” means any modification of the terms of these regulations;

101. “Yard, front” means a yard extending across the full width of a lot from side lot line to side lot line abutting on a street beyond which a building may not protrude;

102. “Yard, rear” means a yard extending across the rear of a lot measured from side lot line to side lot line and at opposite end to the front lot line;

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103. “Yard, side” means a yard extending from front building line to the rear building line abutting the side lot line beyond which no building may protrude; and

104. “Zoning map” means the adopted zoning map or maps of the city together with all amendments. (Prior Code, Secs. 18-14)

### ARTICLE B

#### ESTABLISHMENT OF DISTRICTS

##### SECTION 12-211 ZONING DISTRICTS.

For the purpose of these regulations and the promotion of public health, safety, and general welfare of the community, the following districts are hereby established for the city: (Prior Code, Secs. 18-14)

1. Residential districts:
  - a. A-1 Agricultural District;
  - b. R-1 Single-Family Residential District; and
  - c. R-2 General Residential District;
2. Commercial districts:
  - a. C-1 Convenience Commercial District;
  - b. C-2 Highway Commercial and Commercial Recreation District;
  - c. C-3 General Commercial District; and
  - d. C-4 Commercial Recreation District;
  - e. CBD Central Business District;
3. Industrial districts:
  - a. I-1 Light Industrial District; and
  - b. I-2 Heavy Industrial District.

##### SECTION 12-212 ZONING MAP.

As districts are designated they shall be bounded and defined as shown on a map entitled “Zoning Map of the City of Atoka, County of Atoka, State of Oklahoma.” The zoning map, and

## Planning, Zoning and Development

all of the explanatory material thereon, is hereby made a part of these regulations. (Prior Code, Secs. 18-14)

### SECTION 12-213 DISTRICT BOUNDARIES.

In the event of uncertainty in the exact boundaries of any of the aforesaid districts as shown on the “Zoning Map of the City of Atoka, County of Atoka, State of Oklahoma”, the planning commission, upon written application or upon its own motion, shall recommend the location of such boundaries to the board of adjustment and the board of adjustment shall make the final determination. (Prior Code, Secs. 18-14)

## ARTICLE C

### GENERAL PROVISIONS APPLYING TO ALL OR TO SEVERAL DISTRICTS

#### SECTION 12-221 APPLICATION OF REGULATION TO THE USES OF A MORE RESTRICTED DISTRICT.

A. Whenever the specific district regulations pertaining to one district permit the uses of a more restricted district, such uses shall be subject to the conditions set forth in the regulations of the more restricted district, unless otherwise specified.

B. It is intended that these regulations be interpreted as not permitting a dwelling unit to be located on the same lot with or within a structure used or intended to be used primarily for nonresidential purposes. (Prior Code, Secs. 18-14)

#### SECTION 12-222 EXISTING BUILDINGS AND LAND USE.

Except as herewith provided, no building or parcel of land shall be used or occupied and no building or part thereof shall be erected, moved, or altered unless in conformity with the regulations herein specified. (Prior Code, Secs. 18-14)

#### SECTION 12-223 HEIGHT AND DENSITY.

No building shall hereafter be erected or altered which will exceed the height limit nor shall any building or land be used or occupied hereafter in excess of the density regulations for that district; no building shall hereafter be erected or altered to accommodate a greater number of families than those specified for that district; no building shall be erected or altered to exceed the specifications of required lot size, maximum coverage, yard requirements, height limitations, or bulk limitation for that district as defined. (Prior Code, Secs. 18-14)

#### SECTION 12-224 BUILDINGS.

Any building hereafter erected or structurally altered shall be located on one lot and except as provided herein; and there shall be no more than one principal building and the customary accessory buildings on one lot; provided further, that accessory buildings may not be

erected or placed in the front and side yard areas as required in the separate districts. (Prior Code, Secs. 18-14)

**SECTION 12-224.1 BUILDING FACADES IN RESIDENTIAL AND COMMERCIAL DISTRICTS**

A. Purpose. The architectural design guidelines of this section are intended to preserve historical, cultural, and architectural character and development patterns compatible with new construction and major modifications in order to respect the original architectural character and development patterns within the city.

B. Applicable zones. Facade treatments for metal buildings will be required for properties zoned all Commercial Districts (C-1, C-2, C-3, C-4), all Residential Districts (R-1, R-2.). The provisions of this section will not apply to properties zoned Agricultural District (A-1) and Industrial Districts I-1 and I-2.

C. Facade treatments. Facade treatment shall be on all facades visible from the street but not to include the rear of the structure. The facade treatment shall cover 100% of the front exterior facing the street, or on a corner lot, the front and side facing the street. The sides will have 25% of the area improved with facade treatment floor (bottom) to deck (top), and shall be constructed using the recommended and acceptable materials listed below in division (D)(3), excluding the window areas.

D. Facade design. All visible building facades shall conform to the following design criteria.

(1) Windows and glazing. All facades visible from the street must contain glazed glass windows. Windows shall be recessed and include visually obvious sills. Columns and mullions, shall form spaces between windows or material found elsewhere on the facade. Clear window glass is recommended; green, blue, bronze, or smoke tints are permitted. Window shapes shall be rectangular, square, round, or Palladian (mostly rectangular with semi-circular top). Glazing shall comply with Chapter 24 or the 2003 International Building Code or the latest version thereof. The maximum permitted reflectance of glass used as a facade material varies depending upon where the glass is used. The reflectance of glass used on the first two stories may not exceed 15%. The reflectance of glass used above the first two stories may not exceed 27%.

(2) Building materials. Building materials must be consistent with the surrounding neighborhood character, as determined by the Design Review Committee. Building materials on the front facade, or any facade visible from a public right-of-way, must be primarily of natural materials conveying permanence, as determined by the Design Review Committee.

(3) Recommended and acceptable materials. Brick, stone, wood siding, concrete slab (poured-in-place, tilt-up construction). Split face, scored, or ground face block, or brick veneer, beveled wood siding (lap, board and batter, shake), stucco, and exterior insulation finish systems (EIFS).

(4) Disallowed materials. Metal siding (standing seam panels, aluminum siding, "R" panels), mirrored or reflective glass.

E. Architectural features. These architectural design guidelines are intended to preserve the architectural character while encouraging adaptive reuse of existing buildings, and allowing for compatible new construction and major modifications. Building facades shall contain architectural features, details, and ornaments that are consistent with predominating architectural

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styles found within the district, such as: arches; roof cornices; contrasting bases; contrasting masonry courses, water tables, or molding; pilasters or columns; corbeling; contrasting bands or color; stone or ceramic accent tiles; colonnades; or porches. Elements such as decorative light fixtures, and door or window canopies are recommended. Roofs shall have a minimum roof pitch of 4:12. Architectural features will be consistent with the residential neighborhood or the business area.

F. Compliance. If there is a question as to interpretation of any provision of this section, a written request can be filed with the Design Review Committee for administrative review and action. A review can be appealed to the Atoka City Council.

### SECTION 12-225 STREET ACCESS.

No principal building shall hereafter be constructed on a lot which does not abut a public dedicated street. (Prior Code, Secs. 18-14)

### SECTION 12-226 PURPOSE AND APPLICATION OF OFF-STREET PARKING.

It is the intent of these requirements that adequate parking and loading facilities be provided off the street easement or each use of land within the city. Requirements are intended to be based on the demand created by each use. These requirements shall apply to all uses in all districts. (Prior Code, Secs.18-14)

### SECTION 12-227 REQUIRED OPEN SPACE FOR OFF-STREET PARKING.

Off-street parking space may be a part of the required open space associated with the permitted use and shall not be reduced or encroached upon in any manner. (Prior Code, Secs. 18-14)

### SECTION 12-228 LOCATION OF OFF-STREET PARKING.

The off-street parking lot shall be located within two hundred (200) feet, exclusive of street and alley widths, of the principal use and shall have direct access to a street or alley. (Prior Code, Secs. 18-14)

### SECTION 12-229 JOINT PARKING FACILITIES.

Whenever two (2) or more uses are located together in a common building, shopping center or other integrated building complex, the parking requirements may be complied with by providing a permanent common parking facility cooperatively established and operated, which contains the requisite number of space for each use. The total number of spaces provided shall not be less than the sum of the individual requirements. (Prior Code, Secs. 18-14)

### SECTION 12-230 SIZE OF OFF-STREET PARKING SPACE.

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The size of a parking space for one vehicle shall consist of a rectangular area having dimensions of not less than nine (9) feet by twenty (20) feet plus adequate area for ingress and egress. (Prior Code, Secs. 18-14)

### SECTION 12-231 AMOUNT OF OFF-STREET PARKING AND LOADING REQUIRED.

Off-street parking and loading facilities shall be provided in all districts in accordance with the following schedule:

1. Dwelling, single-family or duplex: one parking space for each separate dwelling unit within the structure;
2. Dwelling, multiple-family: the number of spaces provided shall not be less than one and one-half (1 1/2) times the number of units in the dwelling;
3. Boarding or rooming house or hotel: one parking space for each two (2) guests provided overnight accommodations;
4. Hospitals: one space for each four (4) patient beds, exclusive of bassinets, plus one space for each staff or visiting doctor, plus one space for each three (3) employees including nurses, plus adequate area for the parking of emergency vehicles;
5. Medical or dental clinics or offices: six (6) spaces per doctor plus one space for each two (2) employees;
6. Convalescent or nursing homes: one space for each six (6) patient beds plus one space for each staff or visiting doctor plus one space for each two (2) employees including nurses;
7. Community center, theatre, auditorium, church sanctuary: one parking space for each four (4) seats, based on maximum seating capacity;
8. Convention hall, lodge, club, library, museum, place of amusement or recreation: one parking space for each fifty (50) square feet of floor area used for assembly or recreation in the building;
9. 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;
10. Commercial establishments not otherwise classified: one parking space for each one hundred fifty (150) square feet of floor space used for retail trade in the building and including all area used by the public; and
11. Industrial establishments: one off-street parking space for each one thousand (1000) square feet of gross floor area or one off-street parking space for each three (3) employees

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whichever is greater and one loading or unloading berth of each twenty-five thousand (25,000) square feet or fraction thereof of gross floor area. (Prior Code, Secs. 18-14)

SECTION 12-232 PAVED SURFACE REQUIRED.

All parking spaces in commercial areas shall be paved with a sealed surface pavement and maintained in a manner that no dust will result from the continued use. (Prior Code, Secs. 18-14)

SECTION 12-233 OFF-STREET PARKING LOTS IN RESIDENTIAL DISTRICTS.

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. All sides of the lot within or abutting the residential district shall be enclosed with an opaque ornamental fence, wall or dense evergreen hedge having a height of not less than five (5) feet. Such fence, wall or hedge shall be maintained in good condition;

2. No parking shall be permitted within a front yard setback line wherever the parking lot is located in a residential district or immediately abuts the front yard of the residential unit. In all other cases, a minimum five (5) foot setback shall be required;

3. Driveways used for ingress and egress shall be confined to and shall not exceed twenty-five (25) feet in width, exclusive of curb returns;

4. All of the lot used for parking and driveway purposes shall be paved with a sealed surface pavement and maintained in such a manner that no dust will be produced by continued use;

5. Whenever lighting is provided, it shall be arranged so that all light is deflected from adjoining residential uses; and

6. No sign of any kind shall be erected except information signs used to guide traffic and to state the condition and terms of the use of the lots. Only non-intermittent white lighting of signs shall be permitted. (Prior Code, Secs. 18-14)

SECTION 12-234 STORAGE AND PARKING OF TRAILERS, COMMERCIAL VEHICLES, MOBILE HOMES, DEFINITIONS.

For the purpose of these regulations:

1. "Mobile home" means a structure, transportable in one or more sections, which is twelve (12) lineal feet or more in width, and fifty (50) lineal feet or more in length, and which is built on a permanent chassis, and designed to be used as a dwelling with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein;



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2. “Abutting landowner” means the owner of any real property which adjoins or abuts, either directly, or separated only by an alley or street, any part or portion of the tract within any area zoned for R-1, R-2, or R-3 residential usage by the planning commission of the city where it is proposed that a mobile home be parked outside of a mobile home park;

3. “Anchoring equipment” means strips, cables, turnbuckles and chains, including tensioning devices, which are used with ties to secure a mobile home to ground anchors; and

4. “Anchoring system” means a combination of ties, anchoring equipment, and ground anchors that will, when properly designed and installed, resist overturning and lateral movement of the mobile home from wind forces. (Ord. No. 341, 5/4/87; Ord. No. 373)

### SECTION 12-235 PARKING OF MOBILE HOMES IN AREAS ZONED FOR RESIDENTIAL USE ONLY – RESTRICTIONS AND CONDITIONS

A. Mobile Homes shall not be parked within the City limits without the prior approval of the City Council, nor shall the same be parked upon any land within the City which is not zoned or designated as Residential, whether as R-1, R-2, or R-3.

B. Subject to the final approval or disapproval by and of the City Council, and subject to the provisions of this Section, upon the proper application therefore having been made by an owner of a lot or tract which is so zoned, the Planning Commission may recommend the parking of one (1) mobile home upon such a lot or tract.

C. Provided further, however, that the Planning Commission shall not recommend the parking of a mobile home upon any lot within the City, even if otherwise satisfying the remaining provisions of this Section, unless:

1. Said mobile home is to be so parked and occupied by an owner thereof; and

2. At the time such application was made, the mobile home was Ten (10) years old, or less than Ten (10) years old (as measured by the model year, or if none, then by the date of manufacture thereof).

D. Mobile homes, when properly located in residential areas as allowed hereunder, shall be classed as single family residences; and, as such, shall be subject to all provisions of the City Code and the Ordinances of the City pertaining to such residences, as well as (in addition to) the provisions and restrictions contained within this Section, and any restrictions, conditions, limitations or other provisions set forth in the Resolution of the City Council authorizing the parking thereof.

Such application shall set forth and/or contain:

1. The names and addresses and telephone contact information of the owner(s) of the lot or tract upon which it is proposed that such mobile home be parked, designating their respective interests therein;

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2. The names and addresses of all abutting property owners;
3. The names, addresses and telephone contact information of the owner(s) of the mobile home proposed to be located thereupon;
4. A description and graphic depiction of the geographical location within the City of said lot or tract;
5. The legal description, and, a description and graphic depiction of the geographical boundaries of such lot or tract;
6. Description and graphic depiction of the proposed placement location of the mobile home upon such lot or tract in relation to the boundaries thereof;
7. Description and graphic depiction of the off street parking to be provided; and
8. Such additional pertinent information which the City Clerk may reasonably require and/or which the Planning Commission may request in order to make its determination.

F. Upon the filing of such application, the applicants shall be required to pay the City Clerk a fee therefore, which shall be in the amount of the sum of:

1. In application fee as set, from time to time, by the City Council; plus
2. Fee sufficient to cover the costs and expenses of the processing and postage for the notices to be mailed by the city clerk.

G. Upon the filing of such an application and payment of such fees, the city clerk shall cause a notice to be prepared setting forth the general content of the application, together with the date time and location of the meeting of the Planning Commission at which the application is scheduled to be heard, and shall, not less than Fifteen (15) days nor more than Thirty (30) days prior to such meeting, cause a copy thereof to be mailed or delivered to the applicants and the Planning Commission, and, cause copies thereof to be mailed to each of the aforesaid abutting property owners by certified mail, return receipt requested.

H. The lot or tract upon which it is proposed that the mobile be parked shall have a minimum (no less than) width of Fifty feet (50') of street frontage; and, the mobile home shall be parked (positioned or located) thereupon in such a manner that:

1. Shall be at least (not less than) Fifteen feet (15') from each and any property line of said lot or tract;
2. It shall not be attached to, connected to, or located within Ten feet (10') feet of any permanent building, nor attached to, connected to, or located within Three feet (3') feet of any temporary building or accessory building located upon such lot or tract;

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3. There shall be an area specifically designated for off street parking (for the parking of motor vehicles), separately from the foot print of such mobile home, the dimensions of which shall be at least (not less than) Thirty feet (30') by Ten feet (10');

4. Such off street parking area shall be located in such manner that it shall be at least (not less than) Fifteen feet (15') feet from each property line of the lot or tract, except for property lies abutting a public street; and

5. It shall have adequate and sufficient water, sewer and electrical facilities, which shall be connected to public utilities acceptable to and meeting standard health and fire code and there requirements of the City Code, City Ordinances, and any applicable state or federal law thereunto relating or pertaining.

I. Furthermore all such mobile homes shall:

1. Be placed upon a permanent foundation, consisting of either concrete blocks or poured concrete, which foundation shall be skirted and otherwise enclosed between the bottom of the outside walls of the mobile home and the ground by a covering of uniform color and design made of metal or a substance which is the same and/or substantially similar to the outside coverings of the mobile home; and

2. It shall be equipped with stabilizing devices by means of a system of ties connected to the walls or central frame of the mobile home and which shall be firmly and permanently attached to an anchoring system which shall be buried in the ground or in concrete in accordance with the specifications and installation directions of the manufacturer of the mobile home, or to concrete slabs or continuous footings, provided, the slab shall be of dimensions of at least (not less than) the respective length and width of such mobile home and at least (not less than) six inches (6") thick, and that all continuous footings shall contain at least (not less than) Two (2) continuous steel reinforcing rods which are at least (not less than one-half inch (0.5") inch in diameter, and shall extend into the ground at least (not less than) Eighteen inches (18") below ground level; and

3. It shall be equipped with at least (not less than) two (2) battery powered smoke detectors of a type approved by Underwriters Laboratories, which said smoke detectors shall be installed on the interior ceiling of the mobile home, within ten (10) feet from either thereof; and

4. It shall be equipped with at least (not less than) one (1) listed portable fire extinguisher suitable for handling incipient fires in such mobile homes, which shall be either a listed extinguisher labeled as suitable for class A, B, and C fires (multi-purpose dry chemical type, or a listed extinguisher labeled as suitable for class Band C fires (carbon dioxide or chemical type), and which said fire extinguisher shall be installed on a permanent mounting in or near the kitchen area of the mobile home.

J. The areas around and adjacent to all mobile homes within the city shall be kept free from dry brush, leaves and weeds, which might communicate fires either to the mobile

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homes or between the mobile homes and other buildings located nearby. (Former Ordinances: 12-235, Ord. No. 341, 5/4/87; Ord. No. 373)

### SECTION 12-236 COMMERCIAL VEHICLES.

A. No commercial vehicle, defined as a motorized, self-propelled vehicle either designed for or used for transporting commercial goods, merchandise, tools, machinery, business or trade equipment, building material, products of the construction trade, chemicals or liquids, including, but not limited to a van, bus, truck, pickup truck, utility vehicle, a vehicle with an open or flat bed or equipment rack behind the driver or passengers seat, or any vehicle which by its design, number of wheels or special equipment puts it in a class other than a private passenger automobile or recreational vehicle which is rated as a vehicle in excess of one and one half (1 1/2) tons rated capacity, or with a factory gross vehicle weight capacity in excess of sixteen thousand (16,000) pounds shall be parked on any property or lot zoned for residential purposes which is serviced by any street which is now or hereafter paved with oil and chip, asphalt or concrete paving. Roads located within the city limits of the city which were excepted and reserved by the United States of America as section line right-of-ways shall be excluded.

B. No commercial vehicle as defined in Subsection A above shall be parked or stored on any property within the city limits. This shall not prohibit the owner of a business from parking commercial vehicles owned or leased by him at his business establishment so long as such vehicles are not used for hire or any other use not directly related to the business enterprise located on such property and provided further that such business use is a permitted use within the district in which the property is located.

C. No tractors or trailers, backhoes, or any other construction related equipment, abandoned vehicles (long term parking on city streets), machine or vehicle may be parked on any street, alley or right-of-way which abuts residential property except during actual construction on abutting property and for the purpose of loading and unloading such equipment only.

D. This section shall in no way prohibit the moving on public streets of any commercial vehicle which is so moving for the purpose of making deliveries or pick-ups to points within the city, but it shall be unlawful for any commercial vehicle otherwise prohibited from parking on any alley or easement of the city which has been paved with oil and chip, asphalt or concrete surfacing except as are necessary to make such delivery or pick-up such goods. (Ord. No. 341, 5/4/87)

### SECTION 12-237 INSPECTIONS AND UTILITY CONNECTIONS.

A. Prior to connecting either water or sewer services to any mobile home located in a residential area hereunder the city manager, or his designated representative shall inspect the mobile home and its location and ascertain that its parking, location, foundation, and other requirements made hereunder confirm with the requirements hereof.

B. Each mobile home located hereunder is required to have its separate water meter and sewer connection. No mobile home located hereunder shall be connected to city water or

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sewer services until all the aforementioned requirements have been satisfied. (Ord. No. 341, 5/4/87; Ord. No. 373)

### SECTION 12-238 ANNEXATION CLAUSE.

All territory annexed to the corporate limits of Atoka, Oklahoma, subsequent to the effective date of these regulations is within the jurisdiction of these regulations and will upon annexation be zoned as R-1, Single-Family Residential District, unless otherwise classified by the city council. Within six (6) months after the effective date of such annexation, the city council of the city shall, in accordance with Sections 401-410, Chapter 7 of Title 11 of Oklahoma Statutes and these regulations, rezone the annexed territory in keeping with the comprehensive plan. (Prior Code, Sec. 18-14)

### SECTION 12-239 EXISTING LOTS OF RECORD.

In any district where single-family residences are permitted, a single-family detached dwelling may be erected on any lot which is of official record on the effective date of these regulations, subject to the following restrictions:

1. There must be provided a minimum lot width of fifty (50) feet;
2. There must be provided a minimum of ten (10) feet in side yards with five (5) feet on any one side; and
3. The front and rear yards must comply with the requirements set forth for the zoning district within which the lot of record is located. (Prior Code, Sec. 18-14)

### SECTION 12-240 BILLBOARD TYPE SIGNS PROHIBITED WITHIN CORE AREA OF CITY

Except as otherwise specifically provided in Section 12-242 of the Atoka City Code, from and after midnight on February 15, 1999, Billboard-Type Signs shall not be Erected and/or Established at any location within the Core Area (of the City of Atoka), regardless of whatsoever other zoning classification(s) may be applicable to such location, the ownership thereof, or the presents or absence of any permit(s) issued therefore by the State and/or Federal Government.

### SECTION 12-241 CERTAIN SPECIAL APPLICABLE DEFINITIONS.

As used in Sections 12-240 through 12-243, inclusive, of the Atoka City Code, the following terms, phrases and/or expressions (and grammatical variants thereof) shall be interpreted and construed as having the meanings hereinbelow ascribed thereto, to-wit:

1. "Billboard-Type Sign" means any sign which:
  - a. has a height of Sixteen (16) feet, or higher; and/or

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b. has a Display Area which equals or exceed One Hundred and Ninety-Five (195) square feet; and/or

c. otherwise has a Display Area which is Ten (10) feet high or higher, and/or which is twenty (20) feet wide, or wider.

2. “Core Area” means all that part of the city limits of the City of Atoka Oklahoma, as the same are now or hereafter may be or become established, which is lying and/or contained within any one or more of the following Sections and/or described portions of Sections of Township Two (2) South, Range Eleven (11) East (Indian Base and Meridian), Atoka County, Oklahoma, to-wit: Sections 10, 14, 15, 22, that part of Section 11 which is South of the South bank of the Muddy Boggy Creek (first bridge north of Liberty Road), the North One Hundred (100) Feet of Section 23, and/or the East One Hundred (100) Feet of Sections 9, 16 and/or 21.

3. “Display Area” means the combined facing(s), and otherwise all parts and/or portions, combined, of a sign, and its/their surrounding border(s), trim(s) and/or framing(s), which is/are primarily designed, intended and/or used for the display, publication and/or other communication of the advertising, message or other communication which is and/or is intended to be displayed, published and/or otherwise communicated thereupon or thereby.

4. “Erected” means constructed or for which approval for construction has already been granted by the City Council , built, raised, assembled, installed, placed, affixed, created, painted, drawn and/or otherwise, in any other way, erected and/or brought into existence. And

5. “Established” means to alter, modify, change, increase or otherwise in whatsoever method or manner cause any existing sign and/or other structure to be and/or become a Billboard-Type Sign.

### SECTION 12-242 PRIOR LAWFUL USES GRAND FATHERED.

Provided, however, the provisions of Section 12-240 of the Atoka City Code shall not prohibit the continuation of any Billboard-Type Sign which had been, prior to Midnight on February 15, 1999, fully and completely installed or attached at any location in full and complete conformity with all then applicable provisions of the Atoka City Code and any applicable State and Federal laws.

## ARTICLE D

### NONCONFORMING BUILDINGS, STRUCTURES AND USES OF LAND

#### SECTION 12-251 INTENT.

A. Within the districts established by these regulations or amendments that may later be adopted, there exist lots, structures, and uses of land and structures which were lawful before these regulations were passed or amended, but which would be prohibited, regulated, or restricted under the terms of these regulations or future amendment.

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B. It is the intent of these regulations to permit these nonconformities to continue until they are removed, but not to encourage their survival. Such uses are declared by these regulations to be incompatible with permitted uses in the districts involved. It is further the intent of these regulations that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

C. A nonconforming use of structure, a nonconforming use of land, or a nonconforming use of a structure and land shall not be extended or enlarged after passage of these regulations. (Prior Code, Sec. 18-14)

### SECTION 12-252 NONCONFORMING LOTS OF RECORD.

In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of these regulations, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of these regulations. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. Variance of area, width, and yard requirements shall be obtained only through action of the board of adjustment. (Prior Code, Sec. 18-14)

### SECTION 12-253 NONCONFORMING STRUCTURES.

Where a lawful structure exists at the effective date of adoption or amendment of these regulations that could not be built under the terms of these regulations by reason of restrictions on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No such structure may be enlarged or altered in a way which increases its nonconformity; or
2. Should such structure be destroyed by any means to an extent of more than fifty (50) percent of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of these regulations. (Prior Code, Sec. 18-14)

### SECTION 12-254 NONCONFORMING USES OF STRUCTURES.

If a lawful use of a structure, or of structure and premises in combination, exists at the effective date of adoption or amendment of these regulations, that would not be allowed in the district under the terms of these regulations, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No existing structure devoted to a use not permitted by these regulations in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located;

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2. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of these regulations, but no such use shall be extended to occupy any land outside such building;

3. Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located, and the nonconforming use may not thereafter be resumed;

4. When a nonconforming use of a structure, or structure and premises in combination is discontinued or abandoned for six (6) consecutive months, the structure, or structure and premises in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located; or

5. Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land. (Prior Code, Sec. 18-14)

### SECTION 12-255 NONCONFORMING USES OF LAND.

Where, at the effective date of adoption or amendment of these regulations, lawful uses of land exist that are no longer permissible under the terms of these regulations as enacted or amended, such uses may be continued, so long as they remain otherwise lawful, subject to the following provisions:

1. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of these regulations;

2. No such nonconforming use shall be moved in whole or part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of these regulations; or

3. If any such nonconforming use of land ceases for any reason for a period of more than thirty (30) days, any subsequent use of such land shall conform to the regulations specified by these regulations for the district in which such land is located. (Prior Code, Sec. 18-14)

## ARTICLE E

### SPECIFIC DISTRICT REGULATIONS

#### SECTION 12-261 A-1 GENERAL AGRICULTURAL DISTRICT, GENERAL DESCRIPTION.

The A-1, agriculture district, is established for several purposes:



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1. To provide for the continued use of land for predominately agricultural purposes;
2. To preserve undeveloped areas until they can feasibly be developed at urban standards and with adequate public safeguards of health, safety, etc.; and
3. To restrict development in areas subject to severe inundation until such time as it can be shown that these areas are no longer subject to flooding. (Prior Code, Secs. 18-24)

### SECTION 12-262 USES PERMITTED.

No buildings or use shall hereafter be established or enlarged within the A-1, agricultural district, except a building or use devoted to one of the following purposes:

1. Agriculture, as defined in these regulations;
2. Single-family dwellings;
3. Churches and temples;
4. Elementary schools and high schools;
5. Golf courses, but not including golf driving ranges, pitch and putt courses, or miniature golf courses;
6. Parks and forest preserves, operated not for profit;
7. Temporary buildings and uses for construction purposes only, and not for dwelling purposes, nor for a period that exceeds the completion of the construction;
8. Accessory buildings or uses incidental to the foregoing principal uses;
9. Municipal or community recreation centers;
10. Police or fire stations;
11. Public buildings or buildings operated in the public interest by a not-for-profit corporation, including art galleries, post offices, libraries, or museums;
12. Public or not-for-profit auditoriums, stadiums, arenas, armories, or sanitariums;
13. Public or private hospitals or sanitariums;
14. Public or private schools and colleges; and
15. Public utility and service uses, including electric subsections, gas regulator stations, electric, gas, telegraph, telephone and water transmission metering and distribution

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equipment and structures, micro-wave relay towers, water reservoirs or pumping stations, and other similar facilities. (Prior Code, Secs. 18-24)

SECTION 12-263 AREA AND HEIGHT REGULATIONS.

The following area and height regulations apply:

1. Minimum lot area 5 acre;
2. Minimum lot frontage 330 feet;
3. Maximum percent coverage 30%;  
Including accessory buildings
4. Maximum height 35 feet;
5. Minimum front yard setback 50 feet;
6. Minimum side yard setback 25 feet; and
7. Minimum rear yard setback 50 feet.

(Prior Code, Secs. 18-24)

SECTION 12-271 R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT, GENERAL DESCRIPTION.

The R-1 single-family residential district is established as a district in which the use of the land is for single-family dwellings except as noted. It is the purpose and intent of this district to promote the development of and the continued use of the land for single family dwellings and to prohibit commercial and industrial use or any other use which would substantially interfere with the development or continuation of single-family dwellings in this district. The intent is to further discourage any use in this district which would generate traffic or create congestion on neighborhood streets other than the normal traffic which serves the residents in the area. This district further encourages only those uses which because of character or size, would not create additional requirements and costs for public services which are in excess of such requirements and costs if the district was not developed solely for single-family dwellings. (Prior Code, Secs. 18-24)

SECTION 12-272 USES PERMITTED.

The following uses are permitted in a R-1, single-family residential district, and are subject to all the general provisions and regulations of these regulations:

1. Single-family detached dwellings;

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2. Elementary schools, public and private where the curriculum is similar in nature and preparation of course work to the public school;
3. Public park or playground; and
4. Agricultural uses of the garden type that are not intended for commercial purposes. (Prior Code, Secs. 18-24)

### SECTION 12-273 USES PERMITTED SUBJECT TO ADDITIONAL REQUIREMENTS.

The following uses are permitted provided they meet the requirements noted for each use in addition to applicable area regulations:

1. Churches: a minimum lot size of one acre and major street frontage as shown on the thoroughfare plan;
2. Library: provided it has major street frontage as shown on the thoroughfare plan;
3. Home occupation: provided that it is in keeping with the meaning of home occupation as defined in these regulations;
4. Plant nursery: provided that no building or structure is maintained in connection therewith and no retailing of any material is carried on upon the premise;
5. Golf course, private or public, or country club: provided that the chief activity is for recreational purposes and any commercial activity is accessory or incidental thereto;
6. Junior high or senior high schools: provided that they have major street frontage as shown on the thoroughfare plan;
7. Accessory buildings which are not a part of a main building, may include one private garage;
8. Temporary structures which are incidental to the construction of the main building and will be removed when the main structure is completed;
9. Parking lot required to serve the uses permitted in this district; and
10. A temporary bulletin board or sign not exceeding twelve (12) 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. (Prior Code, Secs. 18-24)

### SECTION 12-274 AREA AND HEIGHT REGULATIONS.

- A. The following area and height regulations apply:

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1. Minimum lot area 6,000 sq. ft;
2. Minimum lot frontage 60 feet;
3. Maximum % coverage 30% interior  
35% corner;
4. Maximum height 35 feet;
5. Front yard setback 25 feet;
6. Side yard setback 5 feet interior lots  
15 feet street side of corner lots;
7. Rear yard setback 20 feet.

### B. Side yard requirements are as follows:

1. For buildings of more than one story, the minimum width of the side yard on interior lot lines shall be not less than ten (10) feet; and

2. For a principal building other than a one family dwelling, the minimum width of side yard shall be not less than one-half (1/2) the height of the building, but in no case less than fifteen (15) feet.

C. Rear yard requirements are as follows: Unattached buildings of accessory use may be located in the rear yard of a main building; provided, however, that no accessory building shall be located closer than ten (10) feet to the rear lot line.

D. Lot size requirements are as follows: The frontage of any wedge-shaped lot which meets the requirements of a minimum lot size may be a minimum of forty (40) feet; however, the front building line on the lot shall be a minimum of seventy (70) linear feet measured at an equal distance parallel to and from the front lot line. (Prior Code, Secs. 18-24)

### SECTION 12-275 OFF-STREET PARKING.

Except as provided for elsewhere in these regulations all permitted uses in the R-1 residence district shall comply with the following minimum requirements for off-street parking:

1. Single-family dwellings: One off-street parking space for each dwelling unit;
2. Schools, elementary schools, junior and senior high schools, including public, private and parochial schools: one off-street parking space for each employee plus one for each classroom, plus one for each fifty (50) square feet of assembly area with stationary or movable seats;

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3. Other uses permitted: One off-street parking space for each five (5) seats provided for patron use, or one space for each four hundred (400) square feet of gross floor area used or intended to be used for service to the public as customers, patrons, or clients, whichever requires the greatest number of parking spaces. The open space required by front-yard requirements shall not be used for parking; and

4. Utilities service installations: One off-street parking space for each four hundred (400) square feet of floor space. (Prior Code, Secs. 18-24)

### SECTION 12-276 SEWER SERVICE.

No dwelling unit in an R-1, single-family district shall be constructed which is not provided with an effective connection to a public sewer system unless or until the county public health officer certifies that septic tank or any substitute disposal system can be satisfactorily installed on the lot. As a basis for making his decision, the county public health officer may require such precaution tests as he deems to be necessary. Such tests are to be made at the expense of the homeowner. (Prior Code, Secs. 18-24)

### SECTION 12-277 SIGNS AND BILLBOARDS.

No signs, billboards, posters, bulletin boards, or other similar matter shall be permitted in the R-1, single-family residential district except as follows:

1. Temporary signs not to exceed the duration of six (6) months to advertise the premises for sale, rent or lease, except original sale;
2. One bulletin board not exceeding in fifty (50) square feet may be erected by each church;
3. Official public notices may be erected on affected property; or
4. One unilluminated name plate not exceeding two (2) square feet in area, and not containing lettering other than the name of the owner or occupants or name or address of the premises. (Prior Code, Secs. 18-24)

### SECTION 12-281 R-2 GENERAL RESIDENTIAL DISTRICT, GENERAL DESCRIPTION.

This residential district is intended to provide for both low and moderate population density. It is established as a district in which the principal uses of the land are for multi-family dwellings and similar higher density residential development. The intent is to encourage the development and the continued use of land for multi-family dwellings and to prohibit commercial and industrial uses or any other use which would substantially interfere with the development or continuation of multi-family dwellings in this district. It is further intended to discourage any use which would generate traffic or create congestion on the neighborhood streets other than the normal traffic which serves the multi-family dwelling or similar residential



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2. Minimum lot frontage 50 feet;
3. Maximum % coverage 50%;
4. Maximum height (Single family) 35 feet;
5. Front yard setback 25 feet;
6. Side yard setback 5 feet; and
7. Rear yard setback 20 feet.

B. Front yard requirements are as follows:

1. When a yard has double frontage, the front yard requirements shall be complied with on both streets; and
2. One foot of setback for each one foot of height for all use other than single-family and duplex.

C. Side yard requirements are as follows:

1. For dwellings and accessory buildings located on corner lots, there shall be a side yard setback from the intersecting street of not less than fifteen (15) feet; and
2. One foot of setback for each one foot of height for all uses other than single-family and duplex.

D. Rear yard requirements are as follows:

1. Unattached buildings of accessory use may be located in the rear yard of a main building, provided, however, that no accessory building shall be located closer than ten (10) feet to the rear lot line; and
2. One foot of setback for each one foot of height for uses other than single-family and duplex.

E. Lot size requirements are as follows: There shall be a lot area of not less than eight thousand (8,000) square feet for a two-family dwelling, and an additional area of not less than two thousand (2,000) square feet for each unit, more than two (2). If the lot is a wedge-shaped lot which meets the requirements of minimum lot size, it may have less than the minimum requirements for frontage as long as the front building line of the lot is a minimum of seventy (70) linear feet. (Prior Code, Secs. 18-24)

### SECTION 12-285 OFF-STREET PARKING.

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In the R-2, general residential district, the off-street parking requirements are the same as those in Section 12-226 to 12-233 of these regulations. (Prior Code, Secs. 18-24)

### SECTION 12-286 SEWER SERVICE.

No dwelling unit in an R-2, general residential district shall be constructed which is not provided with an effective connection to a public sewer system unless and until the public county health officer certifies that a septic tank or any substitute disposal system can be satisfactorily installed on the lot. As a basis for making his decision, the health officer may require such precaution tests as he deems to be necessary. Such tests are to be made at the expense of the homeowner. (Prior Code, Secs. 18-24)

### SECTION 12-287 SIGNS AND BILLBOARDS.

The control of signs and billboards in the R-2, general residential district is the same as that for the R-1, single-family residential district. (Prior Code, Secs. 18-24)

### SECTION 12-288 MOBILE HOME PARK OR COURT.

It is the policy of the Atoka City Council for all mobile homes hereinafter located in the Atoka City limits to be placed within mobile home parks or courts as further described below.

Definition of mobile home: Mobile home means a single-family dwelling designed for transportation on streets and highways on its own wheels or on flatbed or other trailers, both highway and rail, and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy, except for minor and incidental unpacking and assembly operations, location on jacks or permanent foundations, connection to utilities and similar operations. Unless otherwise indicated in the text of these regulations, the term "mobile home" shall refer to a "mobile/manufactured home, independent" as defined in this section. Also, unless otherwise indicated in the text of these regulations, a "container home" shall be defined/considered a "mobile/manufactured home, independent" as defined in this section. All mobile homes shall be solely designed for occupancy as a single family residence and not for storage purposes.

#### Requirements for a Mobile Home Park or Court

A. The applicant upon making application for a zoning clearance permit must submit a detailed site plan locating all mobile home stands, screening or fencing, and plans and specifications for the proposed park in a form suitable for making the determinations required herein.

B. The proposed site shall be a minimum of one and one-third (1 1/3) acres in size and shall contain no more than ten (10) mobile home stands per one and one-third (1 1/3) acre. The minimum area to be allotted to each mobile home stand shall be five thousand seven hundred fifty (5,750) square feet. The proposed site shall have a minimum frontage of two hundred (200) feet on a street designated as a major street or collector street in the thoroughfare



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plan. All access and egress by automobile will be on such streets. The proposed site shall be a minimum of two hundred (200) feet in depth.

C. It shall be the intention of the proposed plan for the mobile home park to accommodate primarily permanent occupants with no more than ten percent (10%) of the mobile home stands devoted to purely transient purposes. These purely transient stands are to be located in one area of the park so they will in no way interfere with the permanent residents.

D. The proposed site shall have a front yard of not less than twenty (20) feet from the corner of line of any mobile home stand to the street boundary of the park. The site shall have side and rear yards of ten (10) feet from any solid fencing, screen planting or wall of six (6) feet in height.

E. The proposed site shall be screened or buffered on all sides with a solid wall fence six (6) feet in height or a screen planting which will attain at least six (6) feet in height.

F. The proposed site shall provide one off-street parking space for each mobile home stand, plus one additional off-street parking space for each four (4) mobile home stands.

G. The proposed site shall provide a connection for each mobile home stand to all public utilities considered necessary for the health, safety and general welfare of the public. (Ord. No. 563, adopted 12/2/19)

### SECTION 12-289 RECREATIONAL VEHICLES

A. "Recreational Vehicles" (RVs) shall be defined as a trailer, boat trailer, camping trailer, truck camper, camper shell, motor home, tent trailer, boat, houseboat, or similar vehicle or unit. Camper shells which are attached to a pickup truck are not considered a recreational vehicle.

B. The use of recreational vehicles (RVs) as a primary or temporary residence is hereby prohibited within the city limits except as otherwise provided for in this Chapter.

C. Recreational Vehicles are allowed with approval by the City Council in RV Parks or Courts which are to be governed by the same restrictions placed upon Mobile Home Parks or Courts as set forth in Section 12-288 of this Chapter.

D. A violation of this code section shall constitute a nuisance to the city and shall carry a fine of up to five hundred dollars (\$500.00), each day's continued violation of any of the provisions hereof shall constitute a separate offense and may be punishable as such. (Ord. No. 549, adopted 11/6/17)

### SECTION 12-291 C-1 CONVENIENCE COMMERCIAL DISTRICT, GENERAL DESCRIPTION.

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This commercial district is intended for a unified grouping, in one or more buildings, of retail shops and stores and personal services that provide for the regular needs and are for the convenience of the people residing in the adjacent residential neighborhoods. It is intended that the suburban convenience center be developed as a unit with adequate off-street parking space for customers and employees, and with appropriate landscaping and screening. (Prior Code, Secs. 18-24)

### SECTION 12-292 USES PERMITTED.

All buildings or uses hereafter established or enlarged shall comply with the conditions and restrictions enumerated below:

1. Any of the following uses shall be permitted:
  - a. Artist supplies and hobby shop;
  - b. Automobile service station;
  - c. Bakery shop;
  - d. Barber and beauty shops;
  - e. Book store;
  - f. Clothing or wearing apparel shops;
  - g. Clothing alterations shop;
  - h. Drug store;
  - i. Dairy products store;
  - j. Delicatessen;
  - k. Florist shop;
  - l. Gift shop;
  - m. Grocery store;
  - n. Hardware store;
  - o. Jewelry store;
  - p. Laundry and dry cleaning pick-up stations;

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- q. Liquor store;
- r. Medical facility;
- s. Office general;
- t. Pharmacy;
- u. Public uses;
- v. Restaurants;
- w. Self service laundries;
- x. Shoe repair shop;
- y. Tailor shop;
- z. Toy store; and
- aa. Variety store;

2. Any other commercial use deemed by the board of adjustment to be of a similar nature;

3. All advertising signs relating to the shopping center, the stores and shops therein shall be designed as an integral part of the shopping center development and shall be harmonious with the other design features of the center; or

4. Accessory buildings and uses customarily incidental to the above uses. (Prior Code, Secs. 18-24)

SECTION 12-293 AREA AND HEIGHT REGULATIONS.

The following area and height regulations apply:

- 1. Minimum lot area 12,000 square feet;
- 2. Minimum lot frontage 100 feet;
- 3. Maximum % coverage 50%;
- 4. Maximum height 35 feet;
- 5. Front yard setback 50 feet;

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- 6. Side yard setback 10 feet; and
- 7. Rear yard setback 20 feet.

B. Minimum area requirements are as follows: The parcel of land on which a convenience commercial center is located shall not be less than twelve thousand (12,000) square feet or more than two (2) acres in area.

C. Yard requirements are as follows: It is intended that the grouping of buildings and parking areas be designed to protect, in so far as possible, adjacent residential area. In no case shall the design of the shopping center provide less than the following standards:

- 1. All buildings shall be set back from all street right-of-way lines not less than fifty (50) feet; and
- 2. On the side of a lot adjoining a residential district there shall be a side yard setback of one foot for each one foot for each one foot of height. (Prior Code, Secs. 18-24)

SECTION 12-294 BULK LIMITATIONS (FLOOR AREA RATIO).

In no instance shall the total floor space of the structures in this district exceed the relationship of one to four (4), i.e., there must be provided four (4) square feet of lot area to each one square foot of floor space in the structure. (Prior Code, Secs. 18-24)

SECTION 12-295 OFF-STREET PARKING.

In the C-1 convenience commercial district, three (3) square feet off-street parking space, dedicated to parking and automobile maneuvering, must be provided for each one square foot of total floor space. (Prior Code, Secs. 18-24)

SECTION 12-296 SEWER SERVICE.

No structure or use in this district shall be erected or commenced which does not have a connection to the public sewer system, unless and until the county health officer certifies that a septic tank or any substitute disposal system can be installed and operated effectively. As a basis for making his decision, the health officer may require such precaution tests as he deems to be necessary. Such tests are to be made at the expense of the landowner. (Prior Code, Secs. 18-24)

SECTION 12-297 SIGNS AND BILLBOARDS.

All signs in the C-1 district shall be erected upon private property and shall not encroach upon any public street or walk except as provided by the applicable municipal codes; and, in addition signs shall not overhang at a height of less than nine (9) feet and shall not have a maximum projection greater than seventy-two (72) inches:

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1. Any projection sign in the C-1 district shall not exceed fifty (50) square feet in size, nor will it exceed the height of the building;

2. No source of incandescent lighting used for illuminating signs shall be directly visible from any street or highway or from any residence, hotel or from any room used for sleeping purposes; and

3. The use of red, green or amber illumination in connection with any sign shall not be permitted within one hundred (100) feet of any intersection. Any use of red, green or amber illumination in connection with any sign must be so located that it in no way creates a confusion with any traffic signal or may be interpreted by any motorist as a traffic signaling device. (Prior Code, Secs. 18-24)

### SECTION 12-301 C-1A EXTENDED HOURS COMMERCIAL DISTRICT, GENERAL DESCRIPTION.

Extended hours commercial district is intended for a unified grouping in one or more buildings of retail shops and stores and businesses providing personal services that operate both during the hours as most other retail businesses, but also, by the nature of the businesses involved, also operate until either late at night, or begin their operations prior to daylight hours in the morning, thereby tending to disturb or disrupt adjacent residential neighborhoods, although they do provide for the regular needs and are for the convenience of the residents of the neighborhoods. It is intended that the businesses so classified be developed as a unit, with appropriate off-street parking space for customers and employees, and with appropriate landscaping and screening. (Prior Code, Secs. 18-24)

### SECTION 12-302 USES PERMITTED IN EXTENDED HOURS COMMERCIAL DISTRICT.

A. All buildings or uses hereafter established or enlarged, shall comply with the conditions and restrictions enumerated below.

B. Any of the following uses shall be permitted in C-1A Extended Hours Commercial District:

1. Automobile service station;
2. Bakery shop;
3. Convenience store.
4. Dairy products;
5. Delicatessen;
6. Liquor store;

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7. Self-service laundry;
8. Tavern;
9. Any other commercial use deemed by the board of adjustment to be of a similar nature; and
10. Accessory buildings and uses customarily incidental to the above areas.

C. All advertising signs relating to the business or businesses so classified shall be designed as an integral part of the building involved, and shall be harmonious with the other design features of the building or buildings involved. (Prior Code, Secs. 18-24)

SECTION 12-303 CONVENIENCE STORE DEFINED.

For the purposes of these regulations a convenience store is a retail store operating before, during and after the hours of operation of most other retail establishments, selling items purchased frequently for immediate use and with a minimum of milk, eggs, small quantities of canned food, non-intoxicating beverages, gasoline and other similar items. (Prior Code, Secs. 18-24)

SECTION 12-304 AREA AND HEIGHT LIMITATIONS, BULK LIMITATIONS (FLOOR AREA RATIO), OFF-STREET PARKING, SEWER SERVICE, AND SIGNS AND BILLBOARDS IN EXTENDED HOURS COMMERCIAL DISTRICT.

Regulations relating to area and height regulations, bulk limitations (floor area ratio), off-street parking, sewer service, and signs and billboards, not heretofore mentioned within any tract zoned in C-1A classification shall be the same as those now in existence for properties having zoning classification of C-1, as set forth in this code, and those provisions are made part hereof and incorporated by reference as if they were fully set forth herein. (Prior Code, Secs. 18-24)

SECTION 12-311 C-2 HIGHWAY COMMERCIAL DISTRICT, GENERAL DESCRIPTION.

This commercial district is established as a district in which the principal use of land is for establishments offering accommodations, supplies, or services to motorists, and for certain specialized uses such as retail outlets, extensive commercial amusements and service establishments which may serve the entire community but do not and should not locate in the central business district or the convenience district. (Prior Code, Secs. 18-24)

SECTION 12-312 USES PERMITTED.

The following uses are permitted:

1. Any use permitted in the C-1 convenience commercial district;

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2. Other uses, including:
  - a. Advertising signs or structures;
  - b. Ambulance service, office or garage;
  - c. Amusement enterprises;
  - d. New and used automobile sales and service, new and used machinery sales and service, and public garages;
  - e. Automobile service station;
  - f. Bakery;
  - g. Boat sales;
  - h. Bowling alleys;
  - i. Bus terminal;
  - j. Clothing store;
  - k. Department store;
  - l. Drive-in theater or restaurant;
  - m. Electric transmission station;
  - n. Feed and fuel store;
  - o. Food stores;
  - p. Frozen food locker;
  - q. Furniture repair and upholstery;
  - r. Funeral parlor;
  - s. Garden stores;
  - t. Golf course, miniature or practice range;
  - u. Heating and plumbing sales and service;
  - v. Hospital for small animals;

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- w. Interior decorating store;
- x. Ice plant;
- y. Key shop;
- z. Kennel;
- aa. Laundry;
- bb. Motels;
- cc. Music, radio, and television shop and repair;
- dd. Novelty shop;
- ee. Pawn shop;
- ff. Pet shop;
- gg. Printing plant;
- hh. Public uses;
- ii. Recreation center-private;
- jj. Research laboratories;
- kk. Roller skating rink;
- ll. Sign painting shop;
- mm. Sporting goods store;
- nn. Stock broker;
- oo. Theater;
- pp. Toy store;
- qq. Travel trailer park and sales; and
- rr. Wholesale distributing center.



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3. Buildings, structures, and accessory uses customarily incidental to any of the above uses, provided that there shall be no manufacturing of products other than such as are customarily incidental to retail establishments; or

4. Any other store or shop for retail trade or for rendering personal, professional or business service which does not produce more noise, odor, dust, vibration, or traffic than those above. (Prior Code, Secs. 18-24)

SECTION 12-313 AREA AND HEIGHT REGULATIONS.

The following area and height regulations apply:

- |    |                      |   |
|----|----------------------|---|
| 1. | Minimum lot area     | 10,000 sq. ft.;   |
| 2. | Minimum lot frontage | 100 feet;   |
| 3. | Maximum % coverage   | 70%;  |
| 4. | Maximum height       | 45 feet;  |
| 5. | Side yard setback    | 1 foot of setback/1 foot of height when abutting an R-district; and |
| 6. | Front yard setback   | 50 feet; and  |
| 7. | Rear yard setback    | 20 feet.  |

(Prior Code, Secs. 18-24)

SECTION 12-314 OFF-STREET PARKING.

In the C-2, highway commercial or commercial recreation district, a minimum of three (3) square feet of off-street parking space, dedicated to parking and automobile maneuvering, must be provided for each one square foot of total floor space. (Prior Code, Secs. 18-24)

SECTION 12-321 C-3 GENERAL COMMERCIAL DISTRICT, GENERAL DESCRIPTION.

This commercial district is designed for the conduct of personal and business services and the general retail trade of the community. It is designed to accommodate a wide variety of commercial uses in the central business district or areas of mixed business enterprises. It will not normally be applied in the case of new commercial areas. (Prior Code, Secs. 18-24)

SECTION 12-322 USES PERMITTED.

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Property and buildings in a C-3, general commercial district, may be used for the following purposes:

1. Any use permitted in a C-1 or a C-2 commercial district;
2. Any other retail, personal service, business service, or professional use not already mentioned, except for those in C-4 commercial recreation district;
3. Any public buildings or uses; or
4. Buildings, structures, and accessory uses customarily incidental to any of the above uses, provided that there shall be no manufacturing of products other than such as are customarily incidental to retail establishments. (Prior Code, Secs. 18-24)

### SECTION 12-323 AREA AND HEIGHT REGULATIONS.

The following area and height regulations apply:

1. Minimum lot area None;
  2. Minimum lot frontage None;
  3. Maximum % coverage 70%;
  4. Maximum height None;
  5. Front yard setback None;
  6. Side yard setback None; and
  7. Rear yard setback None.
- (Prior Code, Secs. 18-24)

### SECTION 12-324 OFF-STREET PARKING.

In the C-3 general commercial district there shall be provided one off-street parking space for each four hundred (400) square feet of gross retail floor area. (Prior Code, Secs. 18-24)

### SECTION 12-331 C-4 COMMERCIAL RECREATION DISTRICT, GENERAL DESCRIPTION.

Commercial recreation district is intended for a unified grouping in one or more buildings within the city of businesses and private clubs which derive more than forty percent (40%) of their gross revenues from the sale of alcoholic beverages or non-intoxicating beverages as defined under Title 37 of the Oklahoma Statutes (1981), whose sales are for on-premises consumption. (Prior Code, Secs. 18-24)

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SECTION 12-332 PERMITTED USES.

A. Included in this category are the following:

1. Bait shops;
2. Lodges or fraternal organizations (which furnish alcoholic beverages or set-ups);
3. Private clubs (which furnish alcoholic beverages or set-ups);
4. Saloons (if legalized by county option); or
5. Taverns.

B. Other uses permitted: Any other use permitted in the C-1, C-1A, C-2, and C-3 may be used in C-4 commercial recreation district. (Prior Code, Secs. 18-24)

SECTION 12-333 AREA AND HEIGHT REGULATIONS AND OFF-STREET PARKING.

The area and height regulations and off-street parking requirements are the same as those currently in effect for C-3 general commercial district. (Prior Code, Secs. 18-24)

SECTION 12-334 CENTRAL BUSINESS DISTRICT, GENERAL DESCRIPTION

Central Business District is intended for promoting the redevelopment and expansion of existing businesses in the downtown shopping district, and to encourage and attract a variety of new retail, service, and higher density residential uses.

SECTION 12-335 CENTRAL BUSINESS DISTRICT LOCATION

Location of the Central Business District is described as follows: all of Blocks 24, 25, 26, 27, 32, 33, 34, and 35; Lots 1, 2, 3, 4, 5, and 9 in Block 40; Lots 1, 2, 3, 4, 5 and 15 in Block 39; Lots 4, 5, 6, 7, 8, 9, 10, and 11 in Block 18; Lots 8, 9, 10, 11, 12, 13, 14 and the south half of Lots 5, 6, and 7 in Block 19; and the south half of Lots 4, 5, and 6 in Block 20.

SECTION 12-336 DISTRICT REVIEW AND APPROVAL PROCESS

All submittals and applications for building permits will be made to the building official or designee. The Design Review Committee will be responsible for reviewing and processing the building permit applications.

SECTION 12-337 PERMITTED USES.

1. The following uses are permitted:
  - a. Advertising signs or structures;

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- b. Ambulance service, office or garage;
- c. Amusement enterprises;
- d. Artist supplies and hobby shop;
- e. Bakery;
- f. Banquet, exhibition, meeting and reception halls;
- g. Barber and beauty shops;
- h. Book store;
- i. Clothing store;
- j. Delicatessen;
- k. Department store;
- l. Drug store;
- m. Dwelling, multi-family (upstairs only);
- n. Financial institutions;
- o. Florist shop;
- p. Food stores;
- q. Furniture store; repair and/or upholstery;
- r. Gift shop;
- s. Hardware store;
- t. Health club or gymnasium;
- u. Hotel/Motel;
- v. Interior decorating store;
- w. Jewelry store
- x. Laundry;



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- |    |                    |           |
|----|--------------------|-----------|
| 3. | Maximum % coverage | 90%;      |
| 4. | Maximum height     | None;     |
| 5. | Front yard setback | None;     |
| 6. | Side yard setback  | None; and |
| 7. | Rear yard setback  | None.     |

There is no requirement for off-street parking for property located in the downtown area as defined in this section; (Ordinance 570, adopted 12/07/2020)

SECTION 12-341 I-1 LIGHT INDUSTRIAL DISTRICT, GENERAL DESCRIPTION.

The purpose of the I-1, light industrial district is to provide a location for industries which do not by their nature create nuisances. The intent is to preserve this land for industry in a location beneficial to industries and to prohibit nonindustrial uses. Because of the traffic generated and other objectionable influences created in this district, it is necessary to provide a buffer or setback area between this district and any other zoning district except heavy industrial district I-2. (Prior Code, Secs. 18-24)

SECTION 12-342 STANDARDS.

Any use constructed, established, altered, or enlarged in the I-1 light industrial district after the effective date of these regulations shall be so operated as to comply with the following standards:

1. No building shall be used for residential purposes, except that a watchman may reside on the premises;
2. No retail sales or services shall be permitted except as incidental to or accessory to a permitted use;
3. No noise from any operation conducted on the premises, other than that emanating from vehicular traffic, either continuous or intermittent, shall be detectable at any boundary line of the I-1 district;
4. No toxic matter, noxious matter, smoke, gas, or odorous or particulate matter shall be emitted that is detectable beyond the lot lines of the zoning lot on which the use is located;
5. No vibrations shall be detectable beyond the lot lines of the zoning lot on which the use is located;
6. Exterior lighting fixtures shall be shaded wherever necessary to avoid casting direct light upon property located in any residence district;

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7. The manufacture of flammable materials which produce explosive vapors or gases is prohibited; or

8. Any operation that produces intense glare or heat shall be performed within a completely enclosed building, and exposed sources of light shall be screened so as not to be detectable beyond the lot lines. (Prior Code, Secs. 18-24)

### SECTION 12-343 USES PERMITTED.

The following uses are permitted:

1. Building materials sales;
2. Commercial radio and television transmitting antenna towers and other electronic equipment requiring outdoor towers, including antenna towers for the dispatching of private messages;
3. Compounding, processing and blending chemical products, but not including any materials which decompose by detonation;
4. General and administrative offices;
5. Machine shops and metal products manufacture and tool and dye shops;
6. Mail order houses;
7. Manufacturing and assembling (or any combination of such processes) products from wood, cork, glass, leather, fur, plastic, felt and other textiles, but not including, as a principal operation, the processing of any raw materials;
8. Manufacturing and assembling electrical and electronic products and equipment;
9. Printing and binding plants;
10. Public utility distribution centers;
11. Research laboratories;
12. Warehouses and storage facilities;
13. Water filtration plants, pumping stations, reservoirs, and lift stations;
14. Any other manufacturing process or establishment which can operate in compliance with the aforementioned requirements; or
15. Accessory uses incidental to and on the same zoning lot as a principal use.

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(Prior Code, Secs. 18-24)

SECTION 12-344 AREA AND HEIGHT REGULATIONS.

The following area and height regulations apply:

1. Minimum lot area --
2. Minimum lot frontage --
3. Maximum % coverage 40%;
4. Maximum height 90 feet;
5. Front yard setback 50 feet;
6. Side yard setback 25 feet  
50 feet minimum  
or 1 foot setback for  
each 1 foot of height  
when adjacent to  
residential district
7. Rear yard setback 30 feet district.

(Prior Code, Secs. 18-24)

SECTION 12-345 OFF-STREET PARKING.

Off-street parking as required in Sections 12-226 to 12-233 of these regulations. (Prior Code, Secs. 18-24)

SECTION 12-346 SEWER SERVICE.

No structure or use in the I-1 district shall be erected, commenced, or allowed to continue, which does not have a connection to the public sewerage system unless and until the county public health officer certifies that a septic tank or any substitute disposal system can be installed and operated effectively. As a basis for making his decision, such health officer may require such precaution tests as he deems to be necessary. Such tests are to be made at the expense of the landowner. (Prior Code, Secs. 18-24)

SECTION 12-347 SIGNS AND BILLBOARDS.

In the I-1 light industrial district, the use of signs and billboards is the same as that for the C-1 convenience commercial district. (Prior Code, Secs. 18-24)



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SECTION 12-348 ADDITIONAL PROVISIONS REGARDING AUTHORIZED USES;  
AND GENERAL PROVISIONS AND REQUIREMENTS AS TO USES  
IN GENERAL

In addition to the provisions set forth in Sections 12-341 through 12-347, inclusive, of the Atoka City Code:

a. No use shall be permitted in such a district in violation of any legally enacted and applicable County, State and/or Federal Statute, Rule, Regulation or other law;

b. Despite the retail nature thereof, the operation of a “building materials yard” and/or “lumber yard” shall be deemed to be a permitted use in such district, including the sale of rock, sand, gravel and like particulate incidental thereto;

c. Provided further, however, that neither “concrete batch plants” nor “transit mix plants” nor similar plants, yards or facilities shall be deemed to be a permitted use in such district;

d. Regardless of the use being made upon a lot in such a district, all yards and/or other open areas and/or open spaces contained therein shall be appropriately landscaped, and shall, together with the remainder of such zoned area, be continuously maintained in a clean, neat and attractive condition; and

e. Additionally, and not by way of limitation upon any other provisions, no products, components, inventory, articles, materials, scrap, waste or other tangible thing shall be and/or remain kept, stored and/or located on any premises in such district outside the walls of an otherwise properly erected and constructed structure, unless the same is so screened or otherwise hidden by use of fencing, walls, ornamental shrubbery or similar plantings that the same cannot be seen by a person standing in or upon any adjoining or adjacent roadway or premises (owned by another). (Amended by Ord No. N.C. 490. 4/15/02)

SECTION 12-351 I-2 HEAVY INDUSTRIAL DISTRICT, GENERAL DESCRIPTION.

The purpose of the I-2 heavy industrial district is to provide a location for industries, which may by their nature create nuisances. The intent is to preserve this land especially for industry in locations with access to major streets as designated on the thoroughfare plan, as well as locations generally accessible to railroad transportation. Because of the nuisances or other objectionable influences that may be created in this district it is necessary to provide a buffer or setback strip between this district and other zoning districts, except I-1. (Prior Code, Secs. 18-24)

SECTION 12-352 STANDARDS.

Any use constructed, established, altered, or enlarged in the I-2 heavy industrial district after the effective date of these regulations shall be so operated as to comply with the following standards. No use already established on the effective date of these regulations shall be so altered

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or modified as to conflict with, or further conflict with, the applicable standards established hereinafter for the I-2 heavy industrial district:

1. No building shall be used for residential purposes, except that a watchman may reside on the premises;
2. No retail sales or services shall be permitted, except as incidental to or accessory to a permitted use;
3. No manufacture or assembly of goods, shall be conducted outside a building unless the nearest point of the activity is more than one hundred (100) feet from the boundary of any use-district;
4. Exterior lighting fixtures shall be shaded wherever necessary to avoid casting direct light upon property located in any residence district;
5. All manufacturing, fabricating, assembly, disassembly, repairing, storing, cleaning, servicing, and testing of goods, water, and merchandise, shall be carried on in such a manner as not to be injurious or offensive by reason of the emission or creation of noise, vibration, smoke, dust or other particulate matter, toxic or noxious matter, odorous, glare, or heat, fire or explosive hazards; or
6. No activities involving storage, utilization, or manufacture of materials of products which decompose by detonation shall be permitted. (Prior Code, Secs. 18-24)

### SECTION 12-353 USES PERMITTED.

- A. All buildings or uses hereafter established or enlarged shall comply with the following conditions or restrictions:
1. Any use permitted in the I-1 light industrial district;
  2. Blacksmiths, tinsmiths and sheet metal shops;
  3. Bottling works;
  4. Canning or preserving factories;
  5. Coal storage plants;
  6. Ice cream production and distribution;
  7. Machinery rental, sales, and service;
  8. Machine shops;

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9. Manufacturing, fabricating, assembling, repairing, storing and cleaning, servicing, or testing, any of the following materials, goods or merchandise:

- a. Apparel;
- b. Beverages (nonalcoholic), processing and bottling;
- c. Building materials specialties;
- d. Clothing;
- e. Compounding and packaging of chemicals;
- f. Cosmetics and toiletries;
- g. Dairy products;
- h. Drugs and pharmaceutical products;
- i. Electrical and acoustic products and components;
- j. Food products (except fish, sauerkraut, vinegar and yeast);
- k. Furniture;
- l. Glass products;
- m. Ice, dry and natural;
- n. Jewelry;
- o. Medical laboratory supplies, equipment and specialties;
- p. Metal products and utensils;
- q. Musical instruments;
- r. Optical goods;
- s. Paper products, including boxes and containers;
- t. Radio, phonograph recorder;
- u. Textiles;
- v. Toys and children's vehicles;

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- w. Trailers and carts;
- x. Wood products, including wooden boxes and containers;
- 10. Milk, bottling and distribution;
- 11. Monumental stone cutting;
- 12. Motor freight terminals;
- 13. Patterns shops;
- 14. Printing plants;
- 15. Soldering and welding shops;
- 16. Sign painting;
- 17. Railroad yards and switching areas, including lodging and sleeping facilities for transient railroad labor;
- 18. Spray painting and mixing;
- 19. Bulk fuel sales and storage;
- 20. Automobile wrecking and junk yards, provided they are enclosed throughout the entire perimeter by a solid fence not less than eight (8) feet in height; or
- 21. Processing of meat and vegetable products, including the slaughter of animals.  
(Prior Code, Secs. 18-24)

### SECTION 12-354 AREA REGULATIONS.

The following area regulations apply:

- 1. Minimum area regulations are as follows:

There are no requirements for minimum lot area in the heavy industrial district I-2.

- 2. Yard requirements are as follows:

Yard requirements in the I-2 district are the same setbacks as required for the light-industrial I-1 district.

- 3. Coverage is as follows:

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Buildings shall not cover more than fifty percent (50%) of the site on which the use is located. (Prior Code, Secs. 18-24)

### SECTION 12-355 OFF-STREET PARKING.

Off-street parking as required in Sections 12-226 to 12-233 of these regulations. (Prior Code, Secs. 18-24)

### SECTION 12-356 SEWER SERVICE.

No structure or use in the I-2 district shall be erected, commenced, or allowed to continue, which does not have a connection to the public sewerage system unless and until the county public health officer certifies that a septic tank or any substitute disposal system can be installed and operated effectively. As a basis for making his decision, the health officer may require such precaution tests as he deems necessary. Such tests are to be made at the expense of the landowner. (Prior Code, Secs. 18-24)

### SECTION 12-357 SIGNS AND BILLBOARDS.

In the I-2 District, the control of signs and billboards is the same as that for the C-1 District. (Prior Code, Secs. 18-24)

## ARTICLE F

### AMENDMENT AND OTHER PROVISIONS

#### SECTION 12-361 AMENDMENTS.

A. The city council may, by ordinance, amend, change, or repeal these regulations or any part thereof; provided, however, that before the city council shall amend, change, or repeal these regulations or any part thereof, it shall request the planning commission to submit its recommendation on such proposed amendment, change, or repeal such recommendation on such proposed amendments, change, or repeal whichever the case may be shall be made after not less than one public hearing thereon which hearing may be adjourned from time to time. After considering the council's recommendation at public hearing for which public notice shall be given, the city council may approve the recommendation in whole or in part, or return the recommendation to the planning commission for further consideration.

B. The planning commission may, upon its own initiative, hold at least one public hearing on a proposed amendment, change or repeal of these regulations or any part thereof and any recommendations therefrom shall be transmitted to the council. The city council shall consider and act upon such recommendation in the same manner as herein set forth for recommendations requested by the council.

C. Notice of public hearing as herein required shall include at least one publication of the notice in a newspaper of general circulation in the municipality, not less than fifteen (15)

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days, but not more than thirty (30) days prior to the hearing. If a proposed amendment is for rezoning of a lot, parcel, or tract of land to a less restrictive classification, public notice thereof shall also include the posting of at least one sign having letters at least four (4) inches in height and width, same being with black lettering on a white background, the sign being at least three (3) feet above ground level at its bottom, and placed not more than ten (10) feet from the street or roadway adjacent to the property and affixed facing the street or roadway. The sign specified shall bear the lettering "Proposed Zoning Change", and shall have attached to it below the lettering a true copy of the notice, which shall state in terms certain, the nature of the proposed amendment, change or repeal of these regulations or any part thereof and the date, time and place of the proposed hearing. The sign with notice attached shall be posted in the manner specified and remain for more than fifteen (15) successive days immediately prior to the date of the public hearing, including the day immediately preceding the day for which such public hearing is scheduled. Notice of the hearing shall also be sent by certified mail, return receipt requested, at least fifteen (15) days prior to the date of the hearing to all owners of lots, tracts, or parcels of real property which lie in whole or in part within three hundred (300) feet from any point on the property proposed to be rezoned.

D. Petition for amendment to the zoning regulations and zoning map shall henceforth be filed with the planning commission by the owner of the property concerned or duly authorized representative thereof, on a standard form furnished by the commission. All petitions for amendment proposing a change in zoning district classification shall be accompanied by sketch plan of the area proposed to be rezoned, drawn to approximate scale and showing the boundaries and dimensions of the tract, the outline of existing and proposed buildings and structures, the size and location of off-street parking lots, the type of surfacing proposed for the lots, and the plan of structures and the drives proposed for ingress and egress. An area map showing land of all abutting property owners shall also be submitted unless such is shown on tract sketch.

E. If a protest against an amendment, change or repeal of these regulations or any part thereof, be presented, duly signed and acknowledged by the owners of twenty percent (20%) or more of the area of the lots immediately abutting the territory included in such proposed change, or separated therefrom only by an alley or street, such amendment shall not be passed except by the favorable vote of two-thirds (2/3) of the city council.

F. Upon the filing of a petition for amendment to these regulations the property owner or his duly authorized representative shall pay a filing fee to the planning commission. All fees collected by the planning commission shall be deposited with the city treasurer and credited to the general fund of the city:

1. The fees or expenses for all public notices herein required pursuant to petition for amendment shall be paid by the owner of the property or his duly authorized representative. The form for such notice shall be established by the city council. The city council or the planning commission, as it concerns their respective hearings, shall designate the agency or agencies which shall effect the public notices and the number of notices to be used pursuant to these regulations; or

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2. If pursuant to a petition for amendment the city council votes to rezone a lot, parcel, or tract of land, the owner of such land shall pay the cost of the ordinance publication. Such payment shall be submitted to the city clerk and the city clerk shall not cause the ordinance to be published prior to such payment.

G. In the event the planning commission fails to set up a petition for amendment for public hearing within twenty (20) days after its proper filing with the planning commission at a regular scheduled meeting; or, if after public hearing, the planning commission fails to recommend that these regulations be amended in accordance with such petition for amendment, such failure shall be deemed the final determination and decision of the planning commission. The final determination of the planning commission may be appealed to the city council provided a written request for a hearing before the city council is served on the chairman of the planning commission within fifteen (15) days after their final determination of the planning commission.

H. The planning commission shall supervise the official zoning map and shall keep same up to date with all changes and amendments. (Prior Code, Secs. 18-24)

### SECTION 12-362 VACATION OF PUBLIC EASEMENTS.

Whenever any street, alley or other public easement is vacated, the portion vacated shall have the same district classification as the land to which the vacated portion accrues. (Prior Code, Secs. 18-24)

## ARTICLE G

### PENALTIES

#### SECTION 12-371 PENALTIES.

Any persons, firm or corporation violating any provisions of these regulations is guilty of a misdemeanor and shall be punished not less than as provided in Section 1-108 of this code each day the violation exists. Each day constitutes a separate offense. (Prior Code, Secs. 18-24)

#### SECTION 12-372 BUILDING PERMITS.

A. The following is required:

1. A plat drawn to scale, showing the plot, 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, repaired, altered, erected, or moved, and the size, arrangement, number of parking stalls, movement of vehicles and ingress and egress drives for all off-street parking and loading facilities, if such be for a business, commercial or industrial building;

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

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

4. No building permit shall issue for construction of a dwelling of less than one thousand square feet of living space.

B. A survey, prepared by a competent surveyor in the state of the boundaries of the lot on which the improvement is proposed to be located shall be required by the building inspector where the boundaries of the lot are not clearly defined by the survey pins and monuments.

C. The building inspector shall be a person who in the judgment and opinion of the city council is competent by reason of building experience to properly cause inspections to be made and to determine whether permits should be granted. The inspector shall serve by appointment of the city council and his term shall begin upon the passage of these regulations and one year thereafter and shall continue to serve unless removed by the city council who may remove without cause.

D. All applications shall be considered filed with the building inspector by the filing of the same with the city clerk who shall deliver such applications to the building inspector. (Prior Code, Secs. 18-24)

### SECTION 12-373 VIOLATIONS AND PENALTIES.

A violation of these regulations shall be deemed a misdemeanor and shall be punishable by fine. Any person, firm, or corporation who violates or refuses to comply with any of the provisions of these regulations shall be punished as provided in Section 1-108 for each offense. Each day that a violation is permitted to exist shall constitute a separate offense. (Prior Code, Secs. 18-24)



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CHAPTER 4

SUBDIVISION AND PLATTING REGULATIONS

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- Section 2. Owner's certificate and deed of dedication.
- Section 3. Surveyor's certificate.
- Section 4. Certificate of city clerk.
- Section 5. Planning commission approval.
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#### DESIGN STANDARDS

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- Figure 4. Corner visibility.
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- Figure 8. Frontage on expressway.  
Figure 9. Key map to be placed on preliminary and final plats.  
Figure 10. Access control.

CHAPTER 4

SUBDIVISION AND PLATTING REGULATIONS

ARTICLE A

GENERAL PROVISIONS

SECTION 12-401 SHORT TITLE.

These regulations shall be known as the subdivision regulations of the city. (Prior Code, Sec. 18-15)

SECTION 12-402 PURPOSE AND INTENT.

A. These regulations are designed to promote the health, safety, morals and general welfare of the community by establishing standards for the subdivision of land within the city's jurisdiction.

B. The provisions of these regulations are specifically designed to:

1. Lessen the congestion on streets;
2. Promote the orderly layout and use of land;
3. Secure safety from fire and other dangers;
4. Provide adequate light and air;
5. Facilitate adequate provision for transportation, water, sewage, schools, parks, playgrounds and other public requirements; and
6. Protect neighborhood areas from the hazard of through traffic.

C. These regulations are designed, intended, and should be administered according to the aforementioned purposes to achieve the following:

1. Implement the official city plan;
2. Provide for conservation of existing standard residential areas and prevent the development of slums and blight;

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3. Harmoniously relate the development of the various tracts of land to the existing community and facilitate the future development of adjoining tracts;
4. Provide that the cost of improvements which primarily benefit the tract of land being developed be borne by the owners or developers of the tract, and that the cost of improvements which primarily benefit the whole community be borne by the whole community;
5. Provide the best possible design for the tract;
6. Reconcile any differences of interest; and
7. Establish adequate and accurate records of land subdivision. (Prior Code, Sec. 18-15)

### SECTION 12-403 AUTHORITY.

These subdivision regulations and minimum standards for land development are adopted by ordinance passed by the city council under the authority granted by Section 421-425 of Title 11 of the Oklahoma Statutes. (Prior Code, Sec. 18-15)

### SECTION 12-404 JURISDICTION.

These regulations and development standards shall apply to the following forms of land subdivision:

1. The division of land into two (2), or more tracts, lots, sites or parcels, any part of which, when subdivided, shall contain less than ten (10) acres in area;
2. The division of land, previously subdivided or platted, into tracts, lots, sites or parcels, of less than ten (10) acres in area;
3. The dedication, vacation, or reservation of any public or private easement through any tract of land regardless of the area involved, including those for use by public and private utility companies; or
4. The dedication or vacation of any street or alley through any tract of land regardless of the area involved. (Prior Code, Sec. 18-15)

### SECTION 12-405 DEFINITIONS.

For the purpose of this chapter, the following terms shall have the following meanings respectively ascribed to them:

1. "Alley" means a minor right-of-way dedicated to public use, which gives a secondary means of vehicular access to the back or side of properties otherwise abutting a street, and which may be used for public utility purpose;

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2. “Block” means a parcel of land, intended to be used for urban purposes, which is entirely surrounded by public streets, highways, railroad rights-of-way, public walks, parks or green strips, rural land or drainage channels, or any combination thereof;
3. “Building line” or “setback line” means a line or lines designating the area outside of which buildings may not be erected;
4. “City” means the City of Atoka, also includes the use of the word town;
5. “Commission” means the city commission or city council and also includes the use of the words board, commissioners, and council;
6. “Easement” means a grant by the property owner to the public, a corporation or persons, of the use of a strip of land for specific purposes;
7. “Lot” means a subdivision of a block or other parcel intended as a unit for the transfer of ownership or for development;
8. “Lot, corner” means a lot located at the intersection of and abutting on two (2) or more streets;
9. “Lot, double frontage” means a lot which runs through a block from street to street and which has two (2) nonintersecting sides abutting on two (2) or more streets;
10. “Lot split” means any division of land of two and one-half (2 1/2) acres or less, described by metes and bounds, into two (2) or more parcels for the purpose, whether immediate or future, of transfer of ownership, and which does not constitute a subdivision as herein defined;
11. “Mayor” means a mayor, city manager, president of board of trustees or any other administrative head of the city;
12. “Official city plan” means the city plan or plans for the city which has been officially adopted to provide long range development policies for the area subject to urbanization in the foreseeable future and which includes, among other things, the plan for land use, land subdivision, circulation and community facilities;
13. “Plat, preliminary” means a map of land proposed as a subdivision prepared showing the character and proposed layout of the tract in sufficient detail to indicate the suitability of the proposed subdivision of the land;
14. “Plat, final” means a map of a land subdivision prepared in a form suitable for filing of record with necessary affidavits, dedications, and acceptances, and with complete bearings and dimensions of all lines defining lots and blocks, streets and alleys, public areas, and other dimensions of land;

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15. “Roadway” means that a portion between the curbs of any street designated for vehicular traffic and where curbs are normally placed;

16. “Street” means the entire width between the property lines boundary every way, of whatever nature, when any part thereof is open to the use of the public, as a matter of right, for the purpose of vehicular traffic and wherever designated as a street, highway, thoroughfare, parkway, throughway, expressway, road, avenue, boulevard, lane, place, circle or however otherwise designated;

17. “Street, collector” means those residential streets designed to carry intracity traffic connecting neighborhood areas to a major street whose purpose is to collect traffic from other minor streets and to serve as the most direct route to a major street or to a community facility;

18. “Street, cul-de-sac” means a minor street having one end open to vehicular traffic and having one closed and terminated by a turnaround;

19. “Street, frontage or service” means a minor street auxiliary to and located on one side of a major street for service to abutting properties and adjacent areas and for control of access;

20. “Street, major” means an arterial street which is designated on the major street plan or official city plan and designed to carry intercity traffic and to relate the various neighborhoods within the city;

21. “Street, minor” means any street not specifically classified on the major street plan whose primary purpose is to provide access to adjacent properties;

22. “Subdivider” means any person, firm partnership, corporation or other entity, acting as a unit, subdividing or proposing to subdivide land as herein defined; and

23. “Subdivision” means the division or redivision of land by map into two (2) or more lots, tracts, sites or parcels for the purpose of transfer of ownership or for development, or the dedication or vacation of a public or private right-of-way or easement. (Prior Code, Sec. 18-15)

## ARTICLE B

### DESIGN STANDARDS

#### SECTION 12-410 STREET PLAN AND RELATION TO ADJOINING STREET SYSTEM.

A. The arrangement, character, extent, width, grade and location of all streets in a proposed subdivision shall conform to the official city plan and these regulations.

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B. All such streets shall be related to existing and proposed streets in the area, topographical conditions, public convenience and safety, and existing and proposed land uses along such streets.

C. All streets shall be platted in such a manner that all resulting lots shall conform to the applicable zoning regulations.

D. Where such streets are not shown in the official city plan, the arrangements of these streets in the subdivision shall either:

1. Provide for the continuation of appropriate projection of existing streets in the surrounding areas; or

2. Conform to a neighborhood plan approved or adopted by the planning commission.

E. Minor streets shall be laid out so as to discourage through traffic.

F. Where a residential subdivision abuts or contains an existing or proposed major thoroughfare, the planning commission shall require:

1. Marginal access streets;

2. Reverse frontage with screen planting contained in a non-access reservation along the rear property line;

3. Deep lots with rear service streets; or

4. Such other treatment as may be necessary for the adequate protection and stabilization of residential properties and to afford separation of through and local traffic. (Prior Code, Sec. 18-15)

### SECTION 12-411 RELATION TO OTHER LIMITED RIGHTS-OF-WAY

Where a subdivision borders on or contains a railroad right-of-way or limited access highway, the planning commission may require a street approximately parallel to and on each side of such right-of-way. (Prior Code, Sec. 18-15)

### SECTION 12-412 RESERVE STRIPS PROHIBITED.

Reserve strips designed and used for the primary purpose of controlling access to minor streets by parties or persons other than a public agency shall be prohibited. (Prior Code, Sec. 18-15)

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SECTION 12-413 STREET ALIGNMENT.

A. Street jogs with centerline offsets of less than one hundred twenty-five (125) feet shall be avoided. (See Appendix B, 2.)

B. A tangent of not less than one hundred (100) feet in length shall be introduced between reverse curves on arterial and collector streets. (See Appendix B, 2.)

C. Minimum clear sight distance, measured along the chord of the center line, shall be provided on all streets as follows: (Prior Code, Sec. 18-15)

Major streets	400 feet
Collector streets	350 feet
Minor streets	250 feet

SECTION 12-414 STREET RIGHTS-OF-WAY AND ROADWAY WIDTHS.

A. Street rights-of-way and roadway width shall conform to the official city plan.

B. All streets shall be paved according to the established standards adopted by the city council.

C. The following minimum standards shall apply:

Street type	Right-of-way width	Roadway
Expressway	Variable	As determined by the Oklahoma State Highway Department
Urban arterial	130 feet	Two 28 ft. lanes
Major thoroughfare	100 feet	48 ft.
Major thoroughfare with median	100 feet	56 ft.
Commercial street	80 feet	58 ft.
Collector street	60 feet	36 ft.
Residential street	50 ft. to 60 ft .	26 ft. to 36 ft.

D. Half streets shall be prohibited, except where essential to the reasonable developments of the subdivision in conformity with the other requirements of these regulations.



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E. In no event, however, shall lots facing a one half (1/2) minor residential street be permitted.

F. Wherever an existing half street is adjacent to a tract to be subdivided, the other one half (1/2) of the street shall be platted within such tract. (Prior Code, Sec. 18-15)

### SECTION 12-415 MAJOR STREET FRONTAGE ACCESS CONTROL.

A. No access on a major street shall occur within minimum intervals of six hundred (600) feet, measured from the nearest intersecting rights-of-way lines, (except as modified by Subsection B of this section); the distance may be extended or increased if traffic conditions as determined by the planning commission warrant such extension. (See Appendix B, 6 and 8.)

B. In commercial and industrial subdivisions, specifically designated “one-way turn only” access may be provided in the direction of the adjacent traffic lane at a minimum distance of three hundred (300) feet between major street intersections or a minimum of three hundred (300) feet between each access point. (See Appendix B, 10.)

C. Commercial or industrial subdivisions should have access to a major or commercial street, and may have access to a collector street, if traffic conditions as determined by the planning commission warrant such extension, but shall not have access to a residential street. (See Appendix B, 10.)

D. To assure traffic safety, appropriate nonaccess provisions shall be designated and dimensioned along all abutting streets in commercial and industrial subdivisions, and along major streets in residential subdivisions. A description of such nonaccess provisions shall appear upon the plat.

E. Access to property occurring within the minimum distance prescribed for major street access, six hundred (600) feet, shall only be by the closest service or frontage road entrance onto the major street. (See Appendix B, 6.)

F. Individual driveways will be located on each lot to avoid direct vehicular access to or from any expressway, thoroughfare, or major street. Driveways should be located to enable direct access primarily to or from a minor street or, if necessary, to the collector street which serves as feeders to or distributors from the major streets. (See Appendix B, 1 and 6.) (Prior Code, Sec. 18-15)

### SECTION 12-416 STREET AND SUBDIVISION NAMES.

A. No street name shall be used which will duplicate or be confused with the names of existing streets.

B. Street names shall be referred to the post office for recommendation and are subject to the approval of the planning commission and the city council.

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C. Subdivision names shall not duplicate existing subdivisions of record. (Prior Code, Sec. 18-15)

SECTION 12-417 STREET GRADES.

A. The minimum grade of all street shall be four tenths percent (0.4%).

B. Except where unusual topographic conditions justify it, the maximum grade of all streets shall not be greater than the following: (Prior Code, Sec. 18-15)

Street type	Grade
Major	5%
Collector	7%
Service streets	10%

SECTION 12-418 STREET INTERSECTIONS.

A. Streets shall be laid out to intersect at right angles and may be curbed, if necessary, in order to make this possible. In no event shall a street intersect any other street at any angle of less than seventy-five degrees (75°).

B. Street corners on local residential streets shall have a minimum radius of twenty (20) feet at curb line or its equivalent.

C. Street corners on commercial and industrial streets shall have a minimum radius of twenty-five (25) feet at the curb line or its equivalent.

D. Street intersections involving major thoroughfares 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 preliminary and final plats.

F. A twenty-five (25) foot area of clear vision of street intersections in subdivisions shall be provided. This area shall be kept clear of all structures and vegetation exceeding a height of three (3) feet above the established city street elevation. (See Appendix B, 4.) (Prior Code, Sec. 18-15)

SECTION 12-419 CUL-DE-SACS AND DEAD-END STREETS.

A. The maximum length of a cul-de-sac shall be five hundred (500) feet, except where topography would prohibit the use of a standard distance, as set forth in Section 12-422 of Article B of these regulations, between intersecting streets.

B. Each cul-de-sac shall be provided with a turnaround having a minimum right-of-way radius of fifty (50) feet. (See Appendix B, 5.)

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C. The road surface within the cul-de-sac right-of-way shall have a minimum width of twenty-eight (28) feet.

D. In the case of temporarily dead-ended streets, which are stub streets designed to provide future connection with unsubdivided area adjoining, the planning commission may require:

1. Temporary easement for a turnaround having a radius of fifty (50) feet; or
2. An appropriate area for a backaround. (See Appendix B, 7.)

E. In all instances, proper provisions shall be made for adequate storm drainage so that storm water does not collect at the ends of these streets. (Prior Code, Sec. 18-15)

### SECTION 12-420 ALLEYS.

A. Alleys shall be provided in all commercial districts except where a commercial district will be developed as a self-contained unit; then other provisions shall be made on the site for service drives and service areas.

B. When provided, alleys in residential areas shall not be less than twenty (20) feet in width.

C. Alleys in commercial areas shall not be less than thirty (30) feet in width and shall be paved.

D. Dead-end alleys are prohibited except where natural or other features make it impossible to continue them. Where dead-end alleys are unavoidable they shall be provided with adequate turnaround areas with a minimum radius of forty (40) feet at the dead-end. Backaround areas may be allowed in residential subdivisions. (Prior Code, Sec. 18-15)

### SECTION 12-421 EASEMENTS.

A. Where alleys are not provided or may not be used for utility purposes, easements shall be provided as may be advisable for poles, wires, conduits, storm sewers, sanitary sewers, gas lines, water mains and lines, and other similar purposes.

B. Rear yard easements shall be at least twenty (20) feet wide. In the event one-half (1/2) of an easement is platted, it shall be not less than ten (10) feet in width.

C. Where a subdivision is traversed by a water course, drainage way, channel or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such water course and such further width of construction or both as will be adequate for the purpose. Parallel streets or parkways may be required in connection therewith.

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D. Twenty (20) foot utility easements shall be provided at the end of cul-de-sacs along major thoroughfares. (Prior Code, Sec. 18-15)

SECTION 12-422 BLOCKS.

A. In general, blocks should have the following dimensions:

Minimum	Maximum
Length 600 feet	1,200 feet
Width 240 feet	400 feet

B. The foregoing dimensions shall be subject to adjustment upon recommendation by the planning commission where topography, the character of the proposed development, or other similar conditions, justify blocks of greater or lesser length or width.

C. Block lengths and widths shall be measured from the street right-of-way line.

D. Wherever blocks are longer than one thousand (1,000) feet, crosswalks may be required at the approximate center of the block. (See Appendix B, 3.) (Prior Code, Sec. 18-15)

SECTION 12-423 LOTS.

A. The lot size, width, depth, shape, orientation, and minimum building setback lines shall be appropriate for the location of the subdivision and the type of development and use contemplated.

B. Lot dimensions shall conform to the existing zoning regulations, but in no case shall the width of a lot designed for residential use be less than fifty (50) feet.

C. Each lot shall have access and front upon a public street.

D. Double frontage and reverse frontage lots should be avoided except where their use will produce definite advantages in meeting special situations in relation to topography and proper land use.

E. Side lot lines shall be substantially at right angles or radial to street lines. (Prior Code, Sec. 18-15)

SECTION 12-424 MARGINAL LAND.

When a plat is filed on land that is subject to flooding or has been flooded within the last twenty (20) years and corrective measures have not been taken to prevent reflooding, or it has soil conditions unsuitable or building purposes, the plat shall not be acceptable except where the property is dedicated to the city or other appropriate municipality subject to its acceptance for a

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water course, water drainage basin, a park or a conservancy district or for any other purpose of protecting the health, safety, and general welfare of the public. (Prior Code, Sec. 18-15)

### ARTICLE C

#### PROCEDURE

##### SECTION 12-430 PRELIMINARY PLATS.

A. They subdivider shall submit at least ten (10) copies of the preliminary plat to the city clerk who shall distribute them as follows:

1. One copy each to the school board, the local gas company, the local electric company, the local telephone company, Urban Planning Division - State Highway Commission, board of county commissioners; and

2. Four (4) copies to the planning commission. The planning commission shall return one to the subdivider and forward one to the city council, together with its report and recommendation and retain the other copies for its use and official record.

B. After review of the preliminary plat, the planning commission shall, within sixty (60) days of its submission approve, conditionally approve, or reject the plat. The subdivider shall be notified in writing of this action, together with any conditions of approval or the reasons for rejection.

C. Approval of the preliminary plats shall not in all cases entitle the subdivider to approval of the final plat. Upon preliminary approval, if any conditions arise which would cause the preliminary plat to become unsatisfactory due to health, safety, or welfare of the community, the planning commission shall recommend that the final plat be rejected. (Prior Code, Sec. 18-15)

##### SECTION 12-431 PRELIMINARY PLAT DATA.

A. The preliminary plat shall be drawn on suitable tracing paper or cloth with black waterproof ink or pencil; however, legible reproduction of the drawings may be submitted.

B. The plat shall be drawn to a scale of one hundred (100) feet to one inch and shall contain the following information:

1. Date, scale, and north point;
2. The proposed subdivision name and all intended street names;
3. The name of the subdivider or the engineer or surveyor preparing the plat;
4. Legal description showing location of plat;

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5. Topographic survey map of the area being subdivided, showing contours at two (2) foot intervals;
6. A key map showing the location of the plat in the section, township and range in which the plat is located; (See Appendix B)
7. Location and names of adjacent subdivisions and the owners of adjoining parcels of unsubdivided land;
8. Location, widths, and names of all existing platted or dedicated streets, alleys, or other public ways and easements, railroad and utility rights-of-way, parks, water courses, drainage ditches, permanent buildings, bridges, and other pertinent data as required by the planning commission;
9. The water elevations of adjoining lakes or streams at the date of the survey and the approximate high and low water elevations of such lakes or streams. All elevations shall refer to the established U.S. Coast and Geodetic Survey datum;
10. When a subdivision borders a lake or stream, the distance and bearings of a meander line shall be established not less than twenty (20) feet back from the ordinary high water mark of the lake or from the bank of the stream;
11. Layout and width of all new streets and rights-of-way, including alleys, highways, and easements, whether private or public, and for public and private utilities;
12. The exact length of the exterior boundaries of the land to be subdivided;
13. Approximate dimensions of all lots;
14. Approximate radii of all curves and lengths of all tangents; and
15. Approximate location and area of property to be dedicated for public use or to be reserved by deed covenant for use of all property owners in the subdivision with any conditions of such dedication or reservation. (Prior Code, Sec. 18-15)

### SECTION 12-432 OTHER DATA.

A. Where deed restrictions are to be recorded on the plat, a brief description of the same shall accompany the preliminary plat.

B. A description of the improvements such as grading, paving, tree planting, walks, and installation of utilities which the subdivider proposes to make, and the time when they are proposed to be made, shall also accompany the preliminary plat. (Prior Code, Sec. 18-15)

### SECTION 12-433 FINAL PLAT.

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A. The final plat shall be a print or series of prints on a stable base tracing medium of Mylar, Cronar, or similar durable material, or linen tracing cloth twenty-four (24) by thirty-six (36) inches. When more than one sheet is used in connection with the plat, each additional sheet shall be numbered consecutively and shall contain a notation indicating the total number of sheets.

B. The developer shall submit sufficient copies for examination, but in no case shall it be less than the following:

1. Five (5) paper copies and one copy on a stable basetracing medium of Mylar or comparable Cronaflex of the proposed subdivision, drawn to a scale of one inch equals one hundred feet (1" = 100') and shall be prepared by a registered civil engineer or surveyor; and

2. Five (5) copies of any restrictive covenants.

C. The final plat of the proposed subdivision shall be submitted to the planning commission and city commission for final approval within one year of the date on which the preliminary plat was approved. If not submitted for final approval within such time, the preliminary plat approval shall be considered as null and void unless the planning commission agrees to an extension of time. The final plat shall be filed in the office of the county clerk within six (6) months after approval of the city council or if not filed within such time, the approval shall be considered null and void.

D. The final plat shall contain the following information:

1. Name of subdivision and the name of the owner, the subdivider, and the engineer or land surveyor;

2. Date, north point, scale (written and graphic);

3. Boundaries of the subdivided area with accurate distances and bearings noted thereon;

4. Exact location of the subdivision and the description of all monuments found or placed in making the survey;

5. The lines, names, and width or dimensions, of all proposed street rights-of-way;

6. The lines, widths, and purposes of all easements;

7. Numbered designation of all lots in the subdivision, with their lines and dimensions accurately shown;

8. The names of all adjacent subdivisions;

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9. Certification by the registered professional engineer or land surveyor who designed the plat, as to the accuracy of the survey and plat;
10. Dedication by the owner of lands for public use, including streets and walkways;
11. Exact dimensions of all lots;
12. Exact radii of all curves and length of all tangents; and
13. Any additional data as may be required by the planning commission. (Prior Code, Sec. 18-15)

### ARTICLE D

#### REQUIRED IMPROVEMENTS

##### SECTION 12-440 MONUMENTS.

A. Each block corner shall be marked with iron pipes or pins not less than three-fourth (3/4) inch in diameter and twenty-four (24) inches long at least one inch below finished grade.

B. Monuments marking property lines and corners shall not be disturbed; or if necessary to disturb, shall be replaced at the exact spot from which they were removed. (Prior Code, Sec. 18-15)

##### SECTION 12-441 IMPROVEMENTS.

A. Any final plat or subdivision located within the corporate limits shall not be approved unless the subdivider or developer shall provide the facilities listed below or file a surety bond with the city clerk to insure the actual construction of such improvements according to the plans and specifications approved by the city council or city engineer within a period of time not to exceed one year from date of final plat approval. Such bond shall equal one hundred percent (100%) of the cost of improvements as estimated by the city council or city engineer. Conditions stipulated by the bond shall be acceptable to the city attorney and city council. No building shall take place until such facilities have been constructed:

1. Water mains properly connected with public water supply system shall be provided to insure adequate water flow for fire protection;

2. A sanitary sewer system properly connected with the existing system in accordance with standard specifications governing sanitary sewer construction and in accord with requirements of state and county health departments;

3. Streets graveled and graded to the full roadway width and established grade, such street shall be required to be paved by a stable base material such as concrete or asphalt; and



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4. Storm drainage facilities, curbs and gutters to provide adequate surface water drainage for the area being drained.

B. All such facilities shall be installed according to plans and specifications of the city.

C. All lots in residential subdivisions where septic tanks or individual sewerage disposal devices are to be installed shall not contain less than fifteen thousand (15,000) square feet and the width of the lot at the building line shall be a minimum of one hundred (100) feet. All such lots to be serviced by private sewerage facilities shall comply with the regulations of the county and state board of health. (Prior Code, Sec. 18-15)

### SECTION 12-442 PUBLIC SITES AND OPEN SPACES.

A. Where site for a proposed park, playground, playfield, school, library, fire station, or other public use is proposed by the official city plan, or is deemed by the planning commission to be necessary, and is located in whole or in part in a subdivision, the planning commission may require the reservation of such area within the subdivision.

B. The developer shall give the public agency involved sixty (60) days' written notice of the proposed subdivision, with a copy of such notice to be mailed to the planning commission. During the sixty (60) day period, the agency may or may not express its interest in the proposed subdivision in connection with the provision of appropriate public site. Should such interest be expressed, that agency shall have a period of an additional thirty (30) days within which to arrange for the acquisition of the public site under consideration.

C. Where the proposed subdivision is too small to provide space of suitable size for the public site intended, the site provided may be combined with that provided or to be provided in adjoining areas. Thus, in the aggregate, there will be provided a site of suitable size for the purpose intended. (Prior Code, Sec. 18-15)

## ARTICLE E

### REVIEW AND RECORDING OF PLAT

#### SECTION 12-450 PLANNING COMMISSION ACTION.

A. The planning commission shall review the final plat for conformance with the preliminary plat and shall prepare a set of written recommendations to be submitted to the city council at the time the final plat is considered.

B. The planning commission shall examine the final plat and shall approve or disapprove the plat within sixty (60) days of the date of its submittal. If the final plat is approved with the modification or waiver of certain requirements, the planning commission shall specify the reasons thereof. If the final plat is disapproved, the grounds for refusal, including citation of the applicable regulations or general plan, shall be stated on the records of the planning

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commission. If the planning commission fails to act, a certificate by the city clerk as to date of submission of plat for final approval and failure of planning commission to act thereon within such specified time, shall be sufficient in lieu of written endorsement of approval.

C. The action of the planning commission shall be shown on the final plat, with the date of action over the signature of the chairman, vice chairman, or secretary.

D. The planning commission shall transmit to the city council the tracing and two (2) paper copies of the final plat, together with four (4) copies of the restrictive covenants, and a listing of all required improvements indicating they have been installed; or a contract and bond insuring their installation satisfactory secure to the city.

E. The city clerk shall transmit a copy of the final plat as approved by the planning commission to the school board affected and the public utility companies.

F. After the planning commission and city council have approved the final plat, no change shall be made therein unless the plat is resubmitted for approval of the planning commission and board. (Prior Code, Sec. 18-15)

### SECTION 12-451 CITY COUNCIL ACTION.

Before recording the final plat, it shall be submitted to the city council for approval and for acceptance of public ways and service and utility easements and land dedicated to public use. This approval of the plat shall be shown over the signature of the mayor and attested to by the city clerk or his deputy. The disapproval of any plat by the city council shall be deemed a refusal of the proposed dedication shown thereon. (Prior Code, Sec. 18-15)

### SECTION 12-452 RECORDING OF PLAT.

After final approval of the plat and the affixing of all required signatures on the original tracing, the subdivider shall provide the planning commission with two (2) dark line prints thereof, and one contact reproducible cloth tracing, the tracing to be filed with the city clerk. One dark line print shall be retained in the permanent file of the planning commission and one shall be sent to the office of the city clerk. The applicant shall file within six (6) months after the date of approval by the city council the original tracing, one dark line copy on linen-back, and one contact reproducible cloth tracing of film with the city clerk. (Prior Code, Sec. 18-15)

## ARTICLE F

### ADMINISTRATION AND AMENDMENT

#### SECTION 12-460 VARIANCES AND EXCEPTIONS.

Whenever it would be inadvisable to apply a provision of these regulations because a tract is of such unusual size, shape, or character and would render an extraordinary hardship not created or imposed by the owner or developer, the planning commission may modify such

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provisions only to provide that substantial justice may be done, the public interest secured; and the intent and spirit of these regulations fulfilled, provided that in no event shall the requirements of procedure or improvements be waived. Such modification thus granted shall be made at the written request of the developer stating the reasons for such modification and shall be waived only be three-fourths (3/4) vote of the regular membership of the planning commission. Any such modifications thus granted shall be duly entered and recorded in the minutes of the planning commission, setting forth therein the reasons which justify the modifications. (Prior Code, Sec. 18-15)

### SECTION 12-461 AMENDMENT.

The city council may, from time to time, adopt, amend, and make public the rules and regulations for the administration of these regulations to the end that the public be informed and that approval of plats be expedited. These regulations may be enlarged or amended by the city council after public hearing, due notice of which shall be given as required by law. (Prior Code, Sec. 18-15)

### SECTION 12-462 VIOLATION AND PENALTY.

A. No building permit shall be issued for any new structure, or change, improvement, or alteration of any existing structure, on any tract of land, in a subdivision filed of record after the effective date of these regulations, which does not comply with all of the provisions of these regulations.

B. A violation of these regulations shall be deemed a misdemeanor and shall be punishable by fine. Any person, firm, or corporation which violates or refuses to comply with any of the provisions of these regulations shall be punished as provided in Section 1-108 of this code for each offense. Each day a violation is permitted to exist shall constitute a separate offense. (Prior Code, Sec. 18-15)

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CHAPTER 5

FLOOD PLAIN REGULATIONS

Section 12-501	Statutory authorization.
Section 12-502	Findings of fact.
Section 12-503	Statement of purpose.
Section 12-504	Methods of reducing flood losses.
Section 12-505	Definitions.
Section 12-506	Lands to which this ordinance applies.
Section 12-507	Basis for establishing the areas of special flood hazard.
Section 12-508	Establishment of Development Permit.
Section 12-509	Compliance.
Section 12-510	Abrogation and greater restrictions.
Section 12-511	Interpretation.
Section 12-512	Warning and disclaimer or liability.
Section 12-513	Designation of the Floodplain Administrator.
Section 12-514	Duties and responsibilities of the Floodplain Administrator.
Section 12-515	Permit procedures.
Section 12-516	Variance procedures.
Section 12-517	General standards, flood hazard reduction
Section 12-518	Specific standards.
Section 12-519	Standards for subdivision proposals.
Section 12-520	Standards for areas of shallow flooding (AO/AH zones)
Section 12-251	Floodways
Section 12-522	Severability
Section 12-523	Community of Atoka Floodplain Management fee schedule
Section 12-524	Penalties for non compliance

Ed note: Pre 1994 Code amended by Ord No. N.C. 427, 7/17/95, Ord No. 573, 7/6/21

SECTION 12-501 STATUTORY AUTHORIZATION

The Legislature of the State of Oklahoma has in the Oklahoma Floodplain Management Act, Sections 1601 through 1620.1 of Title 82 of the Oklahoma Statutes, delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the City Council of the City of Atoka, Oklahoma, does hereby ordain that these Flood Damage Prevention Ordinances as set forth herein, including Sections 12-501 through 12-524, and any lawfully enacted amendments thereto, be hereby enacted and effective on July 21, 2021.

SECTION 12-502 FINDINGS OF FACT

1. The flood hazard areas of the City of Atoka 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.

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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 12-503 STATEMENT OF PURPOSE

It is the purpose of these Flood Damage Prevention Ordinances to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

1. Protect human life and health;
2. Minimize expenditure of public money for costly flood control projects;
3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. Minimize prolonged business interruptions;
5. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
6. Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and
7. Insure that potential buyers are notified that property is in a flood area.

### SECTION 12-504 METHODS OF REDUCING FLOOD LOSSES

In order to accomplish its purposes, these Flood Damage Prevention Ordinances use the following methods:

1. Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;
2. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
3. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;
4. Control filling, grading, dredging and other development which may increase flood damage;

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5. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

### SECTION 12-505 DEFINITIONS

Unless specifically defined below, words or phrases used in these Flood Damage Prevention Ordinances shall be interpreted to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

1. “Accessory structure” – Structures which are on the same parcel of property as the principle structure and the use of which is incidental to the use of the principal structure, but not limited to garages and storage sheds.

2. “Alluvial fan flooding” - means flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.

3. “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.

4. “Area of future conditions flood hazard” – means the land area that would be inundated by the 1-percent-annual chance (100 year) flood based on future conditions hydrology.

5. “Area of shallow flooding” - means a designated AO, AH, AR/AO, AR/AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a 1 percent or greater annual chance of flooding to an average depth of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

6. “Area of special flood hazard” - is the land in the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Hazard Boundary Map (FHBM). After detailed rate making has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, V1-30, VE or V.

7. “Base flood” - means the flood having a 1 percent chance of being equaled or exceeded in any given year.

8. “Base flood elevation” - The elevation shown on the Flood Insurance Rate Map (FIRM) and found in the accompanying Flood Insurance Study (FIS) for zones A, AE, AH, A1-30 and AR that indicates the water surface elevation resulting from the flood that has a 1% chance of equaling or exceeding in any given year – also called the base flood.

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9. “Basement” - means any area of the building having its floor subgrade (below ground level) on all sides.

10. “Breakaway wall” – means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

11. “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.

12. “Development” - means any man-made change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

13. “Elevated building” – means, for insurance purposes, a non-basement building, which has its lowest elevated floor, raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

14. “Existing construction” - means for the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."

15. “Existing manufactured home park or subdivision” - means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

16. “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).

17. “Flood or flooding” - means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- a. the overflow of inland or tidal waters.
- b. the unusual and rapid accumulation or runoff of surface waters from any source.

18. “Flood damage prevention ordinances” – means Sections 12-501 through 12-524, and any lawfully enacted amendments or revisions thereto.

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19. “Flood elevation study” – means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.
20. “Flood Insurance Rate Map (FIRM)” - means an official map of a community, on which the Federal Emergency Management Agency has delineated both the special flood hazard areas and the risk premium zones applicable to the community.
21. “Flood Insurance Study (FIS)” – see *Flood Elevation Study*
22. “Floodplain or flood-prone area” - means any land area susceptible to being inundated by water from any source (see definition of flooding).
23. “Floodplain management” - means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.
24. “Floodplain management regulations” - means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.
25. “Flood protection system” - means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.
26. “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.
27. “Floodway” – see *Regulatory Floodway*
28. “Functionally dependent use” - means a use, which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.
29. “Highest adjacent grade” - means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.



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30. “Historic structure” - means any structure that is:
- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
  - b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
  - c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the 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.
31. “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.
32. “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.
33. “Lowest floor” - means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking or vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood Insurance Program regulations.
34. “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".
35. “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.

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36. “Mean sea level” - means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or the North American Vertical Datum (NAVD) of 1988, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

37. “New construction” - means, for the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

38. “New manufactured home park or subdivision” - means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

39. “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.

40. “Regulatory floodway” - means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

41. “Riverine” – means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

42. “Special Flood Hazard Area” – see *Area of Special Flood Hazard*

43. “Start of construction” - (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main

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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.

44. “Structure” – means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

45. “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.

46. “Substantial improvement” - means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either: (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or (2) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure."

47. “Variance” – means a grant of relief by a community from the terms of a floodplain management regulation. (For full requirements see Section 60.6 of the National Flood Insurance Program regulations.)

48. “Violation” - means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section 60.3(b)(5), (c)(4), (c)(10) or (d)(3) is presumed to be in violation until such time as that documentation is provided.

49. “Water surface elevation” - means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 or the North American Vertical Datum (NAVD) of 1988, of floods of various magnitudes and frequencies in floodplains.

### SECTION 12-506 LANDS TO WHICH THIS ORDINANCE APPLIES

These Flood Damage Prevention Ordinances shall apply to all areas of special flood hazard with the jurisdiction of the City of Atoka.

### SECTION 12-507 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

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The areas of special flood hazard identified by the Flood Insurance Rate Maps (FIRM Panel) Number dated 400008 0005C dated 11/16/1995 for City of Atoka, OK, Atoka County are hereby adopted by reference and declared to be a part of these Flood Damage Prevention Ordinances.

### SECTION 12-508 ESTABLISHMENT OF DEVELOPMENT PERMIT

A Floodplain Development Permit shall be required to ensure conformance with the provisions of this ordinance.

### SECTION 12-509 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 12-510 ABROGATION AND GREATER RESTRICTIONS

These Flood Damage Prevention Ordinances are not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where these ordinances and other ordinances, easements, covenants, or deed restrictions conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

### SECTION 12-511 INTERPRETATION

In the interpretation and application of these Flood Damage Prevention Ordinances, all provisions shall be; (1) considered as minimum requirements; (2) liberally construed in favor of the governing body; and (3) deemed neither to limit nor repeal any other powers granted under State statutes.

### SECTION 12-512 WARNING AND DISCLAIMER OR LIABILITY

The degree of flood protection required by these Flood Damage Prevention Ordinances is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by man-made or natural causes. These Flood Damage Prevention Ordinances do not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. These Flood Damage Prevention Ordinances shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

### SECTION 12-513 DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR

The Emergency Management Director is hereby appointed the Floodplain Administrator to administer and implement the provisions of these Flood Damage Prevention Ordinances and

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other appropriate sections of 44 CFR (Emergency Management and Assistance - National Flood Insurance Program Regulations) pertaining to floodplain management.

### SECTION 12-514 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 ordinance.
2. Review permit applications to determine whether to ensure that the proposed building site projects, including the placement of manufactured homes, will be reasonably safe from flooding.
3. Review, approve or deny all applications for development permits required by adoption of these Flood Damage Prevention Ordinances.
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. Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation.
6. Notify, in riverine situations, adjacent communities and the Oklahoma Water Resources Board prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
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 12-507, 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 for flood hazard reduction.
9. When a regulatory floodway has not been designated, the Floodplain Administrator must require that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when

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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 1 foot, provided that the community first completes all of the provisions required by Section 65.12.

11. Become accredited by the OWRB in accordance with Title 82 O.S. §§ 1601-1620, as amended.

12. After a disaster or other type of damage occurrence to structures in the community of Atoka, determine if the residential and non-residential structures and manufactured homes have been substantially damaged, and enforce the substantial improvement requirement.

13. Maintain a record of all actions involving an appeal from a decision of the Board of Trustees.

### SECTION 12-515 PERMIT PROCEDURES

1. Application for a Floodplain Development Permit shall be presented to the Floodplain Administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:

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 Section 12-518;

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 Section 12-514;

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2. Approval or denial of a Floodplain Development Permit by the Floodplain Administrator shall be based on all of the provisions of this ordinance and the following relevant factors:

- a. The danger to 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 floodwaters 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.

### SECTION 12-516 VARIANCE PROCEDURES

1. The Appeal Board, as established by the community, shall hear and render judgment on requests for variances from the requirements of these Flood Damage Prevention Ordinances.

2. The Appeal Board shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of these Flood Damage Prevention Ordinances.

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.

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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 Historic Places, without regard to the procedures set forth in the remainder of these Flood Damage Prevention Ordinances.

6. Variances may be issued for new construction and substantial improvements to be erected on a lot of 1/2 acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in Section 12-515 of this Chapter have been fully considered. As the lot size increases beyond the 1/2 acre, the technical justification required for issuing the variance increases.

7. Upon consideration of the factors noted above and the intent of these Flood Damage Prevention Ordinances, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of these Flood Damage Prevention Ordinances (Section 12-503).

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 expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

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

11. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that (i) the criteria outlined in Section 12-516 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.



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### SECTION 12-517 GENERAL STANDARDS, FLOOD HAZARD REDUCTION

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;
6. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and,
7. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

### SECTION 12-518 SPECIFIC STANDARDS

In all areas of special flood hazards where base flood elevation data has been provided as set forth in (i) Section 12-507, (ii) Section 12-514, or (iii) Section 12-519, the following provisions are required:

1. Residential Construction - new construction and substantial improvement of any residential structure shall have the lowest floor (including basement), elevated at or above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the Floodplain Administrator that the standard of this subsection as proposed in Section 12-515 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 at or above the base flood level or together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight

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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 usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

a. A minimum of two openings on separate walls having a total net area of not less than 1 square inch for every square foot of enclosed area subject to flooding shall be provided.

b. The bottom of all openings shall be no higher than 1 foot above grade.

c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

4. Manufactured Homes –

a. Require that all manufactured homes to be placed within Zone A on a community's FHBM or FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

b. Require that manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such bottom of the I-beam of the manufactured home is elevated at or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces. The home shall be installed by a licensed installer according to Oklahoma state law and compliance herewith shall be certified in writing to the Floodplain Administrator by said installer prior to habitation of the manufactured home.

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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 the community's FIRM that are not subject to the provisions of paragraph (4) of this section be elevated on a permanent foundation such that the bottom of the I-beam of the manufactured home is elevated at or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

5. Recreational Vehicles – Require that recreational vehicles placed on sites within Zones A, A1-30, AH and AE on the Community name FIRM either:

a. Be on the site for fewer than 180 consecutive days, or

b. Be fully licensed and ready for highway use, or

c. Meet the permit requirements of Section 12-515, and the elevation and anchoring requirements for "manufactured homes" in paragraph (4) of this section. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

6. Accessory Structure – Accessory structures to be placed on sites within Zones A and AE on the City of Atoka FIRM shall comply with the following:

a. The structure shall be used only for parking and limited storage;

b. The structure shall not be used for human habitation. Prohibited activities or uses include but are not limited to working, sleeping, living, cooking, or restroom use;

c. The structure shall be unfinished on the interior.

d. Structures shall be small in size, not exceed 600 square feet in size.

e. Structures exceeding 600 square feet in size will be required to meet all applicable standards of Section 12-508, Section 12-516, Section 12-517 and Section 12-518, including relevant subsections.

f. Service facilities such as electrical and heating equipment must be elevated to or above the BFE plus one (1) foot Freeboard;

g. The structure shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;

h. The structure shall be considered low in value, designed to have low flood damage potential and constructed with flood resistance materials;

i. The structure shall be firmly anchored to prevent flotation, collapse, and lateral movement;

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- 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; and be placed on opposing walls with the net area of not less than 1 square inch for every square foot of the size of the footprint of the structure (Flood Vents);
- l. The Openings (Flood Vents) shall be located no higher than 1 foot above grade;
- m. The openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

### SECTION 12-519 STANDARDS FOR SUBDIVISION PROPOSALS

- 1. All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with Section 12-502, Section 12-503, and Section 12-504 of these Flood Damage Prevention Ordinances.
- 2. All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet Floodplain Development Permit requirements of Section 12-508; Section 12-515; and the provisions for flood hazard reduction of these Flood Damage Prevention Ordinances.
- 3. Base flood elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided pursuant to Section 12-507 or Section 12-514 of these Flood Damage Prevention Ordinances.
- 4. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
- 5. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

### SECTION 12-520 STANDARDS FOR AREAS OF SHALLOW FLOODING (AO/AH ZONES)

Located within the areas of special flood hazard established in Section 12-507, are areas designated as shallow flooding. These areas have special flood hazards associated with flood depths of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

- 1. All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated at or above the base flood elevation or the highest

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adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least 2 feet if no depth number is specified).

2. All new construction and substantial improvements of non-residential structures;
  - a. have the lowest floor (including basement) elevated at or above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least 2 feet if no depth number is specified), or
  - b. together with attendant utility and sanitary facilities be designed so that below the base specified flood depth in an AO Zone, or below the Base Flood Elevation in an AH Zone, level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.
3. A registered professional engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Section, as proposed in Section 12-515 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.

### SECTION 12-521 FLOODWAYS

Floodways - located within areas of special flood hazard established in Section 12-507, are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

1. Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
2. If Section 12-521(1) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions.
3. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community first completes all of the provisions required by Section 65.12.

### SECTION 12-522 SEVERABILITY

If any section, clause, sentence, or phrase of these Flood Damage Prevention Ordinances

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are held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of these Flood Damage Prevention Ordinances.

### SECTION 12-523 COMMUNITY OF ATOKA FLOODPLAIN MANAGEMENT FEE SCHEDULE

The City Council of the City of Atoka establishes the following fee schedule not to exceed \$500.00 for any one service:

- a. Notice of Intent Fee-\$25.00
- b. Floodplain Development Permit Application Review-\$100.00
- c. Floodplain Development Permit Fee-\$25.00
- d. Inspection Fee-per inspection-\$25.00
- e. Variance Request Filing Fee-\$25.00

### SECTION 12-524 PENALTIES FOR NON COMPLIANCE

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this court order and other applicable regulations. Violation of the provisions of this court order by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this court order or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$500.00 or imprisoned for not more than one (1) year, or both, for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the City of Atoka from taking such other lawful action as is necessary to prevent or remedy any violation.

It is hereby found and declared by the City of Atoka that severe flooding has occurred in the past within its jurisdiction and will certainly occur within the future; that flooding is likely to result in infliction of serious personal injury or death, and is likely to result in substantial injury or destruction of property within its jurisdiction; in order to effectively comply with minimum standards for coverage under the National Flood Insurance Program, and in order to effectively remedy the situation described herein, an emergency is hereby declared to exist, and this ordinance, being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect and after its passage and approval.

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CHAPTER 6

HEIGHT RESTRICTION ZONING

FOR ATOKA MUNICIPAL AIRPORT

Section 12-601	Airport hazards contrary to public interest
Section 12-602	Definitions
Section 12-603	Airport zones
Section 12-604	Airport zone height limitations
Section 12-605	Use restriction
Section 12-606	Nonconforming use
Section 12-607	Permits and fees
Section 12-608	Enforcement
Section 12-609	Board of Adjustment
Section 12-610	Appeals to the Board of Adjustment
Section 12-611	Judicial Review of Decisions of Board of Adjustment
Section 12-612	Penalties and remedies
Section 12-613	Conflicting regulations
Section 12-614	Severability

SECTION 12-601 AIRPORT HAZARDS CONTRARY TO PUBLIC INTEREST

This Ordinance is adopted pursuant to the authority conferred by the Airport Zoning Act, Title 3, Oklahoma Statutes 1991, Section 101 et seq. (The "Act"). It is hereby found that an airport hazard endangers the lives and property of users of Atoka Municipal Airport, and property or occupants of land in its vicinity, and also, if of the obstruction type, in effect reduces the size of the area available for the landing, taking off, and maneuvering of aircraft, thus tending to destroy or impair the utility of Atoka Municipal Airport and the public investment therein. Accordingly, it is hereby declared:

1. That the creation or establishment of an airport hazard is a public nuisance and an injury to the community served by Atoka Municipal Airport;
2. That it is therefore necessary in the interest of the public health, public safety, and general welfare that the creation or establishment of airport hazards be prevented; and
3. That the prevention of these airport hazards or obstructions should be accomplished, to the extent legally possible, by the exercise of the police power without compensation.

It is further declared that both the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation or the marking and lighting of existing airport hazards are public purposes for which political subdivisions may raise and expend public funds and acquire land or property interests therein.

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This Ordinance shall be known and may be cited as the “Atoka Municipal Airport Zoning Ordinance”.

### SECTION 12-602 DEFINITIONS

As used in this chapter, the following terms have the meanings as ascribed to them, unless the context otherwise requires:

1. Airport - Atoka Municipal Airport.
2. Airport Elevation - The highest point of an airport’s usable landing area measured in feet from sea level. Atoka Municipal Airport has an elevation of 598’ above mean sea level (MSL), which is the highest point on the usable runway.
3. Airport Hazard - Any structure or tree or use of land that obstructs the airspace required for the flight of aircraft in landing or taking off at Atoka Municipal Airport or is otherwise hazardous to such landing or taking off of aircraft.
4. Airport Hazard Area - Any area of land or water upon which an airport hazard might be established if not prevented as provided in this chapter.
5. Approach Surface - A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in Section IV of this chapter. In plan, the perimeter of the approach surface coincides with the perimeter of the approach zone.
6. Approach, Transitional, Horizontal, and Conical Zones - These zones are set forth in Section III of this chapter.
7. Board of Adjustment - A Board consisting of five members appointed by the City Council of the City of Atoka as provided by the laws of the State of Oklahoma.
8. Conical Surface - A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.
9. Hazard to Air Navigation - An obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.
10. Height - For the purpose of determining the height limits in all zones set forth in this chapter and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.
11. Horizontal Surface - A horizontal plane 150 feet above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone.



## Planning, Zoning and Development

12. Nonconforming Use - Any pre-existing structure, object of natural growth, or use of land which is inconsistent with the provisions of this chapter or an amendment thereto.

13. Obstruction - Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in Section IV of this chapter.

14. Person - An individual, firm, partnership, corporation, company, association, joint stock association, or government entity; includes a trustee, a receiver, an assignee, or a similar representative of any of them.

15. Primary Surface - A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; for military runways or when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The width of the primary surface is set forth in Section III of this chapter. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

16. Runway - A defined area on an airport prepared for landing and takeoff of aircraft along its length.

17. Structure - An object, including a mobile object, constructed or installed by man, including but without limitation, buildings, towers, cranes, smokestacks, earth formation, and overhead transmission lines.

18. Transitional Surfaces - These surfaces extend outward at 90 degree angles to the runway centerline and the runway centerline extended at a slope of seven (7) feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach surfaces, which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at 90 degree angles to the extended runway centerline.

19. Tree - Any object of natural growth.

20. Utility Runway - A runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight and less.

21. Visual Runway - A runway intended solely for the operation of aircraft using visual approach procedures.

22. Zoning Administrator - The Atoka City Clerk or such other City employee(s) as may be so designated by the Atoka Municipal Airport Board.

### SECTION 12-603 AIRPORT ZONES

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In order to carry out the provisions of this chapter, there are hereby created and established certain zones that include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to Atoka Municipal Airport. Such zones are shown on the Atoka Municipal Airport Zoning Map consisting of one sheet, prepared by Leard Bice Reeder, Inc., and dated August 1997, which is attached to this chapter and hereby expressly incorporated herein and made a part hereof. An area located in more than one (1) of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:

1. Utility Runway Visual Approach Zone - The inner edge of this approach zone coincides with the width of the primary surface and is 250 feet wide. The approach zone expands outward uniformly to a width of 1,250 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
2. Transitional Zones - The transitional zones are the areas beneath the transitional surfaces.
3. Horizontal Zone - The horizontal zone is established by swinging arcs of 5,000 feet radii for all runways designated utility or visual and 10,000 feet for all others from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.
4. Conical Zone - The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward therefrom a horizontal distance of 4,000 feet.

### SECTION 12-604 AIRPORT ZONE HEIGHT LIMITATIONS

Except as otherwise provided in this chapter, no structure shall be erected, altered, or maintained, and no tree shall be allowed to grow in any zone created by this chapter to a height in excess of the applicable height limit herein established for such zone. Such applicable height limitations are hereby established for each of the zones in question as follows:

1. Utility Runway Visual Approach Zone - Slopes twenty (20) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.
2. Transitional Zones - Slope seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation which is 598 feet above mean sea level. In addition to the foregoing, there are established height limits sloping seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending to where they intersect the conical surface. Where the precision instrument runway approach zone projects beyond the conical zone, there are established height limits sloping seven (7) feet outward for each foot upward beginning at the sides of and the same

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elevation as the approach surface, and extending a horizontal distance of 5,000 feet measured at 90 degree angles to the extended runway centerline.

3. Horizontal Zone - Established at 150 feet above the airport elevation or at a height of 748 feet above mean sea level.

4. Conical Zone - Slopes twenty (20) feet outward for each foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation.

5. Excepted Height Limitations - Nothing in this chapter shall be construed as prohibiting the construction or maintenance of any structure, or growth of any tree to a height up to 50 feet above the surface of the land.

### SECTION 12-605 USE RESTRICTION

Notwithstanding any other provisions of this chapter, no use may be made of land or water within any zone established by this chapter in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

### SECTION 12-606 NONCONFORMING USES

1. Regulations Not Retroactive - The regulations prescribed in this chapter shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of this chapter, or otherwise interfere with the continuance of a nonconforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this chapter, and is diligently prosecuted.

2. Marking and Lighting - Notwithstanding the preceding provision of this Section, the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the Zoning Administrator to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated, and maintained at the expense of the City of Atoka.

### SECTION 12-607 PERMITS AND FEES

1. Future Uses - Except as specifically provided in a, b, and c hereunder, no material change shall be made in the use of land, no structure shall be erected or otherwise established, and no tree shall be planted in any zone hereby created unless a permit therefor shall have been

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applied for and granted upon the prior payment of the appropriate permit fees to be established from time to time. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure, or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted. No permit for a use inconsistent with the provisions of this chapter shall be granted unless a variance has been approved in accordance with Section VI I, 4.

a. In the area lying within the limits of the horizontal zone and conical zone, no permit shall be required for any tree or structure less than seventy-five feet of vertical height above the ground, except when, because of terrain, land contour, or topographic features, such tree or structure would extend above the height limits prescribed for such zones.

b. In areas lying within the limits of the approach zones, but at a horizontal distance of not less than 4,200 feet from each end of the runway, no permit shall be required for any tree or structure less than seventy-five feet of vertical height above the ground, except when such tree or structure would extend above the height limit prescribed for such approach zones.

c. In the areas lying within the limits of the transition zones beyond the perimeter of the horizontal zone, no permit shall be required for any tree or structure less than seventy-five feet of vertical height above the ground, except when such tree or structure, because of terrain, land contour, or topographic features, would extend above the height limit prescribed for such transition zones.

Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, or alteration of any structure, or growth of any tree in excess of any of the height limits established by this chapter except as set forth in Section IV, 5.

2. Existing Uses - No permit shall be granted that would allow the establishment or creation of an obstruction or permit a nonconforming use, structure, or tree to become a greater hazard to air navigation than it was on the effective date of this chapter or any amendments thereto or than it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted.

3. Nonconforming Uses Abandoned or Destroyed - Whenever the Zoning Administrator determines that a nonconforming tree or structure has been abandoned or more than 80 percent torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations.

4. Variances - Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property, not in accordance with the regulations prescribed in this chapter, may apply to the Board of Adjustment for a variance from such regulations. The application for variance shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variances shall be allowed where it is duly found

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that a literal application or enforcement of the regulations will result in unnecessary hardship and relief granted, will not be contrary to the public interest, will not be an airport hazard or create a hazard to air navigation, will do substantial justice, and will be in accordance with the spirit of this chapter. Additionally, no application for variance to the requirements of this chapter may be considered by the Board of Adjustment unless a copy of the application has been furnished to the Atoka Municipal Airport Board for advice as to the aeronautical effects of the variance. If the Atoka Municipal Airport Board does not respond to the application within fifteen (15) days after receipt, the Board of Adjustment may act on its own to grant or deny said application.

5. Obstruction Marking and Lighting - Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this Ordinance and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to install, operate, and maintain, at the owner's expense, such markings and lights as may be necessary. If deemed proper by the Board of Adjustment, this condition may be modified to require the owner to permit the City of Atoka at its own expense to install, operate, and maintain the necessary markings and lights.

### SECTION 12-608 ENFORCEMENT

It shall be the duty of the Zoning Administrator to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the Zoning Administrator upon a form created for that purpose. Applications required by this chapter to be submitted to the Zoning Administrator shall be promptly considered and granted or denied. Application for action by the Board of Adjustment shall be forthwith transmitted by the Zoning Administrator.

### SECTION 12-609 BOARD OF ADJUSTMENT

1. A Board of Adjustment has been created to have and exercise the following powers: (1) to hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Zoning Administrator in the enforcement of this Ordinance, (2) to hear and decide special exceptions to the terms of this Chapter upon which such Board of Adjustment under such regulations may be required to pass under this chapter; (3) to authorize in specific cases such variances from the terms of this Chapter as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of this Chapter will result in unnecessary hardship and so that the spirit of this Chapter shall be observed and substantial justice done; and (4) exceptions and/or variances may only be allowed by the Board of Adjustment only after notice and hearing as provided in Title 11, Oklahoma Statutes 1991, Section 44-108.

2. The Board of Adjustment shall consist of five members appointed by the Atoka City Council and each shall serve for a term of three years until a successor is duly appointed and qualified. Of the members first appointed, one shall be appointed for a term of one year, two for a term of two years, and two for a term of three years. Members shall be removable by the appointing authority for cause, upon written charges, after a public hearing.

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3. The Board of Adjustment shall adopt rules for its governance and in harmony with the provisions of this Chapter, the Oklahoma Open Meetings Act and the Oklahoma Open Records Act. Meetings of the Board of Adjustment shall be public and held at the call of the Chairperson and at such other times as the Board of Adjustment may determine. The Chairperson or, in the absence of the Chairperson, the Acting Chairperson may administer oaths and compel the attendance of witnesses. All hearings of the Board of Adjustment shall be public. The Board of Adjustment shall keep minutes of its proceedings showing the vote of each member upon each question; or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall immediately be filed in the office of the Zoning Administrator and on due cause shown.

4. The Board of Adjustment shall make written findings of facts and conclusions of law giving the facts upon which it acted and its legal conclusions from such facts in reversing, affirming, or modifying any order, requirement, decision, or determination which properly comes before it under the provisions of this Chapter.

5. The concurring vote of three (3) members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator or decide in favor of the applicant on any matter upon which it is required to pass under this Chapter, or to effect any variation to this Chapter.

### SECTION 12-610 APPEALS TO THE BOARD OF ADJUSTMENT

1. Any person aggrieved, or any taxpayer affected, by any decision of the Zoning Administrator made in the administration of the Chapter, may appeal to the Board of Adjustment.

2. All appeals hereunder must be taken within thirty (30) days from the date of the decision as provided by the rules of the Board of Adjustment, by filing with the Zoning Administrator a notice of appeal specifying the grounds thereof and by paying a filing fee of \$ at the Office of the Atoka City Clerk at the time the notice is filed. The Zoning Administrator shall forthwith transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken.

3. An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board of Adjustment, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would in the opinion of the Zoning Administrator cause imminent peril to life or property. In such case, proceedings shall not be stayed except by order of the Board of Adjustment or notice to the Zoning Administrator and on due cause shown.

4. The Board of Adjustment shall fix a reasonable time for hearing appeals, give public notice and due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney.

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5. The Board of Adjustment may, in conformity with the provisions of this Chapter, reverse or affirm, in whole or in part, or modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision or determination as may be appropriate under the circumstances.

### SECTION 12-611 JUDICIAL REVIEW OF DECISIONS OF BOARD OF ADJUSTMENT

Any person aggrieved, or any taxpayer affected, by any decision of the Board of Adjustment, who is of the opinion that a decision of the Board of Adjustment is illegal, may appeal to the District Court of Atoka County, Oklahoma, in the manner as provided in Title 3, Oklahoma Statutes 1991, Section 111.

### SECTION 12-612 PENALTIES AND REMEDIES

Each violation of this Chapter or of any regulation, order, or ruling promulgated hereunder shall constitute a misdemeanor and shall be punishable by a fine of not more than \$ 200.00 or imprisonment for not more than 30 days or both; and each day a violation continues to exist shall constitute a separate offense. In addition, the political subdivisions adopting the regulations contained in this chapter or the Joint Airport, Zoning Board may institute an action to prevent, restrain, correct or abate any violation of the Act, or this Chapter and its regulations or of any order or ruling made in connection with their administration or enforcement, in any court of competent jurisdiction.

### SECTION 12-613 CONFLICTING REGULATIONS

Where there exists a conflict between any of the regulations or limitations prescribed in this Chapter and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, and the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail.

### SECTION 12-614 SEVERABILITY

If any of the provisions of this Chapter or the application thereof to any person or circumstances are held invalid, such invalidity shall not affect other provisions or applications of the Chapter which can be given effect without the invalid provision or application, and to this end, the provisions of this Chapter are declared to be severable.

Public Safety

**PART 13**

**PUBLIC SAFETY**

**CHAPTER 1**

**FIRE PREVENTION CODE**

Section 13-101	Adoption of fire prevention code.
Section 13-102	Fire prevention.
Section 13-103	Amendments to fire code.
Section 13-104	Provisions declared to be minimum requirements.
Section 13-105	Modifications of the fire prevention code authorized.
Section 13-106	New materials, processes or occupancies which may require permits.
Section 13-107	Appeals.
Section 13-108	Life safety code adopted.
Section 13-109	Limits applicable to flammable liquids, LPG, explosives.

**CHAPTER 2**

**FIRE SERVICES**

**ARTICLE A**

**FIRE DEPARTMENT**

Section 13-201	Fire department.
Section 13-202	Volunteer department.
Section 13-203	Fire chief.
Section 13-204	Duties of the assistant chief.
Section 13-205	Company officers.
Section 13-206	Secretary-treasurer.
Section 13-207	Membership, new members.
Section 13-208	Bylaws.
Section 13-209	Rules and regulations.
Section 13-210	Use of fire equipment.
Section 13-211	Authority of firefighters at fires.
Section 13-212	Right of entry.

**ARTICLE B**

**CALLS OUTSIDE LIMITS**

Section 13-221	Power to contract.
Section 13-222	Contracts for service.
Section 13-223	Authority to answer calls.



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- Section 13-224 Charges for calls made outside city.
- Section 13-225 Firefighters serving in regular line of duty.
- Section 13-226 Department considered agent of state.
- Section 13-227 Charges For Certain Emergency Responses Outside the City of Atoka;  
Ratification of Prior Charges; Billings and Collections; Related Provisions

**CHAPTER 3**

POLICE SERVICES

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POLICE DEPARTMENT

- Section 13-301 Police department created; chief.
- Section 13-302 Duties.

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- Section 13-311 Board established.
- Section 13-312 Members.
- Section 13-313 Appointments.
- Section 13-314 Term.
- Section 13-315 Hearings.
- Section 13-316 Records of proceedings.
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**CHAPTER 4**

CIVIL DEFENSE

- Section 13-401 Purpose of chapter.
- Section 13-402 Department.
- Section 13-403 Responsibilities and duties of director, deputies.
- Section 13-404 Emergency powers of civil defense director and other personnel.

Public Safety

**CHAPTER 1**

**FIRE PREVENTION CODE**

Section 13-101	Adoption of fire prevention code.
Section 13-102	Fire prevention.
Section 13-103	Amendments to fire code.
Section 13-104	Provisions declared to be minimum requirements.
Section 13-105	Modifications of the fire prevention code authorized.
Section 13-106	New materials, processes or occupancies which may require permits.
Section 13-107	Appeals.
Section 13-108	Life safety code adopted.
Section 13-109	Limits applicable to flammable liquids, LPG, explosives.

SECTION 13-101     ADOPTION OF FIRE PREVENTION CODE.

There is hereby adopted by the city for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion that certain code known as the BOCA National Fire Prevention Code, recommended by the Building Officials and Code Administrators, International, Inc., and the National Fire Prevention Association Fire Prevention Code, being particularly the latest editions thereof, and the whole thereof, save and except such portions as are hereinafter deleted, modified or amended, of which codes not less than one copy has been and is filed in the office of the city clerk. The Fire Prevention Codes, as amended, are hereby adopted and incorporated as if set out at length herein, and shall be incorporated and considered as a part of this code. (Prior Code, Sec. 8-1, as amended)

State Law Reference: Power of city to adopt fire code, 11 O.S. Sec. 14-107; 74 O.S. Sec. 324.8.

Cross Reference: See Sections 13-201 et seq on fire department; See also Sec. 10-324 on fireworks; and Sections 5-101 on building regulations; Part 8 of this code on hazardous chemicals; and Part 5 of this code on LPG code.

SECTION 13-102     FIRE PREVENTION.

The fire prevention code shall be enforced by the fire department. (Prior Code, Sec. 8-2, in part)

SECTION 13-103     AMENDMENTS TO FIRE CODE.

The following sections are hereby revised as follows:

1.     Section F-100.1. Insert: "City of Atoka". (Prior Code, Sec. 8-2, as amended)

SECTION 13-104     PROVISIONS DECLARED TO BE MINIMUM REQUIREMENTS.

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The provisions of the Fire Prevention Code, latest edition, in their interpretation and application, shall be held to be minimum requirements adopted for the promotion of public health, safety, and general welfare. Wherever any of the provisions or requirements of this code are inconsistent with the provisions of the city code or state statutes presently existing or enacted in the future, the provisions or requirements containing the most restrictive regulation shall apply and govern.

### SECTION 13-105      MODIFICATIONS OF THE FIRE PREVENTION CODE AUTHORIZED.

The fire chief, with approval of the city council, shall have the power to modify any of the provisions of the fire prevention code upon application in writing by the building owner or lessee, or his duly authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the code, provided, that the spirit of the code shall be observed, public safety secured and substantial justice done. The particulars of such modifications when granted shall be entered upon the records of the department, and a signed copy shall be furnished the applicant. (Prior Code, Sec. 8-6)

### SECTION 13-106      NEW MATERIALS, PROCESSES OR OCCUPANCIES WHICH MAY REQUIRE PERMITS.

The chief of the fire department and two (2) persons appointed by the mayor with the consent of the council shall act as a committee to determine and specify, after giving affected persons an opportunity to be heard, any new materials, processes or occupancies which shall require permits, in addition to those now enumerated in the code. The fire chief shall post such list in a conspicuous place in his office and distribute copies thereof to interested persons. (Prior Code, Sec. 8-7)

Cross Reference: See Fee Schedule, Appendix 2, for applicable fees.

### SECTION 13-107      APPEALS.

Whenever the fire chief or his designee shall disapprove an application or refuse to grant a permit or license 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 to council of the city within thirty (30) days from the date of the decision appealed from.

### SECTION 13-108      LIFE SAFETY CODE ADOPTED.

There is hereby adopted for the purposes of 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.

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### SECTION 13-109 LIMITS APPLICABLE TO FLAMMABLE LIQUIDS, LPG, EXPLOSIVES.

A. The limits referred to in the Fire Prevention Code in which storage of flammable liquids in outside above-ground tanks is prohibited are the city limits, but this provision is not retroactive.

B. The limits referred to in the Fire Prevention Code in which new bulk plants for flammable liquids are prohibited are the city limits, but this provision shall not be retroactive.

C. The limits referred to in the Fire Prevention Code in which bulk storage of liquefied petroleum gas is prohibited are the city limits, but this provision shall not be retroactive.

D. The limits referred to in the Fire Prevention Code in which storage of explosives and blasting agents is prohibited are the city limits, but this provision shall not be retroactive. (Prior Code, Secs. 8-3 to 8-5)

## CHAPTER 2

Public Safety

FIRE SERVICES

ARTICLE A

FIRE DEPARTMENT

Section 13-201	Fire department.
Section 13-202	Volunteer department.
Section 13-203	Fire chief.
Section 13-204	Duties of the assistant chief.
Section 13-205	Company officers.
Section 13-206	Secretary-treasurer.
Section 13-207	Membership, new members.
Section 13-208	Bylaws.
Section 13-209	Rules and regulations.
Section 13-210	Use of fire equipment.
Section 13-211	Authority of firefighters at fires.
Section 13-212	Right of entry.

ARTICLE B

CALLS OUTSIDE LIMITS

Section 13-221	Power to contract.
Section 13-222	Contracts for service.
Section 13-223	Authority to answer calls.
Section 13-224	Charges for calls made outside city.
Section 13-225	Firefighters serving in regular line of duty.
Section 13-226	Department considered agent of state.
Section 13-227	Charges For Certain Emergency Responses Outside the City of Atoka; Ratification of Prior Charges; Billings and Collections; Related Provisions

ARTICLE A

FIRE DEPARTMENT

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 on elsewhere in case of an emergency; to promote fire prevention; and

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unless otherwise provided, to enforce all ordinances relating to fires, fire prevention and safety of persons from fire in public and private buildings. (Prior Code, Sec. 1-10, 1-18, in part)

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     VOLUNTEER DEPARTMENT.

A.     The fire department of the city is a volunteer department which has in its service no salaried firefighters and not less than twelve (12) nor more than twenty-five (25) volunteer firefighters.

B.     For the purpose of this chapter, a volunteer firefighter is considered as one who is enrolled as a member of the fire department and who serves in the capacity without receiving a regular salary. (Prior Code, Sec. 1-11, in part)

Charter Reference: See also Charter, Article 12, on volunteer fire department.

### SECTION 13-203     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 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;

## Public Safety

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. (Prior Code, Sec. 1-12, in part)

### SECTION 13-204 DUTIES OF THE ASSISTANT CHIEF.

In the absence of the chief, the assistant chief on duty shall command the department and be held responsible therefor in all respects with the full powers and responsibilities of the chief. (Prior Code, Sec. 1-13)

### SECTION 13-205 COMPANY OFFICERS.

Company officers shall be selected by the chief based on the following criteria:

1. Knowledge of fire firefighting;
2. Leadership ability; and
3. Knowledge of firefighting equipment. (Prior Code, Sec. 1-14)

### SECTION 13-206 SECRETARY TREASURER.

One member elected by the members of the fire department, subject to approval of the chief, shall be a secretary-treasurer. His duties shall consist of the following:

1. Calling the roll at the opening of each meeting;
2. Keeping the minutes of each meeting; and
3. Collecting any money due the department by the members. (Prior Code, Sec. 1-15)

### SECTION 13-207 MEMBERSHIP, NEW MEMBERS.

New members of the department shall be appointed by the chief and shall be on probation for one year after their appointment. Upon completion of their probation period, new members must be approved by the majority of the other members of the fire department, the chief and the city manager. (Prior Code, Sec. 1-16).

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### SECTION 13-208    BYLAWS.

The bylaws of the department shall include the following:

1. All volunteer fire department members are required, when notified, to respond to alarms of fire and other emergencies;
2. A member is required to be present at all regular meetings, called meetings and schools presented for the benefit of the firefighters;
3. At least one regular business meeting of the members shall be held each month;
4. Any member having two (2) unexcused absences in succession or three (3) unexcused absences in a period of three (3) months will be dropped from the fire department rolls;
5. Any member leaving the city for an extended period of time is required to notify the chief;
6. Any member refusing to attend training classes provided for members of the department will be dropped;
7. Any member of the fire department may be dropped from the rolls for the following offenses:
  - a. Conduct unbecoming a firefighter;
  - b. Any act of insubordination;
  - c. Neglect of duty;
  - d. Any violation of rules and regulations governing the fire department;
  - e. Conviction of a felony; or
  - f. By a majority vote of the members of the company and approval of the chief. (Prior Code, Sec. 1-17, in part)

### SECTION 13-209    RULES AND REGULATIONS.

The city council, by motion or resolution, may adopt and change regulations relating to the fire department, its organization, operation and compensation. (Prior Code, Sec. 1-19)



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SECTION 13-210     USE OF FIRE EQUIPMENT.

A.     The department shall be equipped with such apparatus and other equipment as may be 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 or equipment for any private purpose, nor shall any person willfully and without proper authority take away or conceal any article used in any way by the 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 13-211     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 13-212     RIGHT OF ENTRY.

The chief of the fire department and his designee may at all reasonable hours entry 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.

ARTICLE B

CALLS OUTSIDE LIMITS

SECTION 13-221     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

## Public Safety

contract to provide fire protection jointly with other organizations and municipal subdivisions of the state. (Ord. No. N.C. 337, 4/6/87)

State Law Reference: Fire services outside city, city powers, 11 O.S. Secs. 29-105 et seq.

### SECTION 13-222      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 an amount reached through negotiation by the parties. (Ord. No. N.C. 337, 4/6/87)

### SECTION 13-223      AUTHORITY TO ANSWER CALLS.

The fire department is authorized to answer all calls outside the city within a distance of twenty (20) 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. (Ord. No. N.C. 337, 4/6/87)

### SECTION 13-224      CHARGES FOR CALLS MADE OUTSIDE CITY.

The charges for such calls shall be as specified in the fee schedule. (Ord. No. N.C. 337, 4/6/87)

### SECTION 13-225      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 13-226      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. (Ord. No. N.C. 337, 4/6/87)

### SECTION 13-227      CHARGES FOR CERTAIN EMERGENCY REPOSSES OUTSIDE THE CITY OF ATOKA; RATIFICATION OF PRIOR CHARGES; BILLINGS AND COLLECTIONS; RELATED PROVISIONS

## Public Safety

A. Intention To Continue And Codify Charges And Fees For Certain Emergency Responses. It is the Intention and purpose of this Section 13-227 of the Atoka City Code to clarify, continue in effect and code certain charges heretofore made under and/or pursuant to Section 13-223 and/or Sections 13-221 through 13-226 of the City Code, and/or any other applicable provisions of the Atoka City Code, State Statutes and/or resolutions and/or other pronouncements made by the Atoka City Council in connection herewith, relating and/or pertaining to certain “emergency responses” outside the city limits of the City of Atoka, and whether or not a contract had been previously entered into with the persons responsible for the payment thereof.

B. Charges and Fees for Certain Emergency Responses outside the City of Atoka. Except as otherwise set forth in Subsection C hereof, the fees and/or Charges set forth in Subsection D hereof shall be assessed and collected by the City for all responses made to all fire, rescue, hazardous spill, hazardous circumstance and/or other emergencies by the Atoka Fire Department and/or other Emergency Response Personnel and/or otherwise involving the use of any fire, rescue and/or other emergency vehicles, devices, units, apparatus, equipment and/or Similar assets of the City of Atoka and/or the Atoka Fire Department, where the principal focus of such response is a location outside the Atoka City Limits.

C. Exceptions and Waivers. Provided further, however, that:

1. in the event that a particular formal written contract had been previously entered into under the provisions of Section 13-221 et seq. of the City Code providing for charges for such a response, then the charges set forth in said contract shall control;

2. in the event such response was made before the enactment of this code provision, and in the absence of such a previously existing contract aforesaid, then the charges shall not exceed the amounts as where then, from time to time, expressed and/or determined to be in effect by the City Council for such responses, but not to exceed the amounts below set forth in Subsection D hereof;

3. in any individual case, all or any portion of such fees and/or charges may be waived by the majority vote of the City Council, cast upon a specific measure calling for the same; and

4. if deemed to be uncollectible and/or otherwise to be in the best interests of the City of Atoka, the City Manager shall have the qualified authority to make adjustments to and/or for such charges, after the same have been incurred, subject, however, to the authority of the City Council to reverse or otherwise modify any such determinations or adjustments made by the City Manager, by majority vote of the City Council, cast upon a specific measure calling for the same.

D. Amount of Charges. The Amount of such charges shall be determined as follows:

1. If such response includes or involves the use of a fire truck (or similar vehicle) having the then present capacity of pumping seven hundred and fifty gallons of water per minute, or more, hereinafter referred to as a “750 GPM Truck”, (whether or not it is the first vehicle or

## Public Safety

equipment to arrive at the scene of such response) then the amount of such charges and/or fees shall be the sum of the following:

- a. an initial charge of Four Hundred Dollars (\$400.00); plus
- b. Four Hundred Dollars (\$400.00) for each additional “750 GPM Truck” brought to such location; plus
- c. Two Hundred Dollars (\$200.00) per hour, prorated and rounded to the nearest quarter-hour, per each such “750 GPM Truck”, for each such (prorated) hour, in excess of (over and above) the first hour, that said “750 GPM Truck” is being utilized in such response, beginning at the time that said response is initiated, and until (and including the time necessary for) it has been return to the fire station; plus
- d. Two Hundred Dollars (\$200.00) for each additional (non “750 GPM Truck”) fire truck or similar vehicle and/or other emergency response vehicle not having the then present capacity of pumping seven hundred and fifty gallons of water (or more) per minute, brought to such location; plus
- e. One Hundred Dollars (\$100.00) per hour, prorated and rounded to the nearest quarter-hour, per each such additional (non “750 GPM Truck”) fire truck or other emergency response vehicle, for each such (prorated) hour, in excess of (over and above) the first hour, that the same is being utilized in such response, beginning at the time that said response is initiated, and until (and including the time necessary for) it has been return to the fire station.

2. If such response does not include or involve the use of a “750 GPM Truck”, then the amount of such charges and/or fees shall be the sum of the following:

- a. an initial charge of Two Hundred Dollars (\$200.00); plus
- b. Two Hundred Dollars (\$200.00) for each (non “750 GPM Truck”) fire truck or similar vehicle and/or other emergency response vehicle not having the then present capacity of pumping seven hundred and fifty gallons of water (or more) per minute, brought to such location; plus
- c. One Hundred Dollars (\$100.00) per hour, prorated and rounded to the nearest quarter-hour, per each such (non “750 GPM Truck”) fire truck or other emergency response vehicle, for each such (prorated) hour, in excess of (over and above) the first hour, that the same is being utilized in such response, beginning at the time that said response is initiated, and until (and including the time necessary for) it has been return to the fire station.

E. Other Related Provisions. Such Charges and/or fees shall be assessable, jointly and severally, to and upon all occupants and owners and lien holders of the location at which such response occurs, and any insurers thereof, and payable and paid thereby, and shall be and constitute a debt to the City of Atoka from the date of assessment thereof, until paid in full. The

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city manager shall cause the same to be billed thereto, and shall have the authority to pursue the collection thereof. Provided, further, that nothing contained in this Section shall be deemed to prevent any response by the Atoka Fire Department or other Emergency Responses made pursuant to a Mutual Aid request, from an area fire department with a valid Mutual Aid Agreement with the City of Atoka

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**CHAPTER 3**

**POLICE SERVICES**

**ARTICLE A**

**POLICE DEPARTMENT**

- Section 13-301 Police department created; chief.  
Section 13-302 Duties.

**ARTICLE B**

**POLICE BOARD OF REVIEW**

- Section 13-311 Board established.  
Section 13-312 Members.  
Section 13-313 Appointments.  
Section 13-314 Term.  
Section 13-315 Hearings.  
Section 13-316 Records of proceedings.  
Section 13-317 Legal counsel.

**ARTICLE A**

**POLICE DEPARTMENT**

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. (Prior Code, Sec. 1-8)

Cross Reference: See also Section 7-801 et seq on unclaimed or abandoned property held by the police.

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. (Prior Code, Section 1-9, in part)

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ARTICLE B

POLICE BOARD OF REVIEW

SECTION 13-311     BOARD ESTABLISHED.

Pursuant to Section 50-123 of Title 11 of the Oklahoma Statutes, there is hereby established a police board of review to hear appeals concerning the discharge of police officers.

SECTION 13-312     MEMBERS.

The board of review shall consist of:

1.     The mayor, ex officio, who shall be a voting member of the board;
2.     Two (2) active duty or retired police officers of the city;
3.     One attorney residing in the city; and
4.     One licensed physician residing in the city. (Prior Code, Sec. 1-43, in part)

SECTION 13-313     APPOINTMENTS.

A.     Members of the board of review, with the exception of the mayor, shall be appointed by the council, except that when persons meeting the qualifications of paragraphs 3 and 4 of Section 13-312 above, the mayor shall in lieu thereof make the appointments from the governing body of the city.

B.     Neither the chief of police nor any person having direct appointive authority for police personnel shall be eligible for appointment to the board of review. (Prior Code, sec. 1-43, in part)

SECTION 13-314     TERM.

Appointive members of the police board of review shall serve at the pleasure of the appointing authority. (Prior Code, Sec. 1-43, in part)

SECTION 13-315     HEARINGS.

Any eligible officer who is discharged may appeal to the police board of review. The board of review will, within a reasonable length of time, schedule a hearing of such appeal, shall hear the evidence presented supporting the discharge and the evidence presented opposing the discharge, and shall render its decision, in writing, either affirming or reversing the discharge. (Prior Code, sec. 1-44, in part)

SECTION 13-316     RECORDS OF PROCEEDINGS.

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Proceedings before the police board of review shall be recorded by the secretary to the board and the minutes of the meeting shall be safely retained during such time as the aggrieved party to such proceedings may appeal the decision of the board of review.

### SECTION 13-317    LEGAL COUNSEL.

A. Proceedings before the police board of review shall be informal in nature and strict rules of evidence shall not apply.

B. Any party shall have the right to be represented by counsel, provided that such counsel shall be an attorney licensed to practice law within this state. Such attorney shall have the right to examine and cross-examine persons testifying before the board as shall the party, if not represented by counsel.



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**CHAPTER 4**

**CIVIL DEFENSE**

- Section 13-401 Purpose of chapter.  
Section 13-402 Department.  
Section 13-403 Responsibilities and duties of director, deputies.  
Section 13-404 Emergency powers of civil defense director and other personnel.

SECTION 13-401 PURPOSE OF CHAPTER.

The purpose of this chapter is to create an emergency management and civil defense organization for the city to be prepared for, and to function in the event of, emergencies endangering the lives and property of the people of the city. The duty of such civil defense organization shall be the protection of the lives and health of the citizens of the city and the property and property rights, both private and public, and to perform all functions necessary and incident thereto. (Prior Code, Sec. 1-25)

SECTION 13-402 DEPARTMENT.

A. The purpose of the civil defense department (hereinafter “department”) is to prepare for, and function in the event of, emergencies endangering the lives and property of the citizens of the city. The department is headed by a director, appointed by the city manager for such compensation and under such terms as the city manager may establish. The director serves at the pleasure of the city manager.

B. A civil defense advisory committee is also established, consisting of the mayor as chairman and five (5) members appointed by the mayor, subject to confirmation of the council, serving at the pleasure of the mayor and council. The committee shall elect from its members a vice-chairman and a secretary. It shall hold such meetings as are directed by the mayor, and its function shall be to act in an advisory capacity as needed or requested by the mayor or the director of civil defense. (Prior Code, Sec. 1-26)

SECTION 13-403 RESPONSIBILITIES AND DUTIES OF DIRECTOR.

The director of the department shall be the administrative head of the department and shall be responsible for carrying out the emergency management and civil defense program of the city in coordination with the civil defense advisory committee. He shall have such further duties and responsibilities to cooperate with all emergency services and civil defense agencies of other governmental units including the state and the federal government. (Prior Code, Sec. 1-27)

SECTION 13-404 EMERGENCY POWERS OF CIVIL DEFENSE ORGANIZATION.

A. In the event of an enemy-caused emergency or emergency resulting from natural causes, the director, after due authorization from the mayor, shall have the power and authority to enforce all rules and regulations relating to emergency management and civil defense and, if

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necessary, to take control of transportation, communications, stocks of fuel, food, clothing, medicine, and public utilities for the purpose of protecting the civilian population. He shall cooperate in every way with other governmental agencies, emergency management services and civil defense organizations.

B. The director, other members of the department and members of any emergency services and the civil defense organization established herein shall have the power and authority to enforce the laws of the state and ordinances of the city during the period of emergency, and shall at such time have the further power to make arrests for violations of such laws or ordinances. (Prior Code, Sec. 1-29, 1-30)

Streets and Sidewalks

**PART 14**

**STREETS AND SIDEWALKS**

**CHAPTER 1**

**GENERAL PROVISIONS**

Section 14-101	Obstructions generally.
Section 14-102	Interfering with street, free flow of traffic.
Section 14-103	Removal of trees, shrubs, obstructing view of traffic.
Section 14-104	Display of sale of goods, wares and merchandise.
Section 14-105	No structures on or over streets and sidewalks.
Section 14-106	Playing prohibited.
Section 14-107	Water on streets, water not to drain from washing vehicle.
Section 14-108	Unlawful to injure trees, shrubbery.
Section 14-109	Signs obstructing view, in sight triangle, prohibited.
Section 14-110	Duties of owners and occupants of adjacent property relative to sidewalk obstructions, hazards.
Section 14-111	Penalty.
Section 14-112	Close Streets, Public Ways, or Easements by Ordinance -Reopening- Rights of Utilities

**CHAPTER 2**

**EXCAVATIONS**

Section 14-201	Unlawful without permit.
Section 14-202	Applications.
Section 14-203	Fee.
Section 14-204	Bond.
Section 14-205	Deposit.
Section 14-206	Manner of excavation.
Section 14-207	Sidewalks.
Section 14-208	Restoring surface.
Section 14-209	Supervision.
Section 14-210	Tunneling required, when.
Section 14-211	Penalty.

Streets and Sidewalks

**CHAPTER I**

**GENERAL PROVISIONS**

Section 14-101	Obstructions generally.
Section 14-102	Interfering with street, free flow of traffic.
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Section 14-109	Signs obstructing view, in sight triangle, prohibited.
Section 14-110	Duties of owners and occupants of adjacent property relative to sidewalk obstructions, hazards.
Section 14-111	Penalty.
Section 14-112	Close Streets, Public Ways, or Easements by Ordinance -Reopening- Rights of Utilities

SECTION 14-101     OBSTRUCTIONS GENERALLY.

It is unlawful for any person to obstruct in any manner any street, alley, sidewalk or other public way by leaving or permitting to remain thereon or therein any vehicle, object, material, structure, fence or other obstruction of any kind. (Prior Code, Sec. 21-5)

SECTION 14-102     INTERFERING WITH STREET, FREE FLOW OF TRAFFIC.

A.     It is unlawful to:

1.     Obstruct any public street, public highway, public sidewalk or any other public place or building by hindering or impeding or tending to hinder or impede the free and uninterrupted passage of vehicles, traffic or pedestrians; or

2.     Commit in or upon any public street, public highway, public sidewalk or any other public place or building any act or thing which is an obstruction or interference to the free and uninterrupted use of property or with any business lawfully conducted by anyone in or upon or facing or fronting on any such public street, public highway, public sidewalk or any other public place or building, all of which prevents the free and uninterrupted ingress, egress, and regress, therein, thereon and thereto.

B.     When any person causes or commits any of the conditions enumerated in Subsection A herein, a police officer or any law enforcement officer shall order that person to stop causing or committing such conditions and to move on or disburse, or to remove any obstructions. Any person who fails or refuses to obey such orders shall be guilty of a violation of this section. (Prior Code, Sec. 21-5, in part)

## Streets and Sidewalks

### SECTION 14-103      REMOVAL OF TREES, SHRUBS, OBSTRUCTING VIEW OF TRAFFIC.

A.      The owner of every lot or parcel of land in the city upon which any trees, shrubs or plants are growing, or upon which any obstruction has been placed, shall remove such trees, shrubs, plants or obstruction, or parts thereof, if they are so situated as to constitute a traffic hazard by obstructing the view of any driver of any vehicle on the streets of the city to the extent that the driver is unable to observe the approach of other vehicles on streets and alleys and at intersections.

B.      The owner of any premises abutting on any street shall trim all trees and shrubbery growing in the parking, between the sidewalks and the roadway, of any such street, and all trees and shrubbery growing on any part of the premises adjacent to the sidewalks or any street or alley in such manner that the boughs or limbs thereof shall not obstruct free and convenient passage, sight and travel along the streets, sidewalks and alleys. If premises are occupied by some person other than the owner, such occupant shall trim the trees and shrubbery in the same manner as hereinbefore 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.

C.      Any owner or occupant who fails, refuses or neglects to trim trees and shrubbery as provided in this section, after receiving five (5) days' notice from the city manager or his designee to do so, is guilty of an offense against the city. In addition to any fine or punishment as an offense, the city may act to abate the nuisance. Every day that the owner or occupant fails, refuses or neglects to trim such trees or shrubbery after the expiration of the five (5) days' notice shall be a separate offense. (Prior Code, Secs. 21-1, 21-2)

Cross Reference: See Fee Schedule, Appendix 2. See also general procedure for abatement of nuisances caused by weeds or grass constituting a traffic hazard, see Part 8 of this code.

### SECTION 14-104      DISPLAY OF SALE OF GOODS, WARES AND MERCHANDISE.

A.      Except as otherwise provided in this code, it is unlawful for any person to display any goods, wares or merchandise for sale, or to sell the same, on any street, alley or sidewalk, or from any vehicle parked thereon, in the corporate limits of the city. Each separate sale or offer to sell in violation hereof shall constitute a separate offense.

B.      Any vehicle parked on the streets, alleys or sidewalks for the purpose of making merchandise available for sale by the methods prohibited by this section shall be promptly moved by the driver upon order of the police of the city, and if not promptly moved, the same shall be towed from such location upon order of the police department, and the driver or custodian of the vehicle shall also be deemed guilty of an offense.

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C. In each instance where an individual is guilty of an offense under the provisions of this section, the person for whom such individual is acting in the capacity of an agent or employee shall be guilty of a separate offense. (Prior Code, Sec. 21-4, in part)

### SECTION 14-105 NO STRUCTURES ON OR OVER STREETS AND SIDEWALKS.

It is unlawful for any person to erect or construct, or cause to be erected or constructed, any cellar or basement way, stairway, door, awning post, canopy or any other kind of structure projecting into, upon, under, or over any street or sidewalk within the city, except that the building official may, in his discretion, authorize the same to be done, where the public health, safety and necessity demand, by granting a permit therefor.

### SECTION 14-106 PLAYING PROHIBITED.

It is unlawful for any person to engage in any sport, game, amusement or to play in, on or across the main-traveled portion of any sidewalk, street, avenue or alley of the city except as may be authorized by ordinance. (Prior Code, Sec. 21-7)

Cross Reference: Play streets authorized, see Section 15-527 of this code.

### SECTION 14-107 WATER ON STREETS, WATER NOT TO DRAIN FROM WASHING VEHICLE.

It is unlawful for any person to wash or drain into any street, alley or other public place in the city any water from his house or premises or to allow any filth or water to escape from his premises upon any of the places above mentioned or upon property contiguous thereto. No auto or other vehicle shall be washed at any place within the city where the water, dirt, or other substances removed therefrom will drain into any street or sidewalk of the city. (Prior Code, Secs. 21-8, 21-9)

### SECTION 14-108 UNLAWFUL TO INJURE TREES, SHRUBBERY.

It is unlawful for any person to injure any tree or shrubbery on a street or alley in the city. This section shall not prohibit the lawful and proper care and removal of such trees and shrubbery. (Prior Code, Sec. 21-3)

### SECTION 14-109 SIGNS OBSTRUCTING VIEW, IN SIGHT TRIANGLE, PROHIBITED.

A. It is unlawful for any person to otherwise place any object, vehicle or structure on or so near to any street right-of-way such that same constitutes a traffic or safety hazard for either pedestrians or vehicular traffic traveling on or onto the street.

B. It is unlawful and an offense for any person to erect, construct, locate, maintain or allow to remain on his property any sign, fence or structure within an area known as the sight triangle. Any sign, fence or structure placed or located in the area is hereby determined to be a

## Streets and Sidewalks

public nuisance, and the city manager is authorized to cause the structure, fence or sign to be removed.

### SECTION 14-110 DUTIES OF OWNERS AND OCCUPANTS OF ADJACENT PROPERTY RELATIVE TO SIDEWALK OBSTRUCTIONS, HAZARDS.

A. It is unlawful for any person to allow any obstruction of any kind to accumulate in the sidewalk in front of his premises. All owners and occupants of property are required to keep their premises and the sidewalks, gutters, streets and alleys adjacent thereto free from weeds, trash and all obstructions and to remove such weeds, trash and obstructions from such places.

B. It is unlawful to deposit, throw or sweep into or upon a street, alley, parking or sidewalk of the city any trash, weeds, tree trimmings, dirt or any other refuse of any kind.

C. It is unlawful for the owner or occupant of property abutting upon a sidewalk or sidewalk area to permit the sidewalk or sidewalk area adjacent to the property to become a hazard to persons using the sidewalk or sidewalk area. (Prior Code, Sec. 21-10, in part)

### SECTION 14-111 PENALTY.

Any person who violates any provision of this chapter is guilty of an offense, and upon conviction thereof, shall be punished as provided in Section 1-108 of this code. Each day upon which a violation continues shall constitute a separate offense.

### SECTION 14-112 POWER TO CLOSE STREETS, PUBLIC WAYS, OR EASEMENTS BY ORDINANCE - REOPENING - RIGHTS OF UTILITIES

A. The municipal governing body by ordinance may close to the public use any public way or easement within the municipality whenever deemed necessary or expedient.

B. The municipality shall give written notice of any proposed closing of a public way or easement to any holder of a franchise, to the abutting landowners, and to others determined by the governing body to have a special right or privilege granted by ordinance or legislative enactment to use the public way or easement at least thirty (30) days prior to passage of any ordinance providing for closing of a public way or easement.

C. The municipality shall retain the absolute right to reopen the public way or easement without expense to the municipality. The public way or easement may be reopened by ordinance whenever:

- a. The municipal governing body deems it necessary; or
- b. An application of the 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 governing body.

## Streets and Sidewalks

D. Closing of 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 ways existing by operation of law unless released in writing executed by the owners thereof. (Approved 07/18/2022 Ord No. 587)



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**CHAPTER 2**

**EXCAVATIONS**

Section 14-201	Unlawful without permit.
Section 14-202	Applications.
Section 14-203	Fee.
Section 14-204	Bond.
Section 14-205	Deposit.
Section 14-206	Manner of excavation.
Section 14-207	Sidewalks.
Section 14-208	Restoring surface.
Section 14-209	Supervision.
Section 14-210	Tunneling required, when.
Section 14-211	Penalty.

SECTION 14-201     UNLAWFUL WITHOUT PERMIT.

It is unlawful for any person to tunnel under or to make any excavation in the street, alley or other public place in the city without having obtained a permit as is herein required, or without complying with the provisions of this chapter or in violation of or in variance from the terms of any such permit. (Prior Code, Sec. 21-11)

Cross Reference: See Fee Schedule, Appendix 2, for applicable fees.

SECTION 14-202     APPLICATIONS.

Applications for such permits shall be made to the city clerk and shall describe the location of the intended excavation or tunnel, the size thereof, the purpose therefor, and the person doing the actual excavating work, the name of the person for whom or which the work is being done, and shall contain an agreement that the applicant will comply with all ordinances and laws relating to the work to be done. (Prior Code, Sec. 21-12)

Cross Reference: See Fee Schedule, Appendix 2, for applicable fees.

SECTION 14-203     FEE.

The fee for such permits shall be as set by the council by motion or resolution. (Prior Code, Sec. 21-13)

Cross Reference: See Fee Schedule, Appendix 2, for applicable fees.

SECTION 14-204     BOND.

No such permit shall be issued unless and until the applicant therefor has filed with the city clerk a bond in an amount to be determined by the city manager of the city conditioned to

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indemnify the city for any loss, liability or damage that may result or accrue from or because of the making, existence or manner of guarding or constructing any such tunnel or excavation. Such bond shall have as surety a corporation licensed to do business in the state as a surety company. (Prior Code, Sec. 21-14)

### SECTION 14-205     DEPOSIT.

No such permit shall be issued unless and until the applicant therefor has deposited with the city clerk a cash depositing the sum as set by the city manager to insure the proper restoration of the ground and laying of the pavement if any. From this deposit shall be deducted the expense to the city of relaying the surface of the ground or pavement and of making the refill if this is done by the city without interest after the tunnel or excavation is completely refilled and the surface of pavement is restored. (Prior Code, Sec.21-15)

Cross Reference: See Fee Schedule, Appendix 2, for applicable fees.

### SECTION 14-206     MANNER OF EXCAVATION.

A. It is unlawful to make any such excavation or tunnel in any way contrary to or at variance with the terms of the permit therefor. Proper bracing shall be maintained to prevent the collapse of adjoining ground.

B. No injury shall be done to any pipes, cables or conduits in the making of such excavations or tunnels. Notice shall be given to the persons maintaining any such pipes, cables or conduits or to the city department or officer charged with the care thereof, which are or may be endangered or affected by the making of any such excavation or tunnel before such pipes, cables or conduits shall be disturbed.

C. No unnecessary damage or injury shall be done to any tree or shrub or the roots thereof. (Prior Code, Sec. 21-16)

### SECTION 14-207     SIDEWALKS.

If any sidewalk is blocked by any such work, a temporary sidewalk shall be constructed or provided which shall be safe for travel and convenient for users. (Prior Code, Sec. 21-17)

### SECTION 14-208     RESTORING SURFACE.

A. Any person making any excavation or tunnel in or under any public street, alley or other public place in the city shall restore the surface to its original condition. Refills shall be properly tamped down, and any bracing in such tunnel or excavation shall be left in the ground.

B. Any opening in a paved or improved portion of a street shall be repaired and the surface relaid by the applicant in compliance with the ordinances of the city and under the supervision of the city. (Prior Code, Sec. 21-18)

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### SECTION 14-209     SUPERVISION.

The city manager shall from time to time inspect or cause to be inspected all excavations and tunnels being made in or under any public street, alley or other public place in the city to see to the enforcement of the provisions of this chapter. Notice shall be given to him at least ten (10) hours before the work of refilling any such tunnel or excavation commences. (Prior Code, Sec. 21-19)

### SECTION 14-210     TUNNELING REQUIRED, WHEN.

Tunneling will be required when it is feasible to tunnel underneath any portion of any street or sidewalk in the city which is paved with concrete or asphalt paving. The street or sidewalk in the city which is paved with concrete and asphalt paving may be excavated as otherwise provided in this chapter if tunneling is not feasible after taking into consideration the location, cost and time involved; and where a proper permit has been secured, tunnels may be driven or excavated under any such pavement provided that upon completion of the work involved the backfill shall be compacted with sand. (Prior Code, Sec. 21-20)

### SECTION 14-211     PENALTY.

Any violation of this chapter shall be punishable as provided in Section 1-108 of this code. (Prior Code, Sec. 21-21)

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#### SECTION 15-101     CITATION.

This part shall be known and may be cited as the city's traffic code. (Prior Code, Chapter 23)

Cross Reference: See also Part 10 of this code on Offenses.

#### SECTION 15-102     DEFINITIONS.

As used in this chapter, the following terms shall have the meanings respectively ascribed to them in this section:

1. "Alley" means any narrow public passageway or street ordinarily located in the interior portion of platted blocks, having no legal or official name other than alley, as herein defined, and ordinarily open to traffic and used for service or delivery purposes to the rear of stores, dwellings or buildings;

2. "Arterial street" means any U.S. or state numbered route, controlled-access highway or other major radial or circumferential street or highway designated by local authorities within their respective jurisdictions as part of a major arterial system of streets or highways;

3. "Authorized emergency vehicle" means a vehicle of the fire department, police department or other law enforcement agencies, state and national, ambulances, and such other emergency vehicle of municipal departments or public service corporations as are authorized by the chief of police, and all of which are equipped with sirens and with red lights displayed openly on the front when engaged in emergency runs;

4. "Bicycle" means every device propelled by human power upon which any person may ride, having two (2) tandem wheels;

5. "Boulevard" or "through street" means any street or highway or portion thereof designated by ordinances of the city which require vehicles to come to a full and complete stop before entering such street or highway from intersecting streets or highways;

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6. “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 person for compensation;

7. “Bus loading zone” means a place adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers;

8. “Business district” means the territory contiguous to and including a highway when within six hundred (600) feet along such highway there are buildings in use for business or industrial purposes, including but not limited to hotels, banks, office buildings, railroad stations or 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;

9. “Commercial chauffeur” and “Chauffeur” means:

a. “Commercial chauffeur” means every person who operates a motor vehicle while in use as a common carrier of persons or property; and

b. “Chauffeur” means every person who is employed by another for the principal purpose of operating a motor vehicle and every person who operates a motor vehicle of one ton or more rated capacity that is required by law to have a commercial tag attached thereto and every person who operates a school bus transporting school children to and from school;

10. “Commercial vehicles” means vehicles designed primarily for the transportation of persons or property for hire;

11. “Crosswalk” 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 roadway measured from the curbs, or in the absence of curbs, from the edges of the traversable roadway. Any portion of a roadway at an intersection or elsewhere distinctly indicated for the pedestrian crossing by lines or other markings on the surface;

12. “Curb loading zones” means a space adjacent to the curb reserved for the exclusive use of vehicles during the loading or unloading of passengers, freight or materials;

13. “Curbs” means the edge of a roadway marked or understood as such;

14. “Daytime” mean one-half (1/2) hour before sunrise until one-half (1/2) hour after sunset. Nighttime means any other time;

15. “Double park” means the standing or stopping of a vehicle, whether occupied or not, on the roadway;

16. “Driver” means every person who drives or is in actual physical control of a vehicle;

17. “Emergency” means a condition suddenly created, requiring immediate action for the

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preservation of public peace, health or safety, and among other things particularly means any fire, unusual storm, death, riot or unusual traffic condition;

18. “Explosives” means any chemical compound, mixture or device, including “fireworks,” the primary or common purpose of which is to function by explosion, i.e., with substantially instantaneous release of gas and heat, unless such compound, mixture or device is otherwise specifically classified by the Interstate Commerce Commission. The term “explosives classified by the Interstate Commerce Commission” includes, but is not limited to, dynamite, black powder, pellet powders, initiating explosives, blasting caps, electric blasting caps, safety fuses, fuse lighters, fuse igniters, squibs, cordeau detonant fuses, instantaneous fuses, igniter cords, igniters, and some special fireworks. “Commercial explosives” are those which are intended to be used in commercial or industrial operations;

19. “Flammable liquid” means liquid which has a flash point of seventy (70) degrees Fahrenheit or less, as determined by a Tagliabue or equivalent closed-cup test device and having a vapor pressure not exceeding forty (40) psi at one hundred degrees (100°) Fahrenheit;

20. “Intersection” means:

a. The area embraced within the prolongation or connection of the lateral curblines, or, if none, then the lateral boundary lines of the roadways of two (2) highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict; or

b. Where a highway includes two (2) roadways thirty (30) feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. In the event such intersecting highway also includes two (2) roadways thirty (30) feet or more apart, then every crossing of two (2) roadways of such highways shall be regarded as a separate intersection;

21. “Laned roadway” means a roadway which is divided into two (2) or more clearly marked lanes for vehicular traffic;

22. “License to operate a motor vehicle” means any operator’s commercial chauffeur’s license or any other license or permit to operate a motor vehicle issued under the laws of this state including:

a. Any temporary license or instruction permit;

b. The privilege of any person to drive a motor vehicle whether or not such person holds a valid license; or

c. Any nonresident’s operating privilege as defined herein;

23. “Metal tire” means every tire the surface of which in contact with the highway is wholly or partly of metal or other hard, nonresilient material;

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24. “Motor vehicle” means every vehicle which is self-propelled and every vehicle not operated upon rails;

25. “Motor vehicle accident” is defined and classified as in “Manual on Classification of Motor Vehicle Traffic Accidents” prepared by the Committee on Uniform Traffic Accident Statistics, Traffic Conference, and distributed by the National Safety Council;

26. “Motorcycle” means every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground, but excluding a tractor;

27. “Motor-driven cycle” means every motorcycle, including every motor scooter or bicycle, equipped with a motor which produces not to exceed five (5) brake horsepower at full throttle without a governor as determined by a dynamometer test and designed to travel on not more than three (3) wheels in contact with the ground;

28. “Muffler” means a device designed for the use on a particular internal-combustion engine and properly affixed thereto for the purpose of reducing the exhaust noise of such engine to an unobjectionable level;

29. “Official traffic-control devices” means all signs, barricades, signals, markings and devices not inconsistent with this chapter placed or erected by authority of a public body or official having jurisdiction for the purpose of regulating, warning or guiding traffic which conforms to the latest edition of the “Manual on Uniform Traffic Control Devices for Streets and Highways,” published by the U.S. Department of Transportation, a copy of which is on file;

30. “Operator” means every person, other than a commercial chauffeur or chauffeur, who drives or is in actual physical control of a motor vehicle upon a highway or who is exercising control over or steering a vehicle being towed by a motor vehicle;

31. “Owner” means a person who holds the legal title of a vehicle, or in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with a right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner;

32. “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;

33. “Passenger” means a rider in any vehicle other than the driver;

34. “Pedestrian” means any person afoot;

35. “Police officer” means every officer of the municipal police department or any officer

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authorized to direct or regulate traffic or to make arrests for violations of traffic regulations;

36. “Private road or driveway” means every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons;

37. “Railroad” means a carrier of persons or property upon cars, other than streetcars, operated upon stationary rails;

38. “Railroad train” means a steam engine, electric or other motor, with or without cars coupled thereto, operated upon rails, except streetcars;

39. “Registration” means the registration certificates and registration plates issued under the laws of this state pertaining to the registration of vehicles;

40. “Residence district” means the territory contiguous to and including a highway not comprising a business district when the property on such highway for a distance of three hundred (300) feet or more is in the main improved with residences or residences and buildings in use for business;

41. “Revocation of driver’s license” means the termination by formal action of the department of a person’s driver’s license or privilege to operate a motor vehicle on the public highways;

42. “Right-of-way” means the privilege of the immediate use of the roadway;

43. “Road tractor” means every motor vehicle designed and used for drawing other vehicles and not so constructed as to carry any load thereon either independently or any part of the weight of a vehicle or load so drawn;

44. “Roadway” means that portion of a highway improved, designed or ordinarily used for vehicular traffic, exclusive of the shoulder. In the event a highway includes two (2) or more separate roadways the term “roadway” as used herein refers to any such roadway separately but not to all such roadways collectively;

45. “Safety zone” or “island” means an area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected at all times while set apart as a safety zone or island;

46. “School bus” means every motor vehicle owned by a public or governmental agency and operated for the transportation of children to or from school or privately owned and operated for compensation for the transportation of children to or from school. This definition shall not include buses normally used in city transit which may be used part-time for transportation of schoolchildren within the city during some portion of the day;

47. “Semitrailer” means every vehicle with or without motive power other than a pole

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trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests or is carried by another vehicle;

48. “Shoulder” means the portion of the roadway contiguous with the traveled way for accommodation of stopped vehicles, for emergency use, and for lateral support of base and surface courses;

49. “Sidewalk” means that portion of a street between the curblines, or the lateral lines of a roadway, and the adjacent property lines, intended for use of pedestrians;

50. “Solid tire” means every tire of rubber or other resilient material which does not depend upon compressed air for the support of the load;

51. “Stand” or “standing” means the halting of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in receiving or discharging passengers;

52. “Stop,” when required, means complete cessation from movement;

53. “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 of the directions of a police officer or signal;

54. “Street” or “highway” means all streets, highways, avenues, boulevards, parkways, roads, lanes, viaducts, bridges and the approaches thereto, alleys, courts, places, squares, curbs, sidewalks, recreation and park lands used for vehicular traffic, or other parkways 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;

55. “Suspension of driver’s license” means the temporary withdrawal by formal action of the department of a person’s driver’s license or privilege to operate a motor vehicle on the public highways;

56. “Taxicab” means a motor vehicle regularly engaged in the business of carrying passengers for hire and having a seating capacity of less than six (6) persons and not operated on a fixed route;

57. “Through street or highway” means every street or highway or portion thereof on which vehicle traffic is given preferential right-of-way, and at the entrances to which vehicular traffic from intersecting streets or highways is required by law to yield the right-of-way to vehicles on such through street or highway in obedience to either a stop sign or a yield sign, when such signs are erected as provided in this chapter;

58. “Traffic” means pedestrians, ridden or herded animals, vehicles and other conveyances, either single or together, while using any highway for purposes of travel;



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59. “Traffic-control signal” means any device, whether manually, electrically or mechanically operated, by which traffic is alternatively directed to stop, proceed or proceed with caution;

60. “Traffic lane” means the portion of the traveled way for the movement of a single line of vehicles;

61. “Trailer” means every vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle;

62. “Truck” means every motor vehicle designed, used or maintained primarily for the transportation of property;

63. “U-turn” means turning a vehicle around so as to proceed in the opposite direction;

64. “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 of a mile or more;

65. “Vehicle” means every device in, upon or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power or used exclusively upon stationary rails or tracks; and

66. “Yield” means the yielding of the right-of-way to all vehicles or pedestrians approaching from the right or left intersecting street which are so close as to constitute an immediate hazard. (Prior Code, Chapter 23)

### SECTION 15-103 SECURITY VERIFICATION FORM.

A. The owner of a motor vehicle registered in this state 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 Department of Public Safety and shall produce such form upon request for inspection by any law enforcement officer or representative of the Department of Public Safety, and, in the case of collision, the form shall be shown upon request to any person affected by such 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 of Public Safety during operation of the vehicle:

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 a business, corporation or utility on the exterior, and which is in compliance with provisions of Sections 7-600 through 7-607 of Title 47

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of the Oklahoma Statutes, according to the records of the State Department of Public Safety which reflect a deposit, bond, self-insurance, or fleet policy;

3. Any vehicle authorized for operation pursuant to a permit number issued by the Interstate Commerce Commission or the 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 vehicles 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;

3. "Security" means:

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;

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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 coverage thereon; or an equivalent form issued by the State 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 a misdemeanor and upon conviction shall be subject to a fine as provided in Section 1-119 of this code and court costs.

F. A sentence imposed for any violation of this section may be suspended or deferred in whole or in part by the court.

G. 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 for such person was in force at the time of the alleged offense shall be entitled to dismissal of such charge.

H. Upon conviction, bond forfeiture or deferral of sentence, 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. (Prior Code, Chapter 23)

State Law Reference: Similar provisions, 47 O.S. Secs. 7-601 et seq.

### SECTION 15-104 VEHICLE OWNER NOT TO PERMIT OR AUTHORIZE VIOLATION OF LAW OR THIS CHAPTER.

It is unlawful for any person to authorize or knowingly permit a motor vehicle owned by him, or under his control, to be driven upon any street in the city by any person who is not authorized to drive a motor vehicle under the laws of the state, or to be driven or to stand or to be parked in violation of any provision of this chapter. (Prior Code, Chapter 23)

### SECTION 15-105 PARENT OR GUARDIAN NOT TO AUTHORIZE OR PERMIT CHILD OR WARD TO VIOLATE CHAPTER.

It is unlawful for a parent of a child or the guardian of a ward to authorize or knowingly permit any such child or ward to violate any provision of this chapter. (Prior Code, Chapter 23)

### SECTION 15-106 ADOPTION OF STATE VEHICLE LAWS.

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There is hereby adopted and incorporated herein by reference the State Motor Vehicle Code, Sections 1-101 et seq. of Title 47 of the Oklahoma Statutes, and the State “Rules of the Road”, Sections 10-101 et seq. of Title 47 of the Oklahoma Statutes, and all other misdemeanor traffic and motor vehicle violations in Title 47 of the Oklahoma Statutes, as now exist and as may be from time to time amended. Such state laws as adopted herein by reference shall be fully enforceable by the city within the city limits as fully as if set out at length herein. (Prior Code, Chapter 23)

### SECTION 15-107     JURISDICTION.

The provisions of this chapter shall apply and be enforced on all roads, streets and highways within the city and on all roads, streets and highways forming the boundary lines of the city. (Prior Code, Chapter 23)

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### CHAPTER 2

#### TRAFFIC-CONTROL DEVICES

Section 15-201	Authority to install traffic-control devices.
Section 15-202	Design and construction of traffic-control devices; manual of specifications.
Section 15-203	Traffic signs required for enforcement.
Section 15-204	Obedience to official traffic-control devices.
Section 15-205	Traffic control signal legend.
Section 15-206	Pedestrian-control signals.
Section 15-207	Flashing signals.
Section 15-208	Pedestrian-activated school crossing signals.
Section 15-209	Display of unauthorized signs or signals.
Section 15-210	Defacing or removing traffic-control devices.
Section 15-211	Designation of crosswalks and safety zones.

#### SECTION 15-201     AUTHORITY TO INSTALL TRAFFIC-CONTROL DEVICES.

The city manager, subject to direction of the council, 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 it may deem necessary to regulate traffic under the traffic ordinances of this city or under state law or to guide or to guide or warn traffic. The city manager may have traffic-control devices tested under actual conditions of traffic. (Prior Code, Chapter 23)

State Law References: Traffic-control devices generally, 47 O.S. Secs. 11-201 et seq.; power of city to maintain traffic-control devices, 47 O.S. Sec. 16-106.

#### SECTION 15-202     DESIGN AND CONSTRUCTION OF TRAFFIC-CONTROL DEVICES, MANUAL OF SPECIFICATIONS.

All traffic-control signs, signals and devices shall conform to the latest edition of the “Manual on Uniform Traffic Control Devices for Streets and Highways” as published by the Oklahoma Department of Transportation, All signs and signals required hereunder for a particular purpose shall so far as practicable be uniform as to type and location throughout the city. All traffic-control devices so erected and not inconsistent with the provisions of state law or this chapter shall be official traffic-control devices. (Prior Code, Chapter 23)

State Law Reference: Uniform manual adopted by state, state approval required on state highways, 47 O.S. Secs. 15-104 to 15-106.

#### SECTION 15-203     TRAFFIC SIGNS REQUIRED FOR ENFORCEMENT.

No provision of this chapter for which signs are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official sign was not in proper

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position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section does not state that signs are required, such section shall be effective even though no signs are erected or in place. (Prior Code, Chapter 23)

### SECTION 15-204 OBEDIENCE TO OFFICIAL TRAFFIC- CONTROL DEVICES.

The driver of any vehicle shall obey the instructions of any official traffic-control device unless otherwise directed by a police officer, subject to the exceptions granted in this chapter to the driver of an authorized emergency vehicle. (Prior Code, Chapter 23)

### SECTION 15-205 TRAFFIC CONTROL SIGNAL LEGEND.

Whenever traffic is controlled by traffic-control signals exhibiting the word “Go,” “Caution” or “Stop,” or exhibiting different colored lights successively one at a time, or with arrows, the following colors only shall be used, and the terms and lights shall indicate and apply to drivers of vehicles and pedestrians as follows:

1. Green alone or “Go”:
  - a. Vehicular traffic facing the signal may proceed straight through or turn right or left unless a sign or barricade at such place prohibits either such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited; and
  - b. Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk;
2. Steady yellow alone:
  - a. Vehicular traffic facing the signal is thereby warned that the red or “Stop” signal will be exhibited immediately thereafter, and such vehicular traffic shall not enter or be crossing the intersection when the red or “Stop” signal is exhibited; and
  - b. Pedestrians facing such signal are thereby advised that there is sufficient time to cross the roadway, and any pedestrian then starting to cross shall yield right-of-way to all vehicles;
3. Steady red alone or “Stop”:
  - a. Vehicular traffic facing the signal shall stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection, and shall remain standing until green or “Go” is shown alone. However, vehicles in the right traffic lane after making a stop as above required may enter the intersection cautiously and make a right turn unless “No Turn on Red” signs are posted to prohibit right turns; but such vehicle shall yield the right-of-way to any pedestrian or other traffic in the intersection, and such turn shall not be made so as to interfere with

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traffic proceeding on a green signal indication on the cross street; and

b. No pedestrian facing such signal shall enter the roadway until the green or “Go” is shown alone or until authorized so to do by a pedestrian “Walk” signal; and

4. Steady red with green arrow:

a. Vehicular traffic facing such signal may cautiously enter the intersection only to make the movement indicated by such arrow, but shall yield the right-of-way to pedestrians lawfully within a crosswalk and to other traffic lawfully using the intersection;

b. No pedestrian facing such signal shall enter the roadway until the green or “Go” is shown alone or until authorized so to do by pedestrian “Walk” signal; and

c. In the event an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made. In the absence of any such sign or marking, the stop shall be made at the signal. (Prior Code, Chapter 23)

State Law References: Obeying traffic-control devices, 47 O.S. Sec. 11-201; Signal legend, 47 O.S. Sec. 11-202.

### SECTION 15-206 PEDESTRIAN-CONTROL SIGNALS.

Whenever special pedestrian-control signals exhibiting the term “Walk” or “Wait” or “Don’t Walk” are in place, such signals shall indicate 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, 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 island while the “Wait” signal is showing. (Prior Code, Chapter 23)

### SECTION 15-207 FLASHING SIGNALS.

A. Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal, it shall require obedience by vehicular traffic as follows:

1. Flashing red (stop signal): When a red lens is illuminated with rapid intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked, or, if none, than before entering the intersection. The right to proceed shall be subject to the rules applicable after making a stop at a stop sign; and

2. Flashing yellow (caution signal): When a yellow lens is illuminated with rapid

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intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.

- B. This section shall not apply at railroad grade crossings. (Prior Code, Chapter 23)

### SECTION 15-208 PEDESTRIAN-ACTIVATED SCHOOL CROSSING SIGNALS.

Whenever a pedestrian-actuated 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 past such signal only with caution; and
  - b. Pedestrians shall not proceed in conflict with traffic, but may actuate 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 or “Stop” signal will be exhibited immediately thereafter, and such vehicular traffic shall not enter or be crossing the intersection or past 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, or, if none, then before passing the signal or entering the intersection, and shall remain standing until flashing yellow is shown alone; and
  - 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



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crossing shall proceed to the nearest sidewalk or safety island and shall be given the right-of-way by the drivers of all vehicles. (Prior Code, Chapter 23)

### SECTION 15-209 DISPLAY OF UNAUTHORIZED SIGNS OR SIGNALS.

A. No person shall place, maintain or display upon or in view of any highway an 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, which attempts to direct the movement of traffic which projects any flashing or revolving beams of light, 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 or other advertising.

C. This section shall not prohibit the erection upon private property adjacent to highways of signs giving useful directional information and of a type that cannot be mistaken for official signs.

D. No sign or advertising shall be placed in a street right-of-way except official signs or devices placed by authority of this code or state law.

E. Every such prohibited sign, signal, marking or device is declared to be unlawful and a public nuisance; the city is empowered to remove the same without notice.

Cross Reference: See also Section 14-111 of this code on signs in the right of way.

### SECTION 15-210 DEFACING OR REMOVING TRAFFIC- CONTROL DEVICES.

No person shall, without lawful authority, attempt to or in fact alter, deface, injure, knock down, change the position of or remove any official traffic-control device or any railroad sign or signal or any inscription, shield or insignia thereon, or any other part thereof. (Prior Code, Chapter 23) See also Part 10 on removal of barricades.

### SECTION 15-211 DESIGNATION OF CROSSWALKS AND SAFETY ZONES.

The city manager, subject to direction by the council, is authorized to:

1. Designate and have maintained by appropriate devices, marks or lines upon the surface of the roadway crosswalks at intersections where in his opinion there is particular danger to pedestrians crossing the roadway, and at such other places as he may deem necessary; and

2. Establish safety zones or islands of such kind and character and at such places as he may deem necessary for the protection of pedestrians. (Pre 1994 Code, Chapter 23)

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**CHAPTER 3**

**EQUIPMENT**

Section 15-301	Equipment required; use of equipment.
Section 15-302	Muffler required; cutouts.
Section 15-303	Width, height, length, weight and load.
Section 15-304	Windshields to be unobstructed; wipers required.
Section 15-305	Inspection of vehicles; safety stickers.
Section 15-306	Vehicles to be registered; display of tags.
Section 15-307	Use of "Engine Brakes", "Jake Brakes" or Similar Braking Methods and/or Equipment Prohibited; Penalties.

SECTION 15-301     EQUIPMENT REQUIRED, USE OF EQUIPMENT.

A.     Every vehicle operated upon the streets of the city shall be equipped as required by Title 47 of the Oklahoma Statutes. No person shall operate a vehicle upon a street of the city which is not equipped as required by state law.

B.     No person shall fail to use such equipment in the manner required by the state law, or use it in a manner prohibited by state law. (Pre 1994 Code, Chapter 23)

State Law Reference: Equipment required on vehicles, 47 O.S. Sees. 131 et seq.

SECTION 15-302     MUFFLER REQUIRED, CUTOUTS.

Every motor vehicle shall at all times be equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise. No person shall use a muffler cutout, bypass or similar device upon a motor vehicle on a highway. No person shall modify the exhaust system of a motor vehicle in any manner which will amplify or increase the noise or sound emitted louder than that emitted by the muffler originally installed on the vehicle. (Pre 1994 Code, Chapter 23)

State Law Reference: Similar Provisions, 47 O.S., Sec. 12-402.

SECTION 15-303     WIDTH, HEIGHT, LENGTH, WEIGHT AND LOAD.

No person shall drive or convey through any street or bridge any vehicle the width, height, length, weight or load of which exceeds that authorized by state law, or which vehicle exceeds the width, height, length, weight or load limits established by the city, county or state as indicated by appropriate signs erected on the street, road or bridge. (Pre 1994 Code, Chapter 23)

SECTION 15-304     WINDSHIELDS TO BE UNOBSTRUCTED, WIPERS REQUIRED.

A.     No person shall drive any motor vehicle with any sign, poster or other nontransparent material upon the front windshield, side wings or side or rear windows of such vehicle which

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obstructs the driver's clear view of the street or highway or any intersecting street or highway.

B. The windshield on every motor vehicle shall be equipped with a device for cleaning rain, snow or other moisture from the windshield. Such device shall be so constructed as to be controlled or operated by the driver of the vehicle. Every windshield wiper upon a motor vehicle shall be maintained in good working order. (Pre 1994 Code, Chapter 23)

### SECTION 15-305 INSPECTION OF VEHICLES; SAFETY STICKERS.

A. Police officers shall have authority to inspect and test any vehicle upon the streets of the city at any time to determine whether it is safe, whether it is properly equipped, or whether its equipment is in proper adjustment and repair.

B. It is unlawful for any person to operate a motor vehicle on, over or along the streets of the city without a valid and current safety inspection sticker, as required by state law, in the lower left-hand corner of the windshield. (Pre 1994 Code, Chapter 23)

State Law Reference: State officers may inspect vehicles, 47 O.S. Sees. 13-102, 13-103; Inspection of vehicles required, 47 O.S. Sec. 851.

### SECTION 15-306 VEHICLES TO BE REGISTERED, DISPLAY OF TAGS.

A. No person shall operate a vehicle of any kind upon a street of the city without a state vehicle license or tag as may be required by law.

B. No person shall fail to display the state vehicle license or tag as required by law or attach any trailer hitch or other device in a manner as to cover or partially cover the vehicle license. (Ord. No. N.C. 319, 2/18/86)

### SECTION 15-307 USE OF "ENGINE BRAKES", "JAKE BRAKES" OR SIMILAR BRAKING METHODS AND/OR EQUIPMENT PROHIBITED; PENALTIES.

A. It is hereby declared to be a nuisance, and in any event prohibited, unlawful and punishable as an offense (as hereinbelow set forth in Subsection (b) of this Section 15-307) for any person to use and/or make use of what are commonly known as "engine brakes", "Jacob brakes", "Jake brakes", "Jacques brakes" and/or other braking or slowing methods and/or equipment which increase the noise emission levels of motor vehicles, particularly those commonly known as "semis", "semi-tractors", "18-wheelers", "tractor-trailers", "carriers", trucks and other transportation vehicles, within the City of Atoka.

B. Until such time as a different amount is set by ordinance or resolution of the Atoka City Council (amending and/or setting forth the same in "Appendix 4" of this Code):

1. The bail amount for any person charged with a violation of this Section 15-307 is hereby set at \$100.00; and,

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2. Any person convicted of a violation of this Section 15-307 shall be punished and punishable by the costs of the prosecution, and a fine of not less than \$100.00.

C. The City Council desires and authorizes, in connection herewith, that the City Manager cause appropriate signs giving reasonable summary notice hereof to be posted at appropriate locations, on the highways, at the City limits; provided further, however, that such shall not be deemed nor construed to in any way relate to the validity or enforcement hereof, and neither the failure to do so, nor any particulars thereof, shall be the grounds of and/or any defense to any alleged violation of this Section 15-307, nor any punishment for a conviction thereof. (Ord. No. N.C. 473, 7/17/00)

**CHAPTER 4**

**CERTAIN VEHICLES PROHIBITED**

- Section 15-401 Vehicles injurious to streets; metal tires prohibited.
- Section 15-402 Obstructive and dangerous vehicles; covering of loads.
- Section 15-403 Permit for vehicles with protruding parts on wheels.
- Section 15-404 Deposit of glass, nails or other injurious matter in streets; responsibility to remove after accident.

**SECTION 15-401 VEHICLES INJURIOUS TO STREETS, METAL TIRES PROHIBITED.**

No vehicle or object which injures or is likely to injure the surface of a street shall be driven or moved on any street. Vehicles equipped with metal tires or lugs are specifically prohibited. (Pre 1994 Code, Chapter 23)

**SECTION 15-402 OBSTRUCTIVE AND DANGEROUS VEHICLES; COVERING OF LOADS.**

A. 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 city and in accordance with the terms of such permit.

B. No vehicle shall be driven or moved on any street unless such vehicle is so constructed or loaded as to prevent any of its load from dropping, sifting, 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 such roadway.

C. No person shall operate on any street any vehicle with any load unless the load and any covering thereon is 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 materials susceptible to blowing or escaping by reason of wind shall have such load covered or dampened so as to prevent the blowing or escaping of the load from the vehicle.

D. This section shall not apply to trucks loaded with livestock, poultry or agricultural products only, except baled agricultural products; however, any such trucks shall be so constructed or loaded as to prevent such livestock or poultry from escaping therefrom. (Pre 1994 Code, Chapter 23)

**SECTION 15-403 PERMIT FOR VEHICLES WITH PROTRUDING PARTS ON WHEELS.**

It is unlawful for any person to drive, pull or move, otherwise than by hauling, upon the paved streets of the city, any tractor or other vehicle with lugs, flanges or other protruding parts upon the surface of the wheels of the same, without first obtaining a written permit from the city engineer. Such permit shall not be granted unless all lugs, flanges or other protruding parts upon the surface of

the wheels are first removed, or unless a base or board way is laid upon the paved street for the wheels of such vehicle to run upon so as to keep the wheels from coming in contact with the pavement and so as to entirely protect the pavement from the wheels. (Pre 1994 Code, Chapter 23)

SECTION 15-404      DEPOSIT OF GLASS, NAILS OR OTHER INJURIOUS MATTER IN STREETS: RESPONSIBILITY TO REMOVE AFTER ACCIDENT.

A.      It shall be unlawful for any person to place, or cause to be placed, or let fall and remain, in or upon any street, any scrap iron, nail, tack, glass or other thing which is likely to injure persons or damage property, or to render a street unsafe for traffic.

B.      Any person removing a wrecked or damaged vehicle from a street shall remove any glass or other injurious substance dropped upon the street from such vehicle. (Pre 1994 Code, Chapter 23)

State Law Reference: Similar provisions, 47 O.S., Sec. 11-1110(a)(c).

Cross Reference: Accidents, see Sec. 15-1401 of this code.

**CHAPTER 5**  
**DRIVING, OVERTAKING AND PASSING**

Section 15-501	Driving on right side of roadway; exception.
Section 15-502	Passing vehicles proceeding in opposite direction.
Section 15-503	Passing vehicle on left.
Section 15-504	Passing vehicle on right.
Section 15-505	Passing requirements, duty of overtaken vehicle.
Section 15-506	Passing prohibited.
Section 15-507	Designation of no-passing zones.
Section 15-508	School buses; markings; passing regulations.
Section 15-509	Driving on laned roadways, marking traffic lanes.
Section 15-510	Driving on divided highways.
Section 15-511	Following too closely.
Section 15-512	Restricted-access roadways.
Section 15-513	Driving through service drives.
Section 15-514	Reckless driving.
Section 15-515	Careless or negligent driving.
Section 15-516	Driving over fire hose.
Section 15-517	Following fire or emergency apparatus.
Section 15-518	Procedure on approach of emergency vehicles.
Section 15-519	Driving, Operating or Being in the Actual Physical Control of a Motor Vehicle While Adversely Affected by Alcohol and/or other Intoxicants Prohibited; Penalties and Bail Schedule.
Section 15-520	Related Definitions and Additional Provisions
Section 15-521	Driver's license required.
Section 15-522	Driving while license suspended; use of false license.
Section 15-523	Permitting unlicensed person to drive.
Section 15-524	Driving through funeral processions.
Section 15-525	Driving in funeral procession.
Section 15-526	Identification of funeral processions.
Section 15-527	Use of roller skates, coasters, skateboards on roadway.
Section 15-528	Play streets authorized.
Section 15-529	Use of play streets by motor vehicles.
Section 15-530	Obstructing intersection or crosswalk.
Section 15-531	Driving on sidewalk prohibited.
Section 15-532	Driving in public parks restricted, driving without permission.
Section 15-533	Starting stopped or parked vehicles.
Section 15-534	Backing of vehicle.
Section 15-535	Opening and closing vehicle door.
Section 15-536	Obstructions to driver's view; number in front seat.
Section 15-537	Clinging to vehicle.
Section 15-538	Boarding or alighting from moving vehicle.
Section 15-539	Riding outside vehicle compartment.
Section 15-540	Driving through safety zone.
Section 15-541	Child passenger restraint system or seat belt required; exceptions; penalty.

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- Section 15-542     Seat belts required for front seat passengers; exceptions.  
Section 15-543     Obedience to signal indicating approach of train.  
Section 15-544     Certain vehicles to stop at all railroad grade crossings.

### SECTION 15-501     DRIVING ON RIGHT SIDE OF ROADWAY; EXCEPTION.

A.     Upon all roadways of sufficient width, a vehicle shall be driven upon the right half 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 sign-posted for one-way traffic.

B.     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 when available to 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: Driving and passing regulations, 47 O.S. Secs. 11-301 et seq.

### SECTION 15-502     PASSING VEHICLES PROCEEDING IN OPPOSITE DIRECTION.

Drivers of vehicles proceeding in opposite directions shall pass each other to the right. Upon roadways having width for not more than one line of traffic in each direction, each driver shall give to the other at least one-half of the traveled portion of the roadway as nearly as possible. (Prior Code, Chapter 23)

### SECTION 15-503     PASSING VEHICLE ON LEFT.

The following rules shall govern the overtaking and passing of vehicles proceeding in the same direction, subject to those limitations, exceptions and special rules hereinafter stated:

1.     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 roadway until safely clear of the overtaken vehicle; and



2. 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. (Prior Code, Chapter 23)

SECTION 15-504     PASSING VEHICLE ON RIGHT.

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 and has so properly signaled for a left turn;
2. Upon a street or highway with unobstructed pavement not occupied by parked vehicles and marked with lines for two (2) or more lanes of traffic in each direction; and
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) more lines of moving vehicles.

B. The driver of a vehicle may overtake and pass another vehicle upon the right 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. (Prior Code, Chapter 23)

SECTION 15-505     PASSING REQUIREMENTS, DUTY OF OVERTAKEN VEHICLE.

A. No vehicle shall be driven to the left side of the center of the 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 such overtaking and passing to be completely made without interfering with the safe operation of any vehicle approaching from the opposite direction or any vehicle overtaken. The overtaking vehicle must return to the roadway before coming within one hundred (100) feet of any vehicle approaching from the opposite direction.

B. Except as provided elsewhere in this chapter, 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 roadway until safely clear of the overtaken vehicle.

C. Every driver who intends to pass another vehicle proceeding in the same direction, which requires movement of his vehicle from one lane of traffic to another, shall first see that such movement can be made with safety and shall proceed to pass only after giving a proper signal by hand or mechanical device.

D. 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. (Prior Code, Chapter 23)

SECTION 15-506     PASSING PROHIBITED.

A. No vehicle shall at any time 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 highway where the driver's view is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction;

2. When traversing an intersection or railroad grade crossing; or

3. When the view is obstructed upon approaching within one hundred (100) feet of any bridge, viaduct or tunnel.

B. It is a violation to pass on the left by going to the left of the center of the roadway across a double-marked center line for the purpose of passing a vehicle traveling in the same direction.

C. This section shall not apply upon a one-way roadway. (Prior Code, Chapter 23)

SECTION 15-507     DESIGNATION OF NO-PASSING ZONES.

A. The Oklahoma Department of Transportation as regards state and federal highways, and the city manager, subject to direction of the council, as regards all other streets, are authorized to determine those portions of a highway where overtaking and passing or driving to the left of the roadway would be especially hazardous and shall by appropriate signs or markings on the roadway have the beginning and end of such zones indicated. When such signs or markings are in place and clearly visible to an ordinarily observant person, every driver of a vehicle shall obey the directions thereof.

B. Where signs or markings are in place to define a no-passing zone, no driver shall at any time drive to the left side of the roadway within such no-passing zone or on the left side of any pavement striping designed to mark such no-passing zone through its length. (Prior Code, Chapter 23)

SECTION 15-508     SCHOOL BUSES; MARKINGS; PASSING REGULATIONS.

A. The driver of a vehicle upon any street or highway in the city upon meeting or overtaking from either direction any school bus on which the red loading signals are in operation and which has stopped for the purpose of receiving or discharging any schoolchildren and other occupants shall stop the vehicle before it reaches the school bus. The driver may then proceed to pass such school bus at a speed which is reasonable and prudent and with due caution for the safety of such schoolchildren and other occupants after the loading signals are deactivated.

B. Every school bus used for the transportation of schoolchildren shall bear upon the front and rear thereof plainly visible signs containing the words "School Bus" in letters not less than eight (8) inches in height and, in addition, shall be equipped with visual signs meeting the requirements of state law which shall be actuated by the driver of the school bus whenever, but only whenever, such vehicle is stopped on a street or highway for the purpose of receiving or discharging schoolchildren.

C. The driver of a vehicle upon a street or highway with separate roadways need not stop upon meeting or passing a school bus which is on a different roadway or when upon a controlled-access highway and the school bus is stopped in a loading zone which is part of or adjacent to such street or highway and where pedestrians are not permitted to cross the roadway. (Prior Code, Chapter 23)

State Law Reference: Similar provisions, 47 O.S. Sec. 11-705.

SECTION 15-509     DRIVING ON LANED ROADWAYS, MARKING TRAFFIC LANES.

A. The city manager, subject to direction of the council, is authorized to have traffic lanes marked upon the roadway or any street where a regular alignment of traffic is necessary.

B. Whenever any roadway has been divided into two (2) or more clearly marked lanes for traffic, the following rules in addition to all others consistent herewith shall apply:

1. A vehicle shall be driven as nearly as practicable entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety and has properly signaled his intentions to do so;

2. Upon a roadway which is 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 sign posted to give notice of such allocation; and

3. Official signs may be erected directing 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, and drivers of vehicles shall obey the directions of every such sign.

C. Where traffic lanes have been marked, no operator of any vehicle shall fail or refuse to keep the vehicle within the boundaries of any such lane except when lawfully passing another vehicle or preparatory to making lawful turning movement or otherwise authorized by ordinance. (Prior Code, Chapter 23)

SECTION 15-510     DRIVING ON DIVIDED HIGHWAYS.

Whenever any highway has been divided into two (2) roadways by leaving an intervening space or by a physical barrier or clearly indicated divided section so constructed as to impede

vehicular traffic, every vehicle shall be driven only upon the right-hand roadway. No vehicle shall be driven over, across or within any such dividing space barrier or section, except through an opening in such physical barrier, dividing section or space or at a crossover or intersection established by public authority.

SECTION 15-511      FOLLOWING TOO CLOSELY.

The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard to the speed of such vehicles and the traffic upon and the condition of the highway. (Prior Code, Chapter 23)

SECTION 15-512      RESTRICTED-ACCESS ROADWAYS.

No person shall drive a vehicle onto or from any controlled-access roadway except at such entrances and exits as are established by public authority. (Prior Code, Chapter 23)

SECTION 15-513      DRIVING THROUGH SERVICE DRIVES.

No vehicle shall be driven through any service drive or parking area except for the purpose of attaining service or merchandise or for the purpose of parking thereon.

SECTION 15-514      RECKLESS DRIVING.

It shall be deemed reckless driving for any person to drive a motor vehicle in a careless or wanton manner without regard for the safety of persons or property. (Prior Code, Chapter 23)

State Law Reference: Similar provisions, 47 O.S. Sec. 11-901.

SECTION 15-515      CARELESS OR NEGLIGENT DRIVING.

- A. No person shall drive, use, operate, park, cause to be parked, or stop any vehicle:
  - 1. In a careless manner;
  - 2. In a negligent manner;
  - 3. In such a manner as to endanger life, limb, person or property; or
  - 4. In such a manner or condition as to interfere with the lawful movement of traffic or use of the streets.
  
- B. Every driver shall remain alert and give full attention to the safe control and operation of his vehicle while it is in motion. Every driver of a motor vehicle shall, upon stopping, or upon stopping and leaving the vehicle, park the same in a careful and prudent manner and place so as not to interfere with the operation of other vehicles or with pedestrians or other traffic. Failure to comply with these requirements shall be deemed careless driving in violation of this section.

C. Any driver who engages in any activity or does any act while driving that interferes with the safe operation and control of his vehicle, or who continues to operate his vehicle when any other person riding thereon or therein engages in any activity or does any act which interferes with his operation thereof, is guilty of careless driving.

D. A driver of a motor vehicle who collides with another vehicle or with any person or property because of driving error or inattention is guilty of careless driving. (Prior Code, Chapter 23)

SECTION 15-516     DRIVING OVER FIRE HOSE.

Whenever any hose of the fire department is laid upon any street, avenue, alley, bridge or vacant lot in the city, no person shall drive any automobile, truck, locomotive, railroad car or any other vehicle over the same unless the hose shall have been protected by wooden railings or other device laid along the side thereof, and then only at the places so protected unless otherwise directed by a city official. (Prior Code, Chapter 23)

State Law Reference: Driving over fire hose, 47 O.S. Sec. 11-1109.

SECTION 15-517     FOLLOWING FIRE OR EMERGENCY APPARATUS.

The driver of any vehicle other than on official business shall not follow any emergency or fire apparatus traveling in response to a fire alarm closer than five hundred (500) feet or drive into or park such vehicle within the block where emergency apparatus has stopped in answer to a fire alarm. (Prior Code, Chapter 23)

Cross Reference: See also Chapter 6, Part 10 of this code on interference with officials at fires, false alarms, and other offenses.

SECTION 15-518     PROCEDURE ON APPROACH OF 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. (Prior Code, Chapter 23)

State Law Reference: Similar provisions, 47 O.S. Sec. 11-405.

Cross Reference: See also Sec. 15-2006 on exemptions for emergency vehicles.

SECTION 15-519 DRIVING, OPERATING OR BEING IN THE ACTUAL PHYSICAL CONTROL OF A MOTOR VEHICLE WHILE ADVERSELY AFFECTED BY ALCOHOL AND/OR OTHER INTOXICANTS PROHIBITED; PENALTIES AND BAIL SCHEDULE.

A. It is unlawful, and punishable as hereinbelow set forth in Subsection D(1), for any person (regardless of age) to drive, operate, or be in the actual physical control of a motor vehicle in this City who:

1. Is under the influence of “intoxicants” (as defined in Section 15-520 of this Code); or
2. Has a “B.A.C. of 0.08 or more” (as defined in Section 15-520 of this Code).

B. It is unlawful, and punishable as hereinbelow set forth in Subsection D(2), for any person (regardless of age) to drive, operate, or be in the actual physical control of a motor vehicle in this City:

1. While his or her ability to operate such motor vehicle is impaired by the use or consumption of intoxicants (as defined in Section 15-520 of this Code), or
2. Who has a “B.A.C. of 0.05 or more” (as defined in Section 15-520 of this Code), and (in addition to said B.A.C.) his or her driving ability was affected to such an extent that:
  - a. the public health and safety was threatened, or
  - b. the person had violated a state statute or Code provision involving the use of the vehicle.

C. It is unlawful, and punishable as hereinbelow set forth in Subsection D(1), for any person who has not yet attained Twenty-One (21) years of age to drive, operate, or be in the actual physical control of a motor vehicle in this City:

1. While his or her ability to operate such motor vehicle is affected by the demonstrable use or consumption of intoxicants (as defined in Section 15-520 of this Code); or
2. Who has a “B.A.C. of 0.02 or more” (as defined in Section 15-520 of this Code).

D. Without limitation upon general powers of incarceration, and/or the use of alternatives for juvenile offenders, in addition to the costs of the action, any person who has violated the provisions of this Section 5-519 is punishable by assessment of a fine in the amount (until such time as a different amount may hereafter be established by amendment of Appendix 3 or 4 of this Code) of:

1. Five Hundred Dollars (\$500.00), for a violation of Subsections (A) or (C) of this Section 15-520; and

2. Two Hundred Dollars (\$200.00), for a violation of Subsection (B) of this Section 15-520.

E. Without limitation upon any other Code provisions regarding bail (until such time as a different amount may hereafter be established by amendment of Appendix 3 or 4 of this Code) the bail amount for any person accused of a violation of this Section shall be the fine amount hereinabove designated in Subparagraph D.

F. The fact (even if established) that a person charged with a violation of this Section was lawfully entitled (whether by reason of a medical prescription or “over-the-counter-availability” or otherwise) to possess, use and/ or consume such (or any other) intoxicants) shall not constitute a defense against any charge of violating any portion of this Section.

G. The fact (even if it could be established) that a person charged with a violation of either Subsection (A)(2) or (C)(2) hereof was otherwise unaffected by the use or consumption of the alcohol and/or otherwise retained the ability to operate the motor vehicle in an apparently safe manner, shall not constitute a defense against any charge of violating such Subsection.

SECTION 15-520 RELATED DEFINITIONS AND ADDITIONAL PROVISIONS

A. Further in regard to Section 15-519 hereof, the following terms, phrases and/or words shall be construed and interpreted as having the meanings respectively ascribed thereto below and/or by the applicable Oklahoma Statutes and interpretive case law:

1. “alcohol concentration” means: the grams of alcohol per One-Hundred (100) milliliters of blood, if the blood was tested, or the grams of alcohol per Two-Hundred Ten (210) liters of breath, if the breath was tested;

2. “B.A.C.” means: the “alcohol concentration” in the blood or breath of a person, measured at the time of the administration of a test or tests of such persons’ blood or breath, which is (are) administered within two (2) hours of the arrest of such person;

3. “B.A.C. of 0.08 or more” means: a “B.A.C.” of Eight-Hundredths (0.08), or more;

4. “B.A.C. of 0.05 or more” means: a “B.A.C.” of Five-Hundredths (0.05), or more;

5. “B.A.C. of 0.02 or more” means: a “B.A.C.” of Two-Hundredths (0.02), or more; and

6. “intoxicants” means: any one or more of the following, and/or any combination of any one or more of the following, to-wit: any alcohol, any controlled dangerous substances as defined in the Uniform Controlled Dangerous Substances Act (c.f. 63 O.S.A. §§2-101 et seq.), and/or any other substance which is capable of being ingested, inhaled, injected or absorbed into the human body, and is capable of adversely affecting the central nervous system, vision, hearing or other sensory or motor functions thereof, and/or otherwise affects such person to a degree which renders such person incapable of safely driving or operating a motor vehicle.

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B. Evidence of the alcohol concentration and/or presence or concentration of any other intoxicants as shown by the analysis of a persons' blood, breath, saliva, urine, or other body fluids or tissues which is performed and/or administered in accordance with the applicable provisions of this Code (if any) and/or of the Oklahoma law (if any) (c.f. 47 O.S.A. SS 751 et seq.) shall be admissible upon the trial of any action or proceeding relating or pertaining to Section 15-519 (or, any other action where relevant). Likewise, evidence of a persons' refusal to submit to such test(s) and/or other analysis is also admissible. Furthermore, whether or not such evidence exists and/or is and/or could have been available, the admissibility of such evidence does not limit (and shall not be construed or interpreted as limiting) the introduction of any other competent evidence bearing on the question on whether a person was in a condition relative to, and/or had otherwise violated the provisions of, Section 15-519 hereof (including, but not limited to, what is commonly referred to as "field sobriety tests", the observations of witnesses, and/or any use, cautionary or other instructions accompanying a medication or similar substance).

C. Furthermore, evidence of:

1. a B.A.C. of 0.08 (or more) shall constitute and be sufficient to alone establish a prima facie case that the person was under the influence of alcohol;

2. a B.A.C. of 0.05 (or more) shall constitute and be sufficient to alone establish a prima facie case that the person ability to operate a motor vehicle was impaired by the use or consumption of alcohol; and

3. a B.A.C. of less than 0.05 shall give rise to a rebuttable presumption that the person was not under the influence of alcohol (itself); and

4. a B.A.C. of less than 0.02 shall give rise to a rebuttable presumption that the persons, ability to operate a motor vehicle was not so impaired by the use or consumption of alcohol (itself) as to constitute a violation of Section 15-519.

D. Nothing contained in Section 15-519 and/or 15-520 shall be deemed, construed or interpreted to, in any manner or extent:

1. Limit, impede or bar the prosecution of any violation of the Oklahoma Statutes in the Atoka Municipal Court; and/or (2) make inadmissible any evidence which would otherwise ordinarily be considered admissible if offered by the State in a similar prosecution conducted in the district courts of Oklahoma.

### SECTION 15-521 DRIVER'S LICENSE REQUIRED.

No person shall drive or operate any motor vehicle on any public roadway within the city unless such person has a current, not suspended or revoked, valid driver's or chauffeur's license as required by state law. (Ord. No. N.C. 320, 2/18/86)

### SECTION 15-522 DRIVING WHILE LICENSE SUSPENDED; USE OF FALSE LICENSE.



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A. No person shall:

1. Display or cause or permit to be displayed or have in his possession any cancelled, revoked, suspended, fictitious, photostatic or fraudulently altered operator's or chauffeur's license;

2. Lend his operator's or chauffeur's license to any other person or knowingly permit the use thereof by another;

3. Display or represent as his own any operator's or chauffeur's license not issued to him; or

4. Permit any unlawful use of an operator's or chauffeur's license issued to him.

B. No person shall drive a motor vehicle on any public street within the city at a time when his privilege to do so is cancelled, suspended or revoked. (Prior Code, Chapter 23)

### SECTION 15-523 PERMITTING UNLICENSED PERSON TO DRIVE.

No person shall authorize or knowingly permit a motor vehicle owned by him or under his control to be driven upon any street in the city by any person who is not authorized or licensed to drive a motor vehicle under the laws of the state or under the laws of the state of the driver's residence of record. (Prior Code, Chapter 23)

### SECTION 15-524 DRIVING THROUGH FUNERAL PROCESSIONS.

A. 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.

B. This section shall not apply at intersections where traffic is controlled by police officers. (Prior Code, Chapter 23)

### SECTION 15-525 DRIVING IN FUNERAL PROCESSION.

Each driver in a funeral or other procession shall drive as near to the right-hand edge of the roadway as practicable except when otherwise directed or escorted by a police officer. Each driver shall follow the vehicle ahead as closely as is practicable and safe and at a speed as designated by the escort for the procession. (Prior Code, Chapter 23)

### SECTION 15-526 IDENTIFICATION OF FUNERAL PROCESSIONS.

A funeral composed of a procession of vehicles shall be identified by headlights turned on or by the display upon the outside of each vehicle an identifying insignia or by such other method as may be determined and designated by the police department. (Prior Code, Chapter 23)

SECTION 15-527 USE OF ROLLER SKATES, COASTERS, SKATE BOARDS ON ROADWAY.

No person upon roller skates, or riding in or by means of any coaster, skateboard, toy vehicle or similar device, shall go upon any roadway except while crossing a street in a crosswalk. While so crossing, such person shall be granted all of the rights and 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 authorized by ordinance. (Prior Code, Chapter 23)

SECTION 15-528 PLAY STREETS AUTHORIZED.

The city manager, subject to direction by the council, if any, shall have authority to declare any street or part thereof a play street and have placed appropriate signs or devices in the roadway indicating and helping to protect the same. (Prior Code, Chapter 23)

SECTION 15-529 USE OF PLAY STREETS BY MOTOR VEHICLES.

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 such drivers shall exercise the greatest care in driving upon any such street or portion thereof. (Prior Code, Chapter 23)

SECTION 15-530 OBSTRUCTING INTERSECTION OR CROSSWALK.

No driver shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic-control signal indication to proceed. (Prior Code, Chapter 23)

SECTION 15-531 DRIVING ON SIDEWALK PROHIBITED.

The driver of a vehicle shall not drive upon a sidewalk or within any sidewalk area except at a permanent or temporary driveway. (Prior Code, Chapter 23)

State Law Reference: Power of city to prohibit driving on sidewalks, 11 O.S. Sec. 20-117.

SECTION 15-532 DRIVING IN PUBLIC PARKS RESTRICTED, DRIVING ON PROPERTY WITHOUT PERMISSION.

A. No person shall drive, operate or propel a motor vehicle or motor-driven cycle, including a motor scooter or motor-driven bicycle, in any park, public property or right of way or easement, within or owned by the city, except upon established roadways or roadways designed for vehicular traffic. A vehicle may be driven a reasonable distance from the roadway for the purpose of going to and from a parking place.

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B. No person shall drive, operate or propel a motor vehicle or motor-driven cycle past any barrier, sign or other device indicating that vehicular traffic is prohibited in, upon or through any area upon which vehicular traffic is prohibited.

C. No person shall drive a motor vehicle of any size on any private property unless the operator has obtained the permission of the owner of the private property.

D. Emergency vehicles are exempt from the provisions of this section. (Prior Code, Chapter 23)

Cross Reference: Park and recreation rules, Part 11 of this code.

### SECTION 15-533     STARTING STOPPED OR PARKED VEHICLES.

No person shall start a vehicle which is stopped, standing or parked unless and until such movement can be made with reasonable safety. (Prior Code, Chapter 23)

### SECTION 15-534     BACKING OF VEHICLE.

The driver of a vehicle shall not back the same unless such movement can be made without interfering with other traffic. When a vehicle is backed more than thirty (30) feet, such movement shall be deemed unsafe. (Prior Code, Chapter 23)

### SECTION 15-535     OPENING AND CLOSING VEHICLE DOOR.

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. No person shall leave a door open on the side of a motor vehicle available to moving traffic to load or unload passengers. (Prior Code, Chapter 23)

### SECTION 15-536     OBSTRUCTIONS TO DRIVER'S VIEW; NUMBER IN FRONT SEAT.

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 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. (Prior Code, Chapter 23)

### SECTION 15-537     CLINGING TO VEHICLE.

No person riding upon any bicycle, coaster, roller skates, sled or toy vehicle shall attach the same or himself to any vehicle upon a roadway. (Prior Code, Chapter 23)

### SECTION 15-538     BOARDING OR ALIGHTING FROM MOVING VEHICLE.

No person shall board or alight from any vehicle while such vehicle is in motion. (Prior Code, Chapter 23)

SECTION 15-539 RIDING OUTSIDE VEHICLE COMPARTMENT.

No person shall ride on any vehicle upon any portion thereof not designed or intended for use of passengers. This section shall not apply to an employee engaged in the necessary discharge of a duty, or to persons riding within truck bodies in space intended for merchandise. (Prior Code, Chapter 23)

SECTION 15-540 DRIVING THROUGH SAFETY ZONE.

No vehicle shall at any time be driven through or within a safety zone or island. (Prior Code, Chapter 23)

SECTION 15-541 CHILD PASSENGER RESTRAINT SYSTEM OR SEAT BELT REQUIRED; EXCEPTIONS; PENALTY.

A. As used in this section, “child passenger restraint system” means an infant or child passenger restraint system that meets the federal standards for crash-tested restraint systems as set by the United States Department of Transportation.

B. Every driver when transporting a child under four (4) years of age in a motor vehicle operated in this city shall properly secure the child in a child passenger restraint or in a seat belt in the rear of the motor vehicle. Children four (4) and five (5) years of age shall be protected by use of a child passenger restraint system or a seat belt.

C. This section shall not apply to:

1. The driver of a school bus, taxicab, moped, motorcycle, or other motor vehicle not required to be equipped with safety belts pursuant to city ordinance, state statute, or federal law;
2. The driver of an ambulance or emergency vehicle; or
3. A driver of a vehicle if all of the seat belts in the vehicle are in use; and
4. The transportation of children who for medical reasons are unable to be placed in such devices.

D. A law enforcement officer is hereby authorized to stop a vehicle if it appears that the driver of the vehicle has violated the provisions of this 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.

E. A violation of the provisions of this section shall not be admissible as evidence in any civil action or proceeding for damages. In any action brought by or on behalf of an infant for

personal injuries or wrongful death sustained in a motor vehicle collision, the failure of any person to have the infant properly restrained in accordance with the provisions of this section shall not be used in aggravation or mitigation of damages.

F. Any person convicted of violating this section shall be punished by a fine of Ten Dollars (\$10.00), or the maximum amount allowed by state law, whichever is greater, and shall pay court costs. The fine shall be suspended in the case of the first offense upon proof of purchase or acquisition by loan of a child passenger restraint system. The fine need not be suspended if the child was being transported in a motor vehicle already equipped with a child passenger restraint system.

Cross Reference: See also Sec. 1-108 for general penalty section.

SECTION 15-542 SEAT BELTS REQUIRED FOR OPERATORS AND FRONT SEAT PASSENGERS OF PASSENGER VEHICLES EXCEPTIONS; PENALTIES

A. Unless otherwise exempted by the Oklahoma Mandatory Seat Belt Use Act (47 O.S.A. §§ 12-416 et. seq.), every operator and front seat passenger of passenger cars (as defined by said Mandatory Seat Belt Act) operated within the city limits of the City of Atoka shall comply with said Mandatory Seat Belt Act.

B. Any person convicted of violating this Section shall be punished by a fine and costs as set forth in Appendix Four (4) (Schedule of Fines And Penalties) of the Atoka City Code, which shall likewise be the bail therefor. (Ord. No. N.C. 463, 11/16/98)

SECTION 15-543 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 electrical 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. (Prior

Code, Chapter 23)

SECTION 15-544 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 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. (Prior Code, Chapter 2)

**CHAPTER 6**

**STOPPING, STANDING AND PARKING**

**ARTICLE A**

**PARKING REGULATIONS**

Section 15-601	Stopping, standing or parking prohibited in certain places.
Section 15-602	Handicapped parking restrictions.
Section 15-602A	Certain Requirements for Signs Regarding “Handicapped” or “Disabled” Persons Parking Areas.
Section 15-603	Parking not to obstruct traffic or signs.
Section 15-604	Parking for certain purposes prohibited.
Section 15-605	Removing enforcement marking.
Section 15-606	Standing or parking on left side of roadway.
Section 15-607	Parking on private property; impounding of vehicle.
Section 15-608	Driving or parking on commercial business property restricted, signs.
Section 15-609	Parking more than twenty-four (24) hours.
Section 15-610	Unattended vehicles.
Section 15-611	Authority to restrict parking time.
Section 15-612	Parking vehicles off traveled part of road, warnings of disabled vehicles, trucks.
Section 15-613	Prohibiting parking within fire lanes on certain private property.
Section 15-614	Limiting parking to authorized emergency vehicles.
Section 15-615	Presumption in prosecutions for standing or parking violations.
Section 15-616	Impoundment of parked or standing vehicles.

**ARTICLE B**

**MANNER OF PARKING**

Section 15-620	Distance from curb.
Section 15-621	Brakes to be set; motor not to be running; securing animals.
Section 15-622	Angle parking.
Section 15-623	Parking within marked spaces.
Section 15-624	Parking to be such as to leave ten (10) feet or roadway available for traffic.
Section 15-625	Double parking prohibited.

**ARTICLE A**

**PARKING REGULATIONS**

<u>SECTION 15-601</u>	<u>STOPPING, STANDING OR PARKING PROHIBITED IN CERTAIN PLACES.</u>
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## Traffic and Vehicles

A. No person shall stop, stand or park a vehicle, except when necessary to avoid a conflict with other traffic or in compliance with law or ordinance or the directions of a police officer or traffic-control device, in any of the following places:

1. On a sidewalk;
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 except in a parking space officially marked;
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 the city indicates the different length 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 or, on the side of a street opposite the entrance to any fire station, within seventy-five (75) feet of such entrance when properly signposted;
11. Alongside or opposite any street excavation or obstruction 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 underpass; and
14. At any place where official signs prohibit stopping, standing or parking;
15. At any other place prohibited by this code or law.

B. No person shall move a vehicle not lawfully under his control into any such prohibited area or away from a curb such distance as is lawful.



C. No person shall park any vehicle in front of any show, theater, or place of amusement during any performance or entertainment therein, or while patrons are in such place either before the commencement or after the close of any performance. The police or fire chief shall plainly indicate such nonparking spaces by appropriate signs or markings. (Prior Code, Chapter 23)

State Law Reference: Requirements for stopping, standing and parking, 47 O.S. Secs. 11-1001 et seq.

Cross Reference: See also truck parking restrictions, Section 15-1101 et seq. of this code.

SECTION 15-602     HANDICAPPED PARKING RESTRICTIONS.

No person shall be permitted to place or park a motor vehicle in any parking space that is designated and posted as a reserved area for parking of motor vehicles of a physically disabled person unless such vehicle is eligible for a detachable insignia of a physically disabled person issued by the State Department of Public Safety as provided for in Section 15-112 of Title 47 of the Oklahoma Statutes, as amended, and such insignia is displayed as provided in accordance with state law or regulations adopted pursuant thereto. The provisions of this section shall apply to any such designated and posted reserved area on public property or private property accessible to the public and where the public is invited. Any person convicted of a violation of this section shall be punished as provided in Section 1-108 of this code, subject to the maximum penalty allowed by state law. In addition thereto, any person so convicted shall pay any and all reasonable and necessary charges incurred by the landowner or other person in having any motor vehicle unlawfully parked hereunder removed from the property and stored. (Prior Code, Chapter 23)

State Law Reference: Handicapped parking restrictions, 47 O.S. Secs. 11-1007, 11-1008.

SECTION 15-602A     CERTAIN REQUIREMENTS FOR SIGNS REGARDING  
“HANDICAPPED” OR “DISABLED” PERSONS PARKING AREAS.

The City intends that all signs posted by the City in relation to Section 15-602 of the City Code after January 1, 2010, comply with the requirements thereunto relating set out in Section 36-101A of title 11 of the Oklahoma Statutes (as amended effective November 1, 2009).

SECTION 15-603     PARKING NOT TO OBSTRUCT TRAFFIC OR SIGNS.

A. No person shall park a vehicle within a street or alley in such a manner or under such conditions as to prohibit the free movement of authorized emergency vehicles or vehicular traffic.

B. No person shall stop, stand or park a vehicle within a street or alley in such a position as to block the driveway entrance to any abutting property.

C. No person shall at any time stop, stand or park a vehicle except when necessary to avoid conflict with other traffic, in compliance with the directions of a police officer or traffic-control device or in case of emergency within any alley except for the purpose of and while actually engaged in loading or unloading merchandise, with the maximum time permitted for loading or

unloading being one hour; however, such vehicle must be headed in the proper direction in the alley and it must be parked on the right half of one way alleys.

D. Any vehicle parked upon the public streets or right-of-way shall be parked so as not to obstruct the view of any flashing beacon, stop sign or traffic-control signal by oncoming traffic. (Prior Code, Chapter 23)

SECTION 15-604     PARKING FOR CERTAIN PURPOSES PROHIBITED.

No person shall park his vehicle upon any street or highway for the principal purpose of:

1.     Displaying the vehicle for sale;
2.     Displaying advertising or displaying merchandise;
3.     Washing, greasing or repairing the vehicle except repairs necessitated by an emergency; and
4.     Selling merchandise or any other thing from vehicles without appropriate permit or license from the city. (Prior Code, Chapter 23)

Cross Reference: Businesses, itinerant vendors, Part 9 of this code.

SECTION 15-605     REMOVING ENFORCEMENT MARKING.

No person, with intent to extend the time during which a motor vehicle can be parked at a time-restricted parking space, shall remove, erase, obliterate, smudge or otherwise delete or disfigure any chalk or any other mark or symbol used by authorized employees of the city in connection with the enforcement of motor vehicle parking restrictions. (Prior Code, Chapter 23)

SECTION 15-606     STANDING OR PARKING ON LEFT SIDE OF ROADWAY.

A.     The city manager, subject to direction of the council, may determine when standing or parking may be permitted upon the left-hand side of any one-way roadway and to have signs or marks placed giving notice thereof.

B.     In the event 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 such one-way roadway unless signs or marks are placed to permit such standing or parking. (Prior Code, Chapter 23)

SECTION 15-607     PARKING ON PRIVATE PROPERTY; IMPOUNDING OF VEHICLE.

A.     No person shall park a vehicle on the private property of another without the consent of the owner of the property, his agent or tenant.

B. Any unoccupied vehicle parked in violation of this section may, upon complaint of the property owner, his agent or tenant, be removed and impounded by the police; and the vehicle owner must pay removal, storage and impounding fees.

Cross Reference: See also Part 8 on removing abandoned vehicles and Section 10-318 on parking vehicles after hours.

SECTION 15-608     DRIVING OR PARKING ON COMMERCIAL BUSINESS PROPERTY RESTRICTED, SIGNS.

A. It is unlawful for any person to drive or park a motor vehicle onto the driveway, parking area or any portion of the premises of any business or commercial property if signs are posted.

B. This section shall be enforced as to all private property where a sign shall have been posted in a clearly visible location stating substantially as follows:

“PRIVATE PROPERTY. NO PARKING OR TRESPASSING.”

(Prior Code, Chapter 23)

Cross Reference: See also Section 10-318 prohibiting parking on business property after hours.

SECTION 15-609     PARKING MORE THAN TWENTY-FOUR (24) HOURS.

No person shall park a vehicle on any street for a period of time longer than twenty-four (24) hours. (Prior Code, Chapter 23)

SECTION 15-610     UNATTENDED VEHICLES.

The person driving or in charge of a motor vehicle shall not permit it to stand unattended without first stopping the engine and effectively setting the brake thereon and, when standing upon any grade, turning the front wheels to the curb or side of the street. (Prior Code, Chapter 23)

State Law Reference: Similar provisions, 47 O.S., Sec. 11-1101.

SECTION 15-611     AUTHORITY TO RESTRICT PARKING TIME.

A. The city council, by resolution, may establish parking time limits, or prohibit parking, on designated streets by having appropriate signs placed thereon.

B. When such signs are in place, no person shall park a vehicle in violation thereof. (Prior Code, Chapter 23)

SECTION 15-612     PARKING VEHICLES OFF TRAVELED PART OF ROAD, WARNINGS OF DISABLED VEHICLES, TRUCKS.

## Traffic and Vehicles

A. Upon any road, street or highway within the city no person shall stop, park or leave standing any motor vehicle, whether attended or unattended, upon the paved or main travelled part of the road, street or highway when it is practical to stop, park or leave the vehicle off such part of the road, street or highway, but in every event an unobstructed width of the road, street or highway opposite a standing vehicle shall be left for the free passage of other vehicles and, if possible and practicable, a clear view of such stopped vehicle shall be available from a distance of at least two hundred (200) feet in each direction upon the road, street or highway.

B. Subsection A shall not apply to the driver of a motor vehicle which is disabled while on the paved or main travelled portion of a road, street or highway in the city in such manner and to such extent that it is impossible to avoid stopping and leaving such disabled vehicle in such position.

C. Whenever any automobile or pickup truck up to and including 3/4 ton capacity shall be or is disabled upon the travelled portion of any road, street or highway or shoulder thereof within the city at any time, the driver shall engage the emergency flasher on the auto or truck and leave them engaged so long as the vehicle remains on any travelled portion of the road, street or highway or shoulder thereof. In the event that the auto or pickup is not equipped with emergency flashers, but is equipped with turn signals, the operator shall leave the turn signal flashing from the front and rear of the motor vehicle on that part of same situated nearest the center of the road, street or highway, so long as the auto or pickup remains so located. In the event that the auto or pickup is equipped with neither turn signals nor emergency flasher, the operator thereof shall, if during daylight hours, attach a red flag at least ten (10) inches square to the end of the bumper and to the front door handle on the side of the motor vehicle nearest the closest main travelled portion of the roadway. During nighttime hours the drivers of such a disabled auto or truck shall locate a light or fuse of at least fifteen (15) minutes duration having a red glow or beam in such a position that it can be easily seen by approaching traffic in the traffic lane closest to or in which the disabled vehicle is located, the location to be at least one hundred (100) feet away from the disabled vehicle.

D. Whenever any motor truck, passenger bus, truck tractor-trailer, semitrailer or pole trailer or any motor vehicle towing a house trailer, is disabled upon the travelled portion of any road, street or highway or shoulder thereof within the city at any time when lighted lamps are required on vehicles, the driver of such vehicle shall display warning devices as required by uniform traffic control regulations upon the road, street or highway during the time the vehicle is so disabled on the highway. (Prior Code, Chapter 23)

### SECTION 15-613 PROHIBITING PARKING WITHIN FIRE LANES ON CERTAIN PRIVATE PROPERTY.

The city manager, or his authorized representative, when the public safety shall require, is authorized and directed to prohibit parking upon private property used for shopping centers, schools, hospitals, nursing homes, restaurants and places of public entertainment within zones to be clearly designated and defined by appropriate sign, when the same is necessary for the establishment of fire lanes to avoid obstruction of free passage and access. No person shall stop, stand or park a vehicle, except an authorized emergency vehicle, within such prohibited fire lanes, except on direction and by authority of a police officer. (Prior Code, Chapter 23)

SECTION 15-614     LIMITING PARKING TO AUTHORIZED EMERGENCY VEHICLES.

The city manager, subject to any directions which the city council may give, is authorized to designate streets or portions thereof where parking is limited to authorized emergency vehicles. When signs are in place giving notice of such limitation, it shall be unlawful for any person to park any vehicle, except an authorized emergency vehicle, upon any such street or portion thereof. (Prior Code, Chapter 23)

SECTION 15-615     PRESUMPTION IN PROSECUTIONS FOR STANDING OR PARKING VIOLATIONS.

In any prosecution charging a violation of any law or regulation governing the standing or parking of a vehicle, proof that the particular vehicle described in the complaint was parked in violation of any such law or regulation, together with proof that the defendant named in the complaint was, at the time of such violation, the registered owner of such vehicle shall constitute in evidence a prima facie presumption that the registered owner of such vehicle was the person who parked or placed such vehicle at the point where, and for the time during which, such violation occurred. (Prior Code, Chapter 23)

State Law Reference: Removal of illegally stopped vehicles, 47 O.S. Sec. 11-1002.

Cross Reference: See also Part 8 of this code on removal of abandoned vehicles; Sections 15-1901 et seq on impoundment of illegally stopped and other vehicles.

ARTICLE B

MANNER OF PARKING

SECTION 15-620     DISTANCE FROM CURB.

Except as otherwise provided in this section, every vehicle stopped or parked upon roadway where there are adjacent curbs shall be so stopped or parked with the right-hand wheels of such vehicle parallel to and within eighteen (18) inches of the right-hand curb. Every vehicle stopped and 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. (Prior Code, Chapter 23)

SECTION 15-621     BRAKES TO BE SET; MOTOR NOT TO BE RUNNING; SECURING ANIMALS.

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. Animals left or parked on the streets shall be securely hitched. (Prior Code, Chapter 23)

SECTION 15-622     ANGLE PARKING.

A.     The city manager, subject to direction of the council, may determine upon what streets and parts of streets angle parking will be permitted and authority shall continue until changed permitting angle parking on any such street or part of street and the angle parking markings or signs are amended.

B.     On those streets which have been so signed or marked for angle parking, no person shall park or stand a vehicle other than at the angle to the curb or edge of the roadway indicated by such signs or markings.

C.     Angle parking is not permitted on any state or federal-aid highway unless the state department of transportation has determined that the roadway is of sufficient width to permit angle parking without interfering with the free movement of traffic. (Prior Code, Chapter 23)

SECTION 15-623     PARKING WITHIN MARKED SPACES.

In an area where parking spaces have been marked off on the surface of the street, a driver parking a vehicle shall park it within a parking space as thus marked off and not on or over a line delineating a space. (Prior Code, Chapter 23)

SECTION 15-624     PARKING TO BE SUCH AS TO LEAVE TEN (10) FEET OF ROADWAY AVAILABLE FOR TRAFFIC.

No person shall park a vehicle upon 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 roadway for the free movement of vehicular traffic. (Prior Code, Chapter 23)

SECTION 15-625     DOUBLE PARKING PROHIBITED.

A.     No vehicle shall be double parked on any street within the city limits except in compliance with the direction 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. Such double parking shall be permitted only so long as both traffic lanes are not blocked. (Prior Code, Chapter 23)

**CHAPTER 7**

**SPEED REGULATIONS**

- Section 15-701     Speed limits.  
Section 15-702     Minimum speed.

SECTION 15-701     SPEED LIMITS.

A.     Notwithstanding a maximum speed limit enumerated in this code, no person shall drive a vehicle upon any alley, highway, roadway, street or public parking area at a speed greater than or less than is reasonable or prudent under the conditions then existing, considering visibility, amount of traffic, condition of roadway surface, presence of pedestrians, obstruction of view and other similar facts.

B.     No person shall drive any vehicle upon a street at a speed greater than will permit him to bring it to a stop within the assured clear distance ahead.

C.     Except when a special hazard exists that requires lower speed for compliance with Subsection A of this section, the limits specified in this chapter or established as authorized shall be maximum lawful speeds. No person shall drive a vehicle on a highway at a speed in excess of such maximum limits as follows:

1.     Twenty-five (25) miles per hour on any street; and
2.     Miles per hour as posted in school zones when school is in session.

D.     The city manager has authority to post lower speed limits than those prescribed in this chapter where special hazards exist.

E.     The fact that the speed of a vehicle is lower than the designated limits shall not relieve the driver from the duty to decrease speed when approaching and crossing an intersection, when approaching and going around a curve, when approaching a hill crest, when traveling upon any narrow winding roadway, or when a special hazard exists with respect to pedestrians or other traffic, or by reason of weather or highway conditions and speed shall be decreased as may be necessary to avoid colliding with any person or vehicle or on entering the roadway in compliance with legal requirement and the duty of all persons to use due care and precaution. (Prior Code, Chapter 23)

State Law Reference: Power of city to set maximum speed limits, 47 O.S. Sec. 11-803.

SECTION 15-702     MINIMUM SPEED.

It is unlawful for any person to drive a motor vehicle at such slow speed as to impede or block the normal and reasonable movement of traffic, except when reduced speed is necessary for safe operation. Police officers are hereby authorized to enforce this provision by directions to drivers and in the event of willful disobedience to this provision or refusal to comply with the direction of an

## Traffic and Vehicles

officer in accordance herewith, the continued slow operation by a driver shall be unlawful and constitute a blocking of traffic and a violation of this section. (Prior Code, Chapter 20)

State Law Reference: Similar provisions, 47 O.S., Sec. 11-804.



**CHAPTER 8**

**RIGHT-OF-WAY**

Section 15-801	Right-of-way at intersections.
Section 15-802	Right-of-way at intersections, vehicles arriving at same time.
Section 15-803	Left turn at intersection.
Section 15-804	Designation of through streets.
Section 15-805	Signs at through streets.
Section 15-806	Determination of stop and yield intersections.
Section 15-807	Vehicles entering stop intersections.
Section 15-808	Vehicle entering yield intersection.
Section 15-809	School zones and crosswalks.
Section 15-810	Emerging from alley or driveway.
Section 15-811	Obstructing intersection or crosswalk.

**SECTION 15-801 RIGHT-OF-WAY AT INTERSECTIONS.**

A. The driver of a 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. When two (2) vehicles enter or approach an 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.

C. The right-of-way rules declared in Subsections A and B are modified at through highways and otherwise as stated in this chapter.

D. The driver of a vehicle approaching a “T” intersection, traveling down the base of the “T” intersection approaching a dead end must yield the right- of-way to all traffic. (Prior Code, Chapter 23)

State Law Reference: Right-of-way regulations, 47 O.S. Secs. 11-401 et seq.

**SECTION 15-802 RIGHT-OF-WAY AT INTERSECTIONS, VEHICLE ARRIVING AT SAME TIME.**

A. Where two (2) or more vehicles face stop, slow, warning or caution signs or signals on two (2) or more intersecting cross streets, and are approaching so as to enter the intersection at the same time, where each vehicle is required to stop, the vehicle coming from the right shall have the right-of-way. Where each vehicle is required to slow, the vehicle coming from the right shall have the right-of-way. Where each vehicle is required to take caution, the vehicle coming from the right shall have the right-of-way.

B. The driver of a vehicle approaching an intersection shall yield the right-of-way to a vehicle which has entered the intersection from a different highway; provided that the driver of a 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.

C. Where one vehicle is required to stop and the other to slow or take caution, the one slowing or taking caution, shall have the right-of-way. Where one vehicle is required to slow and the other to take caution, the one required to take caution shall have the right-of-way. (Prior Code, Chapter 23)

SECTION 15-803 LEFT TURN AT INTERSECTION.

The driver of a vehicle within an intersection intending to turn to the left shall give a signal and 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. However, the driver, having so yielded and having given a signal when and as required by this chapter, may make such 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. (Prior Code, Chapter 23)

State Law Reference: Similar provisions, 47 O.S. Sec. 11-402.

SECTION 15-804 DESIGNATION OF THROUGH STREETS.

The city manager, subject to direction of the council, may designate any street or part of street as a through street. (Prior Code, Chapter 23)

SECTION 15-805 SIGNS AT THROUGH STREETS.

Whenever the city manager designates and describes a through street, the city manager shall have placed and maintained a stop sign, or if deemed more appropriate at any intersection a yield sign, on each and every street intersection such 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 manager if deemed desirable. (Prior Code, Chapter 23)

SECTION 15-806 DETERMINATION OF STOP AND YIELD INTERSECTIONS.

A. The city manager, subject to direction by the council, is authorized to determine and designate intersections where particular hazard exists upon other than through streets and to determine:

1. Whether vehicles shall stop at one or more entrances to any such intersection, in which event he shall cause to be erected a stop sign at every such place where a stop is required; or

2. Whether vehicles shall yield the right-of-way to vehicles on a different street at such intersection as prescribed in Section 15-807, in which event he shall cause to be erected a yield sign at every place where obedience thereto is required.

B. Every stop sign and every yield sign shall be erected as near as practicable to the nearest line of the crosswalk on the near side of the intersection or, if there is no crosswalk, then as near as practicable to the nearest line of the intersecting roadway.

C. Every stop sign shall bear the word "Stop" in letters not less than eight (8) inches in height. Every yield sign shall bear the word "Yield" in letters not less than seven (7) inches in height. Every stop sign and every yield sign shall, at nighttime, be rendered luminous by internal illumination, or by a floodlight project on the face of the sign, or by efficient reflecting elements in the face of the sign. (Prior Code, Chapter 23)

SECTION 15-807     VEHICLES ENTERING STOP INTERSECTIONS.

A. Except when directed to proceed 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, or, in the event there is no crosswalk, shall stop at a clearly marked stop line, but, if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection.

B. Such driver, after having stopped, shall yield the right-of-way to any vehicle which has entered the intersection from another highway or which is approaching so closely on the highway as to constitute an immediate hazard. The driver having so yielded may proceed only when it is prudent and apparently safe to do so. (Prior Code, Chapter 23)

SECTION 15-808     VEHICLE ENTERING YIELD INTERSECTION.

A. The driver of a vehicle approaching a yield sign shall in obedience to such sign slow down to a speed reasonable for the existing conditions, or shall stop if necessary and 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 highway so closely as to constitute an immediate hazard. If such driver is involved in a collision with a pedestrian in a crosswalk or a vehicle in the intersection after driving past a yield sign, such collision shall be deemed prima facie evidence of his failure to yield the right-of-way.

B. The driver of a vehicle approaching a yield sign, is required for safety to stop, shall stop before entering the crosswalk on the near side of the intersection or, in the event there is no crosswalk, at a clearly marked stop line, but, if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersection roadway. (Prior Code, Chapter 23)

SECTION 15-809     SCHOOL ZONES AND CROSSWALKS.

## Traffic and Vehicles

A. The city manager, subject to direction by the council, is authorized to erect signs to designate school zones and school zone crosswalks.

B. No person may drive a vehicle past a school sign or through a school zone at a speed greater than that posted per hour on school days. Drivers proceeding in a school zone shall stop and yield the right-of-way to pedestrians in school zone crosswalks when so directed by a school safety patrol member or when such crosswalk is occupied by pedestrians between the hours posted on school days.

C. Any driver involved in a school zone crosswalk collision with a pedestrian after failing to slow and yield the right-of-way to such pedestrian shall be deemed prima facie in violation of this section.

### SECTION 15-810    EMERGING FROM ALLEY OR DRIVEWAY.

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 alleyway 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. (Prior Code, Chapter 23)

State Law Reference: Similar provisions, 47 O.S. Sec. 11-704.

### SECTION 15-811    OBSTRUCTING INTERSECTION OR CROSSWALK.

No driver shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic-control signal indication to proceed.

**CHAPTER 9**

**TURNING MOVEMENTS**

Section 15-901	Method of turning generally and at intersections.
Section 15-902	Authority to place turning markers.
Section 15-903	Authority to restrict turning; obedience required.
Section 15-904	Limitations on turns, U-turns.
Section 15-905	Turning or stopping movements; signals required.
Section 15-906	Signals; method required.
Section 15-907	Method of giving hand signals.

**SECTION 15-901      METHOD OF TURNING GENERALLY AND AT INTERSECTIONS.**

A.      The driver of a vehicle intending to turn at an intersection shall do so as follows:

1.      Right turns. Both the approach for a right turn and 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, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of such center line where it enters the intersection; and after entering the intersection, the left turn shall be made so as to leave the intersection to the right of the center line 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; and

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 such vehicle. After entering the intersection, the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left-hand lane lawfully available to traffic moving in such direction upon the roadway being entered.

B.      No person shall turn a vehicle at an intersection unless the vehicle is in proper position upon the roadway as required by this section, 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. (Ord. No. N.C. 321, 2/18/86)

State Law Reference: Similar provisions, 47 O.S. Sec. 11-601.

**SECTION 15-902      AUTHORITY TO PLACE TURNING MARKERS.**

A.      The city manager, subject to direction by the council, is authorized to have placed markers, buttons or signs within or adjacent to intersections indicating the course to be traveled by vehicles turning at such intersections. Such course to be traveled shall be indicated.

B. When authorized markers, buttons or other indications are placed within an intersection indicating the course to be traveled by vehicles turning thereat, no driver of a vehicle shall disobey the directions of such indications. (Prior Code, Chapter 23)

SECTION 15-903     AUTHORITY TO RESTRICT TURNING; OBEDIENCE REQUIRED.

A. The city manager, subject to direction by the council, may determine those intersections at which drivers of vehicles shall not make a right turn, left turn or U-turn, and shall have placed proper signs at such intersections. The making of such turns may be prohibited between certain hours of any day and permitted at other hours.

B. Whenever authorized signs are erected indicating that no right turn, left turn or U-turn is permitted, no driver of a vehicle shall disobey the directions of any such sign. (Prior Code, Chapter 23)

SECTION 15-904     LIMITATIONS ON TURNING, U-TURNS.

A. Except as hereinafter provided, no person shall operate a vehicle so as to turn more than ninety degrees (90°) on any street or highway.

B. Persons excepted are those who can safely execute that turn if at an intersection, but it is unlawful for the driver of a vehicle to make such a turn at any intersection:

1. Where traffic-control signals are installed;
2. Where a police officer is directing traffic except at the latter's direction; or
3. Where an official no U-turn sign has been placed and is maintained.

SECTION 15-905     TURNING OR STOPPING MOVEMENTS; SIGNALS REQUIRED.

A. No person shall turn a vehicle at an intersection unless the vehicle is in proper position upon the roadway as required by ordinance, 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, 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 turn any vehicle without giving an appropriate signal in the manner hereinafter provided in the event any other traffic may be affected by such movement.

B. A signal of intention to turn right or left when required shall be given continuously during not less than the last one hundred (100) feet traveled by the vehicle before turning.

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 such signal. (Prior Code, Chapter 23)

State Law Reference: Similar provisions, 47 O.S. Sec. 11-604.

SECTION 15-906     SIGNALS; METHOD REQUIRED.

A.     Any stop or turn signal, when required herein, shall be given either by means of the hand and arm or by signal lamps, except as otherwise provided in Subsection B.

B.     Any motor vehicle in use on a highway shall be equipped with, and required signal shall be given by, signal lamps when the distance from the center of the top of the steering post to the left outside limit of the body, cab or load of such motor vehicle exceeds twenty-four (24) inches, or when the distance from the center of the top of the steering post to the rear limit of the body or load thereof exceeds fourteen (14) feet. The latter measurement shall apply to any single vehicle and to any combination of vehicles. (Prior Code, Chapter 23)

SECTION 15-907     METHOD OF GIVING HAND SIGNALS.

All signals herein required given by hand and arm shall be given from the left side of the vehicle in the following manner:

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.
- (Prior Code, Chapter 23)

State Law Reference: Similar provisions, 47 O.S. Secs. 11-605, 11-606.

**CHAPTER 10**

**ONE-WAY STREETS AND ALLEYS**

- Section 15-1001 Authority to designate one-way streets.
- Section 15-1002 One-way streets; direction of traffic.
- Section 15-1003 Rotary traffic islands.

**SECTION 15-1001 AUTHORITY TO DESIGNATE ONE- WAY STREETS.**

The city council, by resolution, may designate any street or alley or part thereof as a one-way street or alley. Signs indicating the direction of lawful traffic movement shall be placed at every intersection where movement of traffic in the opposite direction is prohibited. (Prior Code, Chapter 23)

**SECTION 15-1002 ONE-WAY STREETS; DIRECTION OF TRAFFIC.**

Upon those streets and parts of streets in those alleys and parts of alleys designated as one-way streets and alleys, vehicular traffic shall move only in the indicated direction when signs indicating the direction of traffic are erected and maintained at every intersection where movement in the opposite direction is prohibited. (Prior Code, Chapter 23)

**SECTION 15-1003 ROTARY TRAFFIC ISLANDS.**

A vehicle passing around a rotary traffic island shall be driven only to the right of such island. (Prior Code, Chapter 23)



**CHAPTER 11**

**TRUCK ROUTES AND PARKING**

Section 15-1101 Truck Routes, Map, Multiple Citations, Impoundment.

**SECTION 15-1101 TRUCK ROUTES, MAP, MULTIPLE CITATIONS, IMPOUNDMENT.**

A. The council, by motion or resolution, may prescribe routes through the city for the use of trucks in general or trucks of particular kinds or other vehicles which are not ordinary private passenger vehicles passing through the city. The city shall see that appropriate and adequate signs are placed along such routes so that drivers of such vehicles may follow the routes.

B. The council, by motion or resolution, may prescribe certain streets and roads in the city for restricted travel and limit any truck having more than two (2) axles from travel on certain designated roads and streets. Restrictions shall not apply to trucks making local deliveries or picking up materials or merchandise on the street so restricted, nor will it apply to agricultural equipment or vehicles using the roads for agricultural purposes.

C. When such signs are so erected and in place as provided in Subsection A hereof, the driver of a truck or other vehicle for which a route has been prescribed as provided herein, while passing through the city, shall keep on such route and shall not deviate therefrom except in case of emergency. Drivers of such vehicles shall follow such routes so far as practicable also when driving within the city and not merely through the city. When signs are erected and in place restricting trucks with two (2) or more axles as provided in Subsection B hereof, no driver of such vehicle shall drive on the street so designated.

D. The city shall keep and maintain accurate maps setting out the truck routes designated by the city. (Prior Code, Chapter 23)

**CHAPTER 12**

**LOADING ZONES**

- Section 15-1201 Authority to designate curb loading zones.
- Section 15-1202 Parking or standing in passenger loading zone restricted.
- Section 15-1203 Standing or parking in freight loading zones.
- Section 15-1204 Permit to back to curb for loading or unloading.

**SECTION 15-1201 AUTHORITY TO DESIGNATE CURB LOADING ZONES.**

The city manager, subject to direction of the council, may determine the location of passenger and freight curb loading zones, and shall have placed and maintained appropriate signs indicating the same and stating the hours during which the provisions of this section are applicable. (Pre 1994 Code, Chapter 23)

**SECTION 15-1202 PARKING OR STANDING IN PASSENGER LOADING ZONE RESTRICTED.**

No person shall stop, stand or park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers in any place marked as a passenger curb loading zone during hours when the regulations applicable to such curb loading zone are effective, and then only for period not to exceed three (3) minutes. (Pre 1994 Code, Chapter 23)

**SECTION 15-1203 STANDING OR PARKING IN FREIGHT LOADING ZONES.**

A. No person shall stop, stand or park a vehicle for any purpose or length of time other than for the expeditious unloading and delivery or pickup and loading of materials in any place marked as a freight curb loading zone during hours when the provisions applicable to such zones are in effect. In no case shall the stop for loading or unloading of materials exceed thirty (30) minutes.

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 motor vehicle used for the transportation of materials which is waiting to enter or about to enter such zone. (Pre 1994 Code, Chapter 23)

**SECTION 15-1204 PERMIT TO BACK TO CURB FOR LOADING OR UNLOADING.**

A. The city manager is authorized to issue special permits to permit the backing of a vehicle to the curb for the purpose of loading or unloading merchandise or materials subject to the terms and conditions of such permit. Such permits may be issued 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 traffic engineer 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 permit issued under this section. (Pre 1994 Code, Chapter 23)

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Cross Reference: See Fee Schedule, Appendix 2, for applicable fees.

**CHAPTER 13**

**PUBLIC CARRIER STOPS**

- Section 15-1301 Authority to designate public carrier stops.
- Section 15-1302 Bus stops; restrictions.
- Section 15-1303 Taxi stands; loading passengers.
- Section 15-1304 Restricted use of bus and taxicab stands.

**SECTION 15-1301 AUTHORITY TO DESIGNATE PUBLIC CARRIER STOPS.**

The city manager, subject to direction of the council, may establish bus stops, stands, taxicab stands and stands for other passenger common carrier motor vehicles on such public streets in such places and in such manner as it determines to be of the greatest benefit and convenience to the public. Every such bus stop, bus stand, taxicab stand or other stand shall be designated by appropriate signs. (Pre 1994 Code, Chapter 23)

**SECTION 15-1302 BUS STOPS, RESTRICTIONS.**

A. The operator of a bus shall not stand or park such vehicle upon any street at any place other than a bus stand.

B. The operator of a bus shall not stop such vehicle upon any street at any place for the purpose of loading or unloading passengers or their baggage other than at a bus stop, bus stand or passenger loading zone so designated, 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. (Pre 1994 Code, Chapter 23)

**SECTION 15-1303 TAXI STANDS, LOADING PASSENGERS.**

The operator of a taxicab shall not stand or park such vehicle upon any street at any place than in a taxicab in a taxicab stand so designated. This section 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. (Pre 1994 Code, Chapter 23)

**SECTION 15-1304 RESTRICTED USE OF BUS AND TAXICAB STANDS.**

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 appropriately signed; except that the driver of a passenger vehicle may temporarily stop therein for the purpose of and while actually engaged in loading or unloading passengers when such stopping

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does not interfere with any bus or taxicab waiting to enter such zone. (Pre 1994 Code, Chapter 23)

**CHAPTER 14**

**ACCIDENTS**

- Section 15-1401 Accidents involving death or personal injury.
- Section 15-1402 Accidents involving damage to property.
- Section 15-1403 Duty to give information and render aid.
- Section 15-1404 Duty upon striking unattended vehicle.
- Section 15-1405 Duty upon striking fixtures upon a highway.
- Section 15-1406 Immediate notice of accident.
- Section 15-1407 When driver unable to report.

**SECTION 15-1401 ACCIDENT'S INVOLVING DEATH OR PERSONAL INJURY.**

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 such accident or as close thereto as possible but shall then forthwith return to and in every event shall remain at the scene of the accident until he has fulfilled the requirements of Section 15-1403 of this code. (Pre 1994 Code, Chapter 23)

**SECTION 15-1402 ACCIDENT INVOLVING DAMAGE TO PROPERTY.**

A. The driver of any vehicle involved in an accident resulting only in apparent damage to property shall immediately stop such vehicle at the scene of such accident or as close thereto as possible. The driver shall remain at the scene of such accident until he has fulfilled the requirements of Section 15-1403 of this code. Every such stop shall be made without obstructing traffic more than is necessary. Any person failing to stop or comply with the requirements under such circumstances shall be guilty of a misdemeanor.

B. If the damage resulting from such accident is to the property of the driver only, with no damage to the person or property of another, the driver need not stop at the scene of the accident but shall make report of the damage resulting.

**SECTION 15-1403 DUTY TO GIVE INFORMATION AND RENDER AID.**

The driver of any vehicle involved in an accident resulting in injury to or death of any person or damage to any vehicle which is driven or attended by any person shall give his correct name, address and registration number of the vehicle he is driving, and shall upon request and if available exhibit his operator's or chauffeur's license and his security verification form, as defined in this code, 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, or the making of arrangements for the carrying, of such 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. (Pre 1994 Code, Chapter 23)

State Law Reference: Similar provisions, 47 O.S. Sec. 10-104.

Cross Reference: Security verification form, See Sec. 15-103 of this code.

SECTION 15-1404 DUTY UPON STRIKING UNATTENDED VEHICLE.

The driver of any vehicle which collides with any vehicle which is unattended shall immediately stop and shall then and there either locate and notify the operator or owner of such vehicle of the correct name and address of the driver and owner of the vehicle striking the unattended vehicle, and provide the operator or owner with information from his security verification form, as defined in this code, or shall leave in a conspicuous place in the vehicle struck a written notice giving the name and address of the driver and of the owner of the vehicle doing the striking, and providing information from his security verification form, as defined by this code, and a statement of the circumstances thereof. (Pre 1994 Code, Chapter 23)

SECTION 15-1405 DUTY UPON STRIKING FIXTURES UPON A HIGHWAY.

The driver of any vehicle involved in an accident resulting only in damage to fixtures or other property legally upon or adjacent to a highway shall take reasonable steps to locate and notify the owner or person in charge of such property of such fact and of his name and address and of the registration number of the vehicle he is driving and shall upon request and if available exhibit his operator's or chauffeur's license and his security verification form, as defined in this code, and shall make report of such accident when and as required in Section 15-1407 of this code.

SECTION 15-1406 IMMEDIATE NOTICE OF ACCIDENT.

The driver of a vehicle involved in any accident shall immediately, by the quickest means of communication, give notice of such accident to the police department, on forms provided by the police department, after complying with the requirements of Section 15-1403 of this code. A report shall be made on forms provided by the department. Where personal injury or death occurs, the driver or drivers of the vehicles shall remain at the scene of the accident until police officers arrive, except in cases of personal injury requiring immediate attention.

Cross Reference: False reports, penalty for making, see Part 10 of this code.

SECTION 15-1407 WHEN DRIVER UNABLE TO REPORT.

- A. An accident report is not required under this chapter from any person who is physically incapable of making report during the period of such incapacity.
- B. Whenever the driver of a vehicle is physically incapable of giving an immediate notice of an accident as required in Section 15-1406 of this code and there was another occupant in the vehicle at the time of the accident capable of doing so, such occupant shall make or cause to be given the notice not given by the driver.

**CHAPTER 15**

**MOTORCYCLES**

- Section 15-1501 Operation of motorcycle.
- Section 15-1502 Equipment required.
- Section 15-1503 Headgear required.
- Section 15-1504 License required.

**SECTION 15-1501 OPERATION OF MOTORCYCLE.**

A. No person shall operate a motorcycle or motor-driven cycle, including a motor scooter or motor-driven bicycle, on a street in this city during a time when state law prohibits the operation of such vehicle.

B. No driver of a three-wheel motor vehicle or motor driven bicycle shall carry any other person on, upon or within such vehicle on any street in the city, except as hereinafter provided. If any two-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 side car attachment for each person riding therein so that such person shall be seated entirely within the body of the side car, it shall be permissible for an operator who has attained the age of sixteen (16) or older to carry a passenger. A demonstration ride by a licensed dealer or his employee is excepted from the provisions hereof.

C. No motorcycle or motor scooter shall be ridden upon any sidewalk.

D. Handlebars on motorcycles and motor scooters shall not exceed twelve (12) inches in height, measured from the crown or point of attachment.

E. No rider of a motorcycle or motor scooter shall hold to any moving vehicle for the purpose of being propelled.

F. No driver of a motorcycle, motor scooter or bicycle shall pass other vehicles between lanes of traffic traveling in the same direction, authorized emergency vehicles excepted.

G. No person shall operate any motorcycle or any motor scooter at a speed greater than the speed limit legally posted. In no event nor at any time may an operator under the age of sixteen (16) years operate a motorcycle or motor scooter at a speed greater than thirty-five (35) miles per hour.

H. A person operating a motorcycle or motor-driven cycle shall ride only on the permanent and regular seat attached thereto. (Prior Code, Chapter 23)

State Law Reference: Similar provisions 47 O.S. Secs. 11-805, 11-1103.

**SECTION 15-1502 EQUIPMENT REQUIRED.**



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The following equipment shall be required on all motorcycles and all motor scooters on actual trail rides conducted outside of public streets, roads and highways:

1. Rear-view mirrors: All vehicles covered under this chapter shall be equipped with 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;

2. Windshield: All vehicles covered under this section shall be equipped with a windshield of sufficient quality, size and thickness to protect the operator from foreign objects, except that in lieu of such windshield the operator shall wear goggles or face shield of material and design to protect him from foreign objects;

3. Brakes: All vehicles covered under this chapter shall be equipped with brakes adequate to control the movement of same to stop and hold such vehicles, including two (2) separate means of applying the brakes, one of which is effective to apply the brakes to the front wheel and one of which is effective to 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 of not less than one hundred (100) feet to the rear in normal sunlight, and which shall be actuated upon application of the service brake;

4. Speedometer: All vehicles covered under this chapter shall be equipped with a properly operating speedometer capable of registering at least the minimum legal speed limit for the vehicle;

5. Fender: All vehicles covered under this chapter shall be equipped with a fender over each wheel. All fenders shall be of the type provided by the manufacturer;

6. Lights: All vehicles covered under this chapter shall carry at least one lighted head lamp capable of showing a white light visible at least three hundred (300) feet in the direction in which the same are proceeding, and one tail lamp mounted in the rear which, when lighted, shall omit a red light plainly visible from at least three hundred (300) feet to the rear; and such lights required by this chapter shall be burning whenever such vehicles are in motion during the period from one-half (1/2) hour after sunset and one-half (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;

7. All vehicles covered under this section shall carry on the rear thereof, either as a part of the tail light or separately, at least one red reflector which shall be of such size and characteristics as to be visible at night from all distances within three hundred fifty (350) feet to one hundred (100) feet from the vehicle when directly in front of lawful upper beams of headlights on motor vehicles;

8. Muffler. No person shall operate a vehicle covered under this section with an exhaust system modified so that motor noise is increased greater than that of the original muffler equipment provided by the manufacturer of the vehicle. (Prior Code, Chapter 23)

State Law Reference: Equipment required, 47 O.S. Secs. 12-203, 12-205, 12-206, and 12301.

SECTION 15-1503 HEADGEAR REQUIRED.

No person under eighteen (18) years of age shall operate or ride upon any vehicle covered under this chapter unless such person is equipped with and wearing on the head a crash helmet of a type and design manufactured for such use. All crash helmets shall consist of lining, padding and chin straps and be of the type as not to distort the view of the driver. (Prior Code, Chapter 23)

SECTION 15-1504 LICENSE REQUIRED.

All operators of motorcycle or motor-driven cycle shall have a current, valid license issued by the state and conform to any specific restriction contained thereon. (Prior Code, Chapter 23)

**CHAPTER 16**

**BICYCLES**

Section 15-1601	Effects of regulations; parent's duty.
Section 15-1602	Applicability of traffic laws.
Section 15-1603	Obedience to traffic-control devices.
Section 15-1604	Manner of riding bicycle.
Section 15-1605	Riding on roads and bicycle paths.
Section 15-1606	Speed restrictions.
Section 15-1607	Carrying articles.
Section 15-1608	Parking.
Section 15-1609	Riding on sidewalk prohibited.
Section 15-1610	Lights and brakes.
Section 15-1611	Rider not to cling to other vehicle.
Section 15-1612	Signal devices.
Section 15-1613	Emerging from alley, driveway or building.
Section 15-1614	Dealers to report.
Section 15-1615	Penalty.

**SECTION 15-1601    EFFECTS OF REGULATIONS; PARENT'S DUTY.**

A.     The parent of any child and the guardian of any ward shall not authorize or knowingly permit any child or ward to violate any of the provisions of this chapter.

B.     These regulations applicable to bicycles shall apply whenever a bicycle is operated upon any highway or upon any path set aside for the exclusive use of bicycles, subject to the exceptions stated herein. (Prior Code, Chapter 23)

State Law Reference: Operating bicycles on streets, 47 O.S. Sees. 11-1201 et seq.

**SECTION 15-1602    APPLICABILITY OF TRAFFIC LAWS.**

Every person riding a bicycle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by the laws of this state declaring rules and or road 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 can have no application. (Prior Code, Chapter 23)

**SECTION 15-1603    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 that no right turn, left turn or U-

turn permitted, no person operating a bicycle shall disobey the direction of any such sign except where such person dismounts from the bicycle to make such turn, in which event such person shall then obey the regulations applicable to pedestrians. (Prior Code, Chapter 23)

SECTION 15-1604 MANNER OF RIDING BICYCLE.

A. A person propelling a bicycle shall not 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.

C. A person shall ride a bicycle only in the manner in which it is designed and equipped to carry the person. (Prior Code, Chapter 23)

SECTION 15-1605 RIDING ON ROADS AND BICYCLE PATHS.

A. Every person operating a bicycle upon a roadway shall ride as near to the right side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.

B. Persons riding bicycles upon a roadway shall not ride more than two (2) persons abreast except on paths or parts of roadways set aside exclusively for the use of bicycles.

C. Wherever a usable path for bicycles has been provided adjacent to a roadway, bicycle riders shall use such path and shall not use the roadway. (Prior Code, Chapter 23)

SECTION 15-1606 SPEED RESTRICTIONS.

No person shall operate a bicycle at a speed greater than is reasonable and prudent under the conditions then existing. (Prior Code, Chapter 23)

SECTION 15-1607 CARRYING ARTICLES.

No person operating a bicycle shall carry any package, bundle or chapter which prevents the rider from keeping at least one hand upon the handlebars. (Prior Code, Chapter 23)

SECTION 15-1608 PARKING.

No person shall park a bicycle upon a street other than upon the roadway against the curb or upon the sidewalk in a rack to support the bicycle or against a building or at the curb, in such manner as to afford the least obstruction to pedestrian traffic. (Prior Code, Chapter 23)

SECTION 15-1609 RIDING ON SIDEWALK PROHIBITED.

A. No person shall ride a bicycle upon a sidewalk in the business district.

B. Whenever a 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 the pedestrian.

C. The city manager may erect signs on any sidewalk or roadway prohibiting the riding of bicycles thereon. When such signs are in place, no person shall disobey them. (Prior Code, Chapter 23)

SECTION 15-1610 LIGHTS AND BRAKES.

A. Every bicycle in use at nighttime 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 all distances from fifty (50) feet to three hundred (300) feet to the rear when directly in front of lawful upper beams of head lamps 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. Every bicycle shall be equipped with a brake which will enable the operator to make the braked wheel skid on dry, level, clean pavement. (Prior Code, Chapter 23)

SECTION 15-1611 RIDER NOT TO CLING TO OTHER VEHICLE.

No person riding upon any bicycle shall attach the same or himself to any vehicle upon a roadway. (Prior Code, Chapter 23)

State Law Reference: Similar provisions, 47 O.S. Sec. 11-1204.

SECTION 15-1612 SIGNAL DEVICES.

No person shall operate a bicycle unless it is equipped with a bell or other device capable of giving a signal audible for a distance of at least one hundred (100) feet, except that a bicycle shall not be equipped with nor shall any person use upon a bicycle any siren or whistle. (Prior Code, Chapter 23)

SECTION 15-1613 EMERGING FROM ALLEY, DRIVEWAY OR BUILDING.

The operator of a bicycle emerging from an alley, driveway or building shall, upon approaching a sidewalk or the sidewalk area extending across any alleyway, yield the right-of-way to all pedestrians approaching on the sidewalk or sidewalk area, and upon entering the roadway shall yield the right-of-way to all vehicles approaching on the roadway. (Prior Code, Chapter 23)

SECTION 15-1614 DEALERS TO REPORT.

Every person engaged in the business of buying or selling new or used bicycles shall make a report to the police department of every bicycle purchased or sold by such dealer, giving the name and address of the person from whom purchased or to whom sold, the name or make, the frame

number thereof and the number of the license plate thereon, if any. Dealers buying a bicycle shall not be required to secure a license therefor, but may leave any existing license plate, if any, thereon until the bicycle is sold. A person purchasing a bicycle from a dealer for use shall secure a license as provided in this chapter. (Prior Code, Chapter 23)

SECTION 15-1615 PENALTY.

Every person convicted of a violation of any provision of this chapter shall be punished as provided in Section 1-108 of this code.

**CHAPTER 17**

**PEDESTRIANS**

Section 15-1701	Subject to traffic-control signals.
Section 15-1702	Right-of-way at crosswalks.
Section 15-1703	Pedestrians to use right half of crosswalk.
Section 15-1704	Crossing at right angles.
Section 15-1705	When pedestrians shall yield.
Section 15-1706	Prohibited crossing.
Section 15-1707	Obedience to railroad signals.
Section 15-1708	Walking along roadway.
Section 15-1709	Hitchhiking; soliciting business.
Section 15-1710	Drivers to exercise care.
Section 15-1711	Playing in streets.
Section 15-1712	Use of white cane; special provisions for blind pedestrians.

**SECTION 15-1701 SUBJECT TO TRAFFIC-CONTROL SIGNALS.**

Pedestrians shall be subject to traffic-control signals as declared in this chapter. At all other places, pedestrians shall be granted those rights and be subject to the restrictions stated in this chapter. (Prior Code, Chapter 23)

State Law References: Pedestrians' rights and duties, 47 O.S. Sees. 11-501 et seq.; power of city to require obedience to traffic-control signals, 47 O.S. Sec. 15-107.

**SECTION 15-1702 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 the pedestrian is upon the half of the roadway upon which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger.

B. No pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield. (Prior Code, Chapter 23)

**SECTION 15-1703 PEDESTRIANS TO USE RIGHT HALF OF CROSSWALK**

Pedestrians shall move, whenever practicable, upon the right half of crosswalks. (Prior Code, Chapter 23)

**SECTION 15-1704 CROSSING AT RIGHT ANGLES.**

No pedestrian shall cross a roadway at any place other than by route at right angles to the

curb or by the shortest route to the opposite curb except in a crosswalk. (Prior Code, Chapter 23)

SECTION 15-1705 WHEN PEDESTRIANS SHALL YIELD.

A. Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an 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. This section shall not apply under the conditions stated in Section 15-1706 of this code when pedestrians are prohibited from crossing at certain designated places. (Prior Code, Chapter 23)

SECTION 15-1706 PROHIBITED CROSSING.

Between adjacent Intersections at which traffic-control signals are in operation, pedestrians shall not cross at any place except in a crosswalk. (Prior Code, Chapter 23)

SECTION 15-1707 OBEDIENCE TO RAILROAD SIGNALS.

No pedestrian shall pass through, around, over or under any crossing gate or barrier at a railroad grade crossing while such gate or barrier is closed or is being opened or closed. (Prior Code, Chapter 23)

SECTION 15-1708 WALKING ALONG ROADWAY.

A. Where sidewalks are provided, no pedestrian shall walk along and upon an adjacent roadway.

B. Where sidewalks are not provided, any pedestrian walking along and upon a highway shall when practicable 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. (Prior Code, Chapter 23)

State Law Reference: Similar provisions, 47 O.S., Sec. 11-506.

SECTION 15-1709 HITCHHIKING; SOLICITING BUSINESS.

A. No person shall stand in a roadway for the purpose of soliciting a ride, donation, employment or business from the occupant of any vehicle.

B. No person shall stand on or in proximity to a street or highway for the purpose of soliciting the watching or guarding of any vehicle while parked or about to be parked on a street or highway. (Prior Code, Chapter 23)



SECTION 15-1710 DRIVERS TO EXERCISE CARE.

Notwithstanding the provisions of this chapter, every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian upon any roadway, shall give warning by sounding the horn when necessary and shall exercise proper precaution upon observing any child or any confused or incapacitated person upon a roadway. (Prior Code, Chapter 23)

SECTION 15-1711 PLAYING IN STREETS.

A. 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. When so crossing such person shall be granted all of the rights and shall be subject to all of the duties applicable to pedestrians.

B. This section shall not apply upon any street while set aside as a play street as authorized by this code.

SECTION 15-1712 USE OF WHITE CANE, SPECIAL PROVISIONS FOR BLIND PEDESTRIANS.

A. It is unlawful for any person not wholly or partially blind to carry or use upon the streets, highways or public places of the city any cane or walking stick which is white in color. The term "white in color," as used herein, means painted or enameled white and not an unpainted or natural wood color. Such white cane or walking stick may be used on the streets or in other public places of the city by persons wholly or partially blind as a means of identifying them to drivers or operators of vehicles and for the purpose of protecting them.

B. Blind pedestrians, by holding out horizontally a white cane in the direction they desire to travel over crosswalks on any street, avenue, alley or other public highway in this city shall be given the right-of-way over all other pedestrians and vehicles.

C. Any driver or operator of a vehicle who approaches, or comes into proximity of, a person wholly or partially blind carrying a white cane or walking stick shall immediately come to a full stop, if such person is in the path of, or about to enter, or approaching the path of, such vehicle, and shall take such precaution before proceeding as may be necessary to avoid accident or injury to such person so carrying a white cane or walking stick.

**CHAPTER 18**

**ENFORCEMENT**

- Section 15-1801 Authority of police and fire officials.
- Section 15-1802 Authority to direct traffic.
- Section 15-1803 Emergency and experimental regulations.
- Section 15-1804 Obedience to police and fire officials required.
- Section 15-1805 Applicability to public employees.
- Section 15-1806 Authorized emergency vehicles.
- Section 15-1807 Persons working on streets exempted.
- Section 15-1808 Closing streets for repairs; barricades required; use of street restricted.
- Section 15-1809 Riding animals and animal-drawn vehicles.
- Section 15-1810 Notification of runs by emergency vehicles.

**SECTION 15-1801 AUTHORITY OF POLICE AND FIRE OFFICIALS.**

A. It is the duty of all police officers of the police department to enforce the street traffic regulations of this city and the state, to make arrests for the traffic violations, and to investigate accidents.

B. Officers of the police department or such officers as are assigned by the chief of police are authorized to direct all traffic by voice, hand, mechanical signals or signs in conformance with the provisions of this chapter. in the event of a fire or other emergency as herein defined, or other unusual traffic conditions, to expedite traffic or safeguard pedestrians, officers of the police department or fire department may direct and take control of traffic as conditions may require, and as near as practicable, follow the general provisions of this chapter.

C. Officers of the fire department, when at the scene of a fire or other emergency, may direct or assist the police in directing traffic thereat or in the immediate vicinity. (Prior Code, Chapter 23)

**SECTION 15-1802 AUTHORITY TO DIRECT TRAFFIC.**

All traffic in the city shall be controlled by ordinances of the city and the laws of the state relating thereto. No person shall direct or attempt to direct traffic except police officers and other officers authorized by the city. (Prior Code, Chapter 23)

**SECTION 15-1803 EMERGENCY AND EXPERIMENTAL REGULATIONS.**

A. The city manager is empowered 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 may have traffic-control devices tested under actual conditions of traffic.

(Prior Code, Chapter 23)

SECTION 15-1804 OBEDIENCE TO POLICE AND FIRE OFFICIALS REQUIRED.

No person shall willfully fail or refuse to comply with any lawful order or direction of a police officer or fire department official. (Prior Code, Chapter 23)

State Law Reference: Similar provisions, 47 O.S. Sec. 11-103.

Cross Reference: See also Part 10 of this code on obedience, cooperation and noninterference with police and fire officials.

SECTION 15-1805 APPLICABILITY TO PUBLIC EMPLOYEES.

A. 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 other governmental unit or agency, as well as to other vehicles. No such driver shall violate any of the provisions of this chapter, except as otherwise permitted in this chapter or by state statute.

B. This chapter shall not apply to the military forces of the United States and organizations of the National Guard when performing any military duty. (Prior Code, Chapter 23)

SECTION 15-1806 AUTHORIZED EMERGENCY VEHICLES.

A. The driver of an authorized emergency vehicle, when responding to an emergency call or when in the pursuit of an actual or suspected violator of the law or ordinance or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, but subject to the conditions herein stated.

B. The driver of an authorized emergency vehicle may:

1. Park or stand irrespective of the provisions of this chapter;
2. Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;
3. Exceed the maximum speed limits so long as he does not endanger life or property;  
and
4. Disregard regulations governing direction of movement or turning in specific directions.

C. The exemptions herein granted to an authorized emergency vehicle shall apply only when the driver of any such vehicle is making use of audible and visual signals as required by 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 operator of every authorized emergency vehicle, prior to commencing an emergency run, must report to the police department and advise the police department of his destination; and if such a hazard exists as would endanger the public, the police department shall have the authority to prohibit the emergency run.

E. 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 protect the driver from the consequences of his reckless disregard for all the safety of others. (Prior Code, Chapter 23)

State Law Reference: Similar provisions, Sec. 11-106; required emergency vehicle signals, procedures, 47 O.S. Sec. 12-218)

SECTION 15-1807 PERSONS WORKING ON STREET EXEMPTED.

A. Unless specifically made applicable, the provisions of this chapter 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 highway and public utility operations shall be protected by adequate warning signs, signals, devices or flagmen.

B. This section shall not relieve any driver exempted by this section from the duty to drive with due regard for the safety of all persons, nor from the consequences of driving while intoxicated. (Prior Code, Chapter 23)

State Law Reference: Similar provisions, 47 O.S. Sec. 11-105.

SECTION 15-1808 CLOSING STREET'S FOR REPAIRS; BARRICADES REQUIRED, USE OF STREET RESTRICTED.

A. City personnel or contractors, while repairing or improving or repairing lines or other utility facilities in the streets, are authorized as necessary, subject to control of the chief of the traffic division, to close any street or section thereof to traffic during such repair, maintenance or construction. In exercising such authority, such person 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, no person shall drive any vehicle through, under, over or around such traffic-control devices or barricades, or otherwise enter the closed area. This subsection shall not apply to persons while engaged in such construction, maintenance and repair or to persons entering therein 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, utility company concerned shall erect

or cause to be erected traffic-control devices to warn and guide the public. Every person using such street shall obey all signs, signals, markings flagmen or other traffic-control devices which are placed to regulate, control and guide traffic through the construction or maintenance area. (Prior Code, Chapter 23)

SECTION 15-1809 RIDING ANIMALS AND ANIMAL- DRAWN VEHICLES.

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. (Prior Code, Chapter 23)

State Law Reference: Similar provisions, 47 O.S. Sec. 11-104.

SECTION 15-1810 NOTIFICATION OF RUNS BY EMERGENCY VEHICLES.

It is unlawful for any person to drive on the streets of the city any emergency vehicle, including but not limited to police patrol cars, fire trucks, ambulances, sheriffs cars, highway patrol cars and police motorcycles, while sounding a siren, horn, bell or other noisemaking device designed to forewarn the populace of the approach of such vehicle, without first advising the police department by contacting the police dispatcher on duty of the intention to make the emergency run and giving the name of the person making the run, the destination, the route which is intended to be traveled and the nature of the emergency. (Prior Code, Chapter 23)

**CHAPTER 19**

**IMPOUNDMENT**

Section 15-1901	Purpose and effect.
Section 15-1902	Police granted authority to impound vehicles.
Section 15-1903	Disabled vehicles.
Section 15-1904	Vehicles on bridge.
Section 15-1905	Vehicle constitutes traffic hazard.
Section 15-1906	Illegal trespass by vehicle.
Section 15-1907	Vehicles parked in prohibited zone.
Section 15-1908	Vehicles blocking fire exits or hydrants.
Section 15-1909	Vehicles parked in intersection.
Section 15-1910	Stolen vehicles, recovery by police.
Section 15-1911	Arrest and detention of driver of vehicle.
Section 15-1912	Unlicensed vehicles.
Section 15-1913	Place of impoundment.
Section 15-1914	Duration of impoundment.
Section 15-1915	Abandoning vehicles.

**SECTION 15-1901    PURPOSE AND EFFECT OF IMPOUNDMENT PROVISIONS.**

The impoundment of vehicles under authority of this chapter 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 nuisance arising from traffic law violations, protection of the public rights in the use of city streets and thoroughfares from obstructions placed and left in derogation of those rights, and for safeguarding and protecting recovered stolen vehicles. (Prior Code, Chapter 23)

**SECTION 15-1902    POLICE GRANTED AUTHORITY TO IMPOUND VEHICLES.**

Members of the police department are hereby authorized within the authority granted by Section 15-1901 to impound vehicles under the provisions of this chapter. No impoundment shall be valid unless made under order of an authorized police officer. (Prior Code, Chapter 23)

**SECTION 15-1903    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;
  2.     If left unattended longer than forty-eight (48) hours on the shoulder of any highway;
- or
3.     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. (Prior Code, Chapter 23)

SECTION 15-1904 VEHICLE CONSTITUTES TRAFFIC HAZARD.

A vehicle left unattended upon any street, alley or thoroughfare and so parked illegally as to constitute a definite hazard or obstruction to the normal movement of traffic shall be impounded. (Prior Code, Chapter 23)

SECTION 15-1905 ILLEGAL TRESPASS BY VEHICLE.

A. An unattended vehicle trespassing on property of another may be impounded when the required complaint has been properly made and filed as provided in this section.

B. If 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 complain by the property owner or legal occupant, and if there appears to be proper cause to believe a trespass has occurred, the property owner or legal occupant of the property may cause the vehicle to be impounded from the property and placed in storage. The police department may also cause such vehicle to be impounded where the police department determines that the location of the vehicle constitutes a threat to the public health or safety or is a public traffic hazard. (Prior Code, Chapter 23)

SECTION 15-1906 VEHICLES PARKED IN PROHIBITED ZONE.

Any vehicle illegally parked in such a manner that it blocks a fire escape ladder, device or exit, or blocks ready access to a fire hydrant, shall be impounded. (Prior Code, Chapter 23)

SECTION 15-1907 VEHICLES PARKED IN INTERSECTION.

Any unattended vehicle illegally parked in any street intersection shall be impounded. A disabled vehicle in an intersection with the person in charge of the vehicle being present shall be moved out of the intersection and to the nearest available legal parking space at the street curbing. (Prior Code, Chapter 23)

SECTION 15-1908 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 or other identifying media in the vehicle or from records or information available from reports of stolen cars, the vehicle maybe removed to the nearest authorized place of impoundment and the registered owner of the vehicle shall be notified of the location of the place of impoundment as soon as possible by the police department.

B. If the registered owner is identified, located and notified of the recovery of the stolen vehicle, the owner shall be given the right to make his own arrangement for the removal of the vehicle within the period of one hour from the time he is actually notified of its recovery, and if the owner is unable or unwilling to effect the removal within the time specified, the vehicle may be impounded. (Prior Code, Chapter 23)

SECTION 15-1909 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. (Prior Code, Chapter 23)

SECTION 15-1910 UNLICENSED VEHICLES.

Any vehicle on public roads, streets or other public places which do not have a current state license tag may be impounded by the police. (Prior Code, Chapter 23)

SECTION 15-1911 PLACE OF IMPOUNDMENT.

Every vehicle that is impounded under the provisions of this chapter shall be removed to the nearest garage or place of safekeeping designated by the chief of police, and to no other place. (Prior Code, Chapter 23)

SECTION 15-1912 DURATION OF IMPOUNDMENT.

A. Except as otherwise provided, any vehicle impounded under the authority of this chapter shall be stored and held until an order for its release is received from an officer of the traffic violations bureau or municipal court or other proper police officer.

B. The order of release of an impounded vehicle shall be conditioned upon the payment of by the person to whom the release is issued of all impoundment costs and accrued storage charges assessed against the vehicle.

C. No order of release of an impounded vehicle shall be issued until all fines and costs due the city because of traffic law or other law violations involving the vehicle have been paid. (Prior Code, Chapter 23)



**CHAPTER 20**

**PENALTIES AND ARREST PROCEDURE**

Section 15-2001 Penalty.

Section 15-2002 Citation tags on parked vehicles.

SECTION 15-2001 PENALTY

A. No person shall do any act forbidden or fail to perform any act required in this chapter.

B. No parent of a child or the guardian of a ward shall authorize any child or ward to violate any provisions of this chapter.

C. No person shall authorize or knowingly permit any vehicle registered in his name to be driven, or to stand, or to be parked in violation of any provisions of this chapter.

D. Any person who violates any provision of this chapter, or performs any unlawful act as defined in this chapter, or fails to perform any act required in this chapter is guilty of an offense and upon conviction thereof shall be punished as provided in Section 1-108 of this code. (Prior Code, Chapter 23)

SECTION 15-2002 CITATION TAGS ON PARKED VEHICLES.

In cases where vehicles without drivers are parked or stopped in violation of this chapter, police officers and other persons appointed by the chief of police shall affix citation tags to the vehicles. A violator of any provision of this chapter who has been given a citation tag fails to appear in accordance with the instructions of such tag shall be subject to a separate offense as provided in Section 1-108. (Prior Code, Chapter 23)

Transportation

**PART 16**

**TRANSPORTATION**

**CHAPTER 1**

**RAILROADS**

Section 16-101	Speed limit for trains.
Section 16-102	Obstructing passage of trains.
Section 16-103	Trains obstructing crossings.
Section 16-104	Maintenance of tracks, roadbed and right-of-way, sidewalks.
Section 16-105	Climbing on trains.

Transportation

**CHAPTER 1**

**RAILROADS**

Section 16-101	Speed limit for trains.
Section 16-102	Obstructing passage of trains.
Section 16-103	Trains obstructing crossings.
Section 16-104	Maintenance of tracks, roadbed and right-of-way, sidewalks.
Section 16-105	Climbing on trains.

SECTION 16-101      SPEED LIMIT FOR TRAINS.

It is unlawful for any person to operate, drive or propel, or cause to be operated, driven or propelled, any railway engine, train or car at a greater speed than forty-five (45) miles per hour when entering an intersecting street within the city. (Prior Code, Sec. 24-5)

SECTION 16-102      OBSTRUCTING PASSAGE OF TRAINS.

Any person who willfully or maliciously places any obstruction, or any other thing on the track of any railroad within the limits of the city, or who tears up, removes, burns or destroys any part of such railroad, or the works thereof, with intent to obstruct the passage of any engine or car thereon, or to throw them off the track, is guilty of an offense, punishable as provided in this code.

SECTION 16-103      TRAINS OBSTRUCTING CROSSINGS.

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 trains or cars in motion, other than those engaged in switching.

SECTION 16-104      MAINTENANCE OF TRACKS, ROADBED AND RIGHT-OF-WAY  
SIDEWALKS.

A. It is the duty of every owner of railroad tracks to maintain the railroad tracks, roadbed, and right-of-way in a good condition for use by the public when the railroad tracks and roadbed cross or intersect any public street within the city.

B. When a railway occupies any portion of a street with its tracks running in a general direction of the street, either on or adjacent thereto, the railway 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, or has been, improved, or with such satisfactory materials as the city may approve. In case any railway company shall occupy an alley with its track or tracks, the company shall improve, gutter, drain and grade such alley, and shall surface or pave it with the same material which is, or has been, used on the alley, or with such other satisfactory material as the city may approve.

## Transportation

C. When the tracks of a railway 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 and two (2) feet on each side, using the same material as is, or has been, used on the street, or such other satisfactory material as the city 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 railway company shall grade, gutter, drain and curb the street area between its tracks and surface of pave it with the same material which the city will use or has used on the street.

D. Railway companies shall construct sidewalks crossing their rights of way, using the same material as is used in adjacent sidewalks insofar as is practicable under the circumstances. The railway company shall construct sidewalks on both sides of the streets when both sides are used by pedestrians.

E. Railway companies shall keep all such improvements made by them in a good state of repair at all times.

F. The failure to perform such duties as are herein required after thirty (30) days written notice from the council of the city shall be a violation, and each day thereafter that the tracks and roadbed shall remain in an unsatisfactory condition shall constitute a separate offense. (Prior Code, Secs. 24-1, 24-2)

State Law Reference: Similar provisions, 11 O.S. Sec. 36-116.

### SECTION 19-105 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 the line of duty. It is unlawful for any person to board any train or railroad car except with a proper ticket or the permission of the person in charge of the train or car or in the line of duty. (Prior Code, Sec. 24-3)

Utilities

**PART 17**

**UTILITIES**

**CHAPTER 1**

**GENERAL PROVISIONS**

Section 17-101	Lease of utilities to authority.
Section 17-102	Authority rules adopted by reference, penalty.
Section 17-103	Utility fees and billings in general.
Section 17-104	Failure to pay utility bills; penalty and disconnection of service.
Section 17-105	Fee for dishonored or insufficient checks.
Section 17-106	Utility taps and connections; fees; utility deposits.
Section 17-107	Other utility fees or charges.
Section 17-108	Personnel may inspect private premises.

**CHAPTER 2**

**WATER SYSTEM AND SERVICE**

**ARTICLE A**

**GENERAL PROVISIONS**

Section 17-201	Water system as public utility.
Section 17-202	Water rates.
Section 17-203	Application for water service, deposit.
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Section 17-205	Turning on water.
Section 17-206	Temporary water service.
Section 17-207	Water may be cut off.
Section 17-208	Water to be turned back on only by city, reconnection charge.
Section 17-209	Customers to keep service pipes in good repair, access to meter.
Section 17-210	Right reserved to shut off water.
Section 17 -211	Waste of water prohibited.
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Section 17-213	Water cutoff valve required.
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**WATER SHORTAGES**

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Section 17-221	Water shortages, declaration of emergency.
Section 17-222	Restriction on water use in emergency.
Section 17-223	Proclamation and notice of emergency.
Section 17-224	Proclamation to last thirty (30) days, extension.
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Section 17-226	Penalties.

### CHAPTER 3

#### SEWER SYSTEM AND SERVICES

##### ARTICLE A

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Section 17-302	Definition of terms.
Section 17-303	Connection to public sewer required.
Section 17-304	Permit and inspection required for sewer connection.
Section 17-305	Discharges into storm sewers or natural outlets.
Section 17-306	Prohibited discharges.
Section 17-307	Prohibited wastes, permits, special handling of harmful wastes.
Section 17-308	Information and cooperation of industrial users.
Section 17-309	Grease, oil, and sand interceptors; exception.
Section 17-310	Maintenance of facilities.
Section 17-311	Control manhole; meters.
Section 17-312	Measurements, tests, and analysis of wastes.
Section 17-313	Special agreements.
Section 17-314	Conditions for industrial user permits.
Section 17-315	Safety rules followed during inspections, indemnification.
Section 17-316	Rights of city to inspect water and wastes.
Section 17-317	Disconnection of service.
Section 17-318	Clean out plugs required
Section 17-319	Penalties.

##### ARTICLE B

###### USER CHARGES

Section 17-331	Sewer rate for users; modification for lawn watering in the summer.
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**CHAPTER 4**

**REFUSE COLLECTION SERVICES**

Section 17-401	Definitions.
Section 17-402	Refuse service.
Section 17-403	Accumulations of garbage and refuse.
Section 17-404	Authority rules adopted by reference, penalty.
Section 17-405	Collection of garbage, refuse and rubbish.
Section 17-406	Permits for private refuse collection, disposal required.
Section 17-407	Open burning prohibited
Section 17-408	Disposal.
Section 17-409	Fees.
Section 17-410	Inspections.
Section 17-411	Penalty.
Section 17-412	Additional provisions relating to representatives of the City authorized to be involved in the process of handling, collecting, and/or inspecting refuse.
Section 17-413	Additional provisions relating to the issuance of a permit or license under Section 17-406 of the Atoka City Code for private refuse collection.

Utilities

**CHAPTER 1**

**GENERAL PROVISIONS**

Section 17-101	Lease of utilities to authority.
Section 17-102	Authority rules adopted by reference, penalty.
Section 17-103	Utility fees and billings in general.
Section 17-104	Failure to pay utility bills; penalty and disconnection of service.
Section 17-105	Fee for dishonored or insufficient checks.
Section 17-106	Utility taps and connections; fees; utility deposits.
Section 17-107	Other utility fees or charges.
Section 17-108	Personnel may inspect private premises.

SECTION 17-101     LEASE OF UTILITIES TO AUTHORITY.

The city has leased the city's water, sanitary sewerage and refuse systems and facilities, and all future additions thereto to the Atoka Municipal Authority as authorized by statute, effective at the time and upon the terms and conditions as specified in the "Lease", dated May 1, 1972, and amendments thereto, prepared under the direction of the city council and filed in the office of the city clerk on that date. (Pre 1994 Code, Chapter 20)

Cross Reference: See also Appendix for the text of the Atoka Municipal Authority trust indenture and lease. See also City of Atoka Municipal Authority Rules and Regulations.

SECTION 17-102     AUTHORITY RULES ADOPTED BY REFERENCE. PENALTY.

Rules and regulations adopted by the Atoka 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.

Ed. Note: See the minutes and resolutions of the Authority board of trustees and the City of Atoka Municipal Authority Rules and Regulations for regulations governing utilities, rates and payment procedures for municipal utilities by the Authority.

SECTION 17-103     UTILITY FEES AND BILLINGS IN GENERAL.

All fees and charges in connection with any customer's use of the sanitary sewer system, the water facility system and the collection and disposal of refuse and garbage are billed in accordance with applicable rates set by motion or resolution of the Atoka Municipal 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.

Cross Reference: See Appendix Fee Schedule.



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SECTION 17-104 FAILURE TO PAY UTILITY BILLS: PENALTY AND DISCONNECTION OF SERVICE.

A. Upon failure of any customer to pay any part of a utility bill for any utility services pursuant to Section 17-101 of these regulations by the past due date which is printed on the bill, the following actions and penalties may result:

1. A penalty of all amounts owing on a utility bill shall be added to any utility bill which is not paid by the past due date printed on the bill. If any utility billing is postmarked beyond the due date if processed by regular mail, or received beyond the due date if processed by hand, a late fee as set by the city shall be added to the bill;

2. The authorized agents of the city may disconnect or discontinue any or all utility services to the customer after mailing or posting written notice to the customer of the intent to disconnect or discontinue any or all of the utility services; or

3. The authorized agents of the city, upon proper direction, may discontinue to furnish water to any customer refusing or neglecting to pay all or any part of a utility bill submitted after providing written notice to the customer of the intent of the city to disconnect the water.

B. If any utility service is discontinued or disconnected pursuant to this section, the city, or its agents, shall not reconnect or re-establish the service until the full amount of any outstanding utility service bill is paid, plus the penalty provided in this section, plus any applicable charges or expenses in reconnecting or re-establishing the service.

C. All utility bills for water, sewer or refuse collection shall be due and payable on or before the due date as set out in the statement furnished to the customer.

D. The utility account shall be placed on a disconnect list if the utility bill has not been paid in full within five (5) days after the sums have become delinquent. If service has been discontinued for non-payment and the meter is required to be locked, a service fee shall be charged for restoring service. The city shall cause monthly utility bills to be mailed or delivered to the utility customer; however, the failure of any customer to receive such monthly utility statement shall not release any customer from the obligations of this section, including the payment of delinquent charges and service fees. (Pre 1994 code amended by Ordinance No. N. C. 429, 10/2/95)

Cross Reference: See Fee Schedule, Appendix 2, for applicable fees.

SECTION 17-105 FEE FOR DISHONORED OR INSUFFICIENT CHECKS.

The fee for any check written for utility services where the check is dishonored or insufficient shall be as set by the council by motion or resolution. In addition to this charge, the delinquency fee shall be added for payments made untimely due to an insufficient or dishonored check.

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Cross Reference: See Fee Schedule, Appendix 2, for applicable fees.

### SECTION 17-106 UTILITY TAPS AND CONNECTIONS; FEES; UTILITY DEPOSITS.

A. The city shall approve any request for a water tap and connection, a sewer tap on an existing line or a sewer tap on a new line or refuse collection request pursuant to the requirements contained herein. Prior to granting this approval, the customer shall have paid the deposit and connection or tap 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 city. 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 city have been satisfied, shall be returned to the individual or entity that posted the original deposit, or to the city if unclaimed by the customer, after notice as required by law.

B. The tap or connection fees shall be as established by motion or resolution for:

1. Water meter installation and tap;
2. Sewer connection and inspection fee.

C. A fee for reconnection of utility service where the service has been turned off or a meter has been disconnected by the city for any reason shall be set by the city. For any reconnection of utility service the charge shall be set 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 of the city, 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 city shall deduct from the deposit the amount of utility charges against the meter and the balance, if any shall be returned to the individual or entity that posted the original deposit.

Cross Reference: See Fee Schedule, Appendix 2, for applicable fees (amended by Ordinance No. N.C. 429, 10/2/95, Resolution No. 2004-12, adopted 05/17/04, Ordinance No. 548, adopted 9/18/17).

### SECTION 17-107 OTHER UTILITY FEES OR CHARGES.

The city council from time to time by motion or resolution have the power to establish rates and charges governing all aspects of the utility services, including monthly service fees, connection fees and charges, and deposits.

Cross Reference: See Fee Schedule, Appendix 2, for applicable fees (amended by Resolution No. 2004-31, adopted 08/02/04).

### SECTION 17-108 PERSONNEL MAY INSPECT PRIVATE PREMISES.

## Utilities

City personnel in the service of the utility systems may enter any private premises served by the water, sewer or other utility systems at any reasonable time, and inspect the pipes, lines, fixtures and connections on the premises.

Utilities

**CHAPTER 2**

**WATER DEPARTMENT AND SERVICES**

**ARTICLE A**

**GENERAL PROVISIONS**

Section 17-201	Water system as public utility.
Section 17-202	Water rates.
Section 17-203	Application for water service, deposit.
Section 17-204	Taps, fees, one premise to a tap, subsidiary connection and cross connection prohibited.
Section 17-205	Turning on water.
Section 17-206	Temporary water service.
Section 17-207	Water may be cut off.
Section 17-208	Water to be turned back on only by city, reconnection charge.
Section 17-209	Customers to keep service pipes in good repair, access to meter.
Section 17-210	Right reserved to shut off water.
Section 17 -211	Waste of water prohibited.
Section 17-212	Repealed.
Section 17-213	Water cutoff valve required.
Section 17-214	Refund of Residential Water Deposits Authorized Under Certain Circumstances

**ARTICLE B**

**WATER SHORTAGES**

Section 17-221	Water shortages, declaration of emergency.
Section 17-222	Restriction on water use in emergency.
Section 17-223	Proclamation and notice of emergency.
Section 17-224	Proclamation to last thirty (30) days, extension.
Section 17-225	Grievances with water restrictions.
Section 17-226	Penalties.

**ARTICLE A**

**GENERAL PROVISIONS**

**SECTION 17-201 WATER SYSTEM AS PUBLIC UTILITY.**

The water system of the city is declared to be a public utility. (Pre 1994 Code, Sec. 20-1)

**SECTION 17-202 WATER RATES.**

## Utilities

A. The city shall from time to time by motion or resolution set or amend the fees and charges for water use by customers of the water system. A copy of the current fees or charges shall be kept on file in the city office.

B. The rates set shall in no event be deemed contractual with any municipality, municipal trust, rural water district or other governmental entity purchasing treated water from the city or authority. The rate charged may be changed or amended at any time.

C. Residential and commercial water users within the city whose water meters are broken or inoperative shall be billed the sum each month for the average amount of their monthly water billings for the three (3) months next preceding the month the meter ceased operation.

D. No person shall be provided water free, but all shall be charged for water at the rates now established or as may be hereafter established by the city.

E. A re-reading charge shall be made for re-reading any water meter after the regular month's meter reading. The re-reading charge shall be added to the next month's bill. (Pre- 1994 Code, Secs. 20-11, 20-12, 20-14, in part)

Cross Reference: See utility fee schedule for specific rates and charges.

### SECTION 17-203 APPLICATION FOR WATER SERVICE. DEPOSIT.

A. Any person desiring to secure water from the city shall make an application therefor to the city on an application form provided by the city. The applicant shall give such reasonable information as the city clerk may request. The applicant agrees, by making such application, that he will abide by all ordinances, rules, and regulations governing the water system.

B. Every applicant for water service shall make deposit with the city in the amount determined by the city clerk based on water usage. No applicant shall be granted water service until he has paid the required deposit.

C. Multi-family residences or apartment houses having separate water metering facilities for each apartment of family unit shall not be required to post a separate deposit as a multi-family residence. In such event each separate apartment of family unit shall be treated as if it were a single family residence and deposit charged accordingly. "Non-commercial business", for the purpose of this section, shall be considered a business using water for only drinking and sanitation purposes; except for cafes and restaurants. "Commercial business" includes any and all businesses using water furnished by the city in any other manner. "Large quantity business" users are those that consume more than 27,500 gallons of water per month.

D. Any person making application for water service or posting a deposit with the city shall be deemed to have applied also for garbage service and shall be considered a customer of

## Utilities

the city until such time as water service to such customer has been discontinued. (pre 1994 Code, Sees. 20-2, 20-4 through 20-7, in part) (As amended by Ordinance No. N.C. 429, 10/2/95)

### SECTION 17-204 TAPS, FEES, ONE PREMISE TO A TAP, SUBSIDIARY CONNECTION AND CROSS CONNECTION PROHIBITED

A. The base fee for making water taps for:

1. Residential locations shall be the sum set by the city per tap, plus the costs set out in paragraph 3 hereof;

2. Business locations shall be the sum set by the city per tap, plus the actual costs of the meters installed, plus the costs set out in paragraph 3 hereof;

3. For residential and business locations, the applicant shall also pay the costs of repair to any hard surfaced streets which are required to be cut or excavated in order to make the tap, so that the streets after the tap is made are placed as far as practicable in similar condition as they were prior to the making of the taps. Additional charges shall be per square foot of road surface replaced for the repair of asphaltic or concrete paving, and per lineal foot or part thereof for all street curbing required to be excavated or replaced in order to make the water tap.

B. Upon application for a water tap being made to the city, the location of the proposed tap shall be examined by city officials who shall measure the amount of street surface and curbing which will require excavation and removal in order to make the water tap. Upon receipt of the estimate, the clerk shall compute the total amount to be charged for the water tap. No water tap shall be made prior to the computation and payment of the water tap fee.

C. Not more than one premise may be connected to anyone tap. No customer shall make or permit to be made any subsidiary connection of another's premise with his water service. A cross connection with another water supply shall not be permitted. The city may require separate service for separate premises, buildings, or houses. (pre 1994 Code, Sees. 20-3, 20-9, in part)

### SECTION 17-205 TURNING ON WATER.

It is unlawful for any person to turn the water on to any premises from the water system except by permission of the city. Water shall not be turned on until the plumbing on the premises has been deemed satisfactory by the city and until any and all deposits and charges have been paid. No person may connect with the water system until all fees and the application is filed and a permit is issued to the applicant. Any such connection shall meet the requirements by the city's ordinances, plumbing code and other applicable requirements. (Pre 1994 Code, Sec. 20-10)

### SECTION 17-206 TEMPORARY WATER SERVICE

The city may provide temporary water service to a location in the city which has an

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existing meter, for temporary use for the purpose of clean-up, for a period not to exceed ten (10) days, for a charge as set by the city for such temporary use, and which temporary use may only be allowed at that location on only ten (10) consecutive days for any sixty-day period. The customer securing the temporary water service shall not be required to put up a deposit as otherwise may be required by these regulations.

### SECTION 17-207 WATER MAYBE CUT OFF.

Water may be cut off and service discontinued for any user of water from the municipal water system for any of the following reasons:

1. Violation of any ordinance provision relating to the water system, or violation of any ordinance provision or any provision of any code adopted by reference relating to water and sanitary plumbing;
2. Any act or omission in regard to the water system or sanitary sewer system, the use of water, or the disposal of liquid wastes, which jeopardizes the public health or safety, creates a public nuisance, or interferes with the rights of others; or
3. Failure to pay a utility bill or other proper charge in connection with the utilities by the time the bill becomes delinquent. (Pre 1994 Code, Sec. 20-14)

### SECTION 17-208 WATER TO BE TURNED BACK ON ONLY BY CITY, RECONNECTION CHARGE.

When the water of any customer has been turned off by city personnel for any reason, it shall not again be turned on except by permission of the city, and only after payment of applicable reconnection fee for turning water back on. (Pre 1994 Code, Sees. 20-15, 20-16)

### SECTION 17-209 CUSTOMERS TO KEEP SERVICE PIPES IN GOOD REPAIR, ACCESS TO METER.

A. All customers using water shall keep their service pipes, stop cocks, and other water apparatus in good repair and in proper operation.

B. The city and its agents and employees shall have free access to the water meter at all times for all purposes in connection with the city water service. (Pre 1994 Code, Sec. 20-17, 20-21)

Cross Reference: See also criminal offense for tampering with utility equipment, meters, Section 10-315.

### SECTION 17-210 RIGHT RESERVED TO SHUT OFF WATER.

The city reserves the right, at all times, without notice, to shut off the water supply for

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repairs, extensions, non-payment of rates, or any other reason; and the city shall not be responsible for any stoppages or interruptions of water supply or for any other damage resulting from the shutting off of water. (pre 1994 Code, Sec. 20-18, 20-20)

### SECTION 17-211 WASTE OF WATER PROHIBITED.

It is unlawful for any person to waste water or allow it to be wasted, from imperfect or leaking stops, valves, pipes, closets, faucets or other fixtures, or to use water closets without self-closing valves, or to use the water for purpose other than those named in the original application upon which water rates are based, or to use it in violation of any provision of this chapter.

### SECTION 17-212 REPEALED.

### SECTION 17-213 WATER CUTOFF VALVES REQUIRED.

No building, dwelling or structure shall hereafter be constructed within the city unless the same Utilities shall have a water cut-off valve between the outside wall of such building, dwelling or structure and the point where the water supply line connects with the water meter owned by the city. (Pre 1994 Code, Sec. 20-60)

### SECTION 17-214 REFUND OF RESIDENTIAL WATER DEPOSITS AUTHORIZED UNDER CERTAIN CIRCUMSTANCES

The City Clerk shall be authorized to refund the water deposit posted by a customer exclusively for residential services, upon the application of such customer (made upon such form(s) as the clerk shall, from time to time, reasonably use and/or prescribe), and the Clerk's conclusion that such customer has met the following conditions; that such deposit is exclusively for the residential service for such customer, and, such customer has maintained his/her residential account in good standing for not less than five (5) years. (As amended by Ordinance No. N.C. 499, adopted 05/17/04)

## ARTICLE B

### WATER SHORTAGES

#### SECTION 17-221 WATER SHORTAGES, DECLARATION OF EMERGENCY.

A. Whenever an emergency exists by reason of a shortage of water due to inadequate supply, limited treatment or distribution capacity or failure of equipment or material, the mayor is hereby authorized to restrict or prohibit the use of water from the water system.

B. An emergency exists whenever the city councilor mayor reasonably determines that the water system is unable to or will within sixty (60) days become unable to supply the full commercial and domestic needs of the users thereof, including adequate fire protection.



SECTION 17-222     RESTRICTION ON WATER USE IN EMERGENCY.

A.     Upon the determination that such an emergency exists the mayor shall issue a proclamation declaring the emergency and setting out with particularity an order restricting use of water from the system. The order may:

1.     Restrict water usage during certain periods of the day or week or according to any orderly and nondiscriminatory scheme; and
2.     Prohibit usages not essential to public health and safety. The order may be revised from time to time as the mayor deems necessary.

B.     A duly proclaimed emergency shall continue and the terms of the proclamation shall be in force for thirty (30) days or until such time as the mayor shall cause to be published a proclamation that the emergency has ended, whichever is shorter, unless the city council by resolution approved by a majority of all its members votes to terminate the emergency and proclamation upon a different date.

SECTION 17-223     PROCLAMATION AND NOTICE OF EMERGENCY

A.     The proclamation required by the preceding section shall be published in a newspaper of general circulation in the city or, if there is no such newspaper in which the proclamation may be published within twenty-four (24) hours after the emergency arises, publication shall be by posting a copy of the proclamation in ten (10) prominent places in the city. The emergency shall be in full force and effect upon publication. Substantial compliance with this section is sufficient to effect the emergency.

B.     Whenever a sudden or unexpected event so reduces the availability of water or water pressure as to create an immediate threat to public health or safety the notice of the proclamation may be given by any reasonable means, including electronic means. The emergency shall be in full force and effect upon such notice. However, if any means other than that required in Subsection A of this section is used, the proclamation shall be republished in accordance with Subsection A within twenty-four (24) hours of the first notice.

SECTION 17-224     PROCLAMATION TO LAST THIRTY DAYS, EXTENSION.

A duly proclaimed emergency shall continue, and the terms of the proclamation shall be in full force and effect for thirty (30) days or until such time as the mayor or city council shall cause to be published a proclamation that the emergency has ended, whichever is shorter. However, the council may extend the duration of the proclamation by resolution of the council. Any such resolution shall comply to the extent feasible with the applicable provisions of this article.

SECTION 17-225     GRIEVANCES WITH WATER RESTRICTIONS.

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Any person aggrieved by a proclamation of the mayor shall have the right to present the matter to the next regular or special meeting of the city council or to any emergency session called to discuss the water emergency. The city council may exempt such aggrieved person, wholly or in part, from compliance with the proclamation order upon a showing that compliance creates an immediate threat to the person's health or safety. The ruling of the city council by a majority vote of all its members shall be final and binding as to the continuance of any terms of the proclamation. Until and unless the action of the mayor is modified or revoked by action of the city all water users shall be bound by the proclamation.

### SECTION 17-226    PENALTIES.

Any person who in any manner directly or indirectly violates or permits others under his supervision, custody or control to violate any term of a duly published proclamation or any provision of this chapter shall be guilty of a misdemeanor. Any violation of the provisions of the mayor's proclamation or action of the city shall be punishable by a fine or imprisonment as provided in Section 1-108 of the city's code of ordinances.

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**CHAPTER 3**

**SEWER SYSTEM AND SERVICES**

**ARTICLE A**

**GENERAL PROVISIONS**

Section 17-301	Declaration of public utility.
Section 17-302	Definition of terms.
Section 17-303	Connection to public sewer required.
Section 17-304	Permit and inspection required for sewer connection.
Section 17-305	Discharges into storm sewers or natural outlets.
Section 17-306	Prohibited discharges.
Section 17-307	Prohibited wastes, permits, special handling of harmful wastes.
Section 17-308	Information and cooperation of industrial users.
Section 17-309	Grease, oil, and sand interceptors; exception.
Section 17-310	Maintenance of facilities.
Section 17-311	Control manhole; meters.
Section 17-312	Measurements, tests, and analysis of wastes.
Section 17-313	Special agreements.
Section 17-314	Conditions for industrial user permits.
Section 17-315	Safety rules followed during inspections, indemnification.
Section 17-316	Rights of city to inspect water and wastes.
Section 17-317	Disconnection of service.
Section 17-318	Clean out plugs required
Section 17-319	Penalties.

**ARTICLE B**

**USER CHARGES**

Section 17-331	Sewer rate for users; modification for lawn watering in the summer.
Section 17-332	Surcharge for industrial users.

**ARTICLE A**

**GENERAL PROVISIONS**

**SECTION 17-301    DECLARATION OF PUBLIC UTILITY**

The sanitary sewerage system is hereby declared to be a public utility.

**SECTION 17-302    DEFINITION OF TERMS.**

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For the purpose of this chapter:

1. “Approving authority” means the chief executive or his duly authorized representative;
2. “Biochemical oxygen demand (BOD)” means the quantity of oxygen by weight, expressed in milligrams per liter (mg/l), utilized in the biochemical oxidation of organic matter under standard laboratory conditions for five (5) days at a temperature of twenty degrees (200) centigrade. The laboratory determination of BOD shall be made in accordance with procedures set forth in Federal Register 40 CFR Part 136;
3. “Building sewer” means the extension from the building drain to the sewer or other place of disposal, also called house lateral and house connection;
4. “Chemical oxygen demand (COD)” means a measure of the oxygen consuming capacity, expressed in milligrams per liter (mg/l), of inorganic and organic matter present in water or wastewater. It is expressed as the amount of oxygen consumed from a chemical oxidant in a specific test. It does not differentiate between stable and unstable matter and thus does not necessarily correlate with biochemical oxygen demand;
5. “Domestic wastewater” means water-borne wastewater normally discharged into the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories, and institutions, which may or may not contain storm water and industrial wastes;
6. “Garbage” means animal and vegetable wastes and residue from the preparation, cooking, and dispensing of food; and from the handling, processing, storage, and sale of food products and produce;
7. “Industrial waste” means water-borne solids, liquids, or gaseous wastes resulting from and discharged, permitted to flow, or escaping from any process of industry, manufacturing, trade, or business from the development of any natural resource, or any mixture of these with water or domestic wastewater, or distinct from normal domestic wastewater;
8. “Milligrams per liter (mg/l)” means the same as parts per million and is a weight to volume ratio; the milligram per liter value multiplied by the factor 8.34 shall be equivalent to pounds per million gallons of water;
9. “Natural outlet” means any outlet into a watercourse, ditch, lake, or other body of surface or groundwater;
10. “Normal domestic wastewater” means normal wastewater for the city in which the average concentration of suspended solids is established at not more than two hundred fifty milligrams per liter (250 mg/l);
11. “Person” means any and all persons, including any individual, firm, company, industry, municipal or private corporation, association, governmental agency, or other entity, and

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agents, servants, or employees;

12. “pH” means the logarithm (base 10) of the reciprocal of the hydrogen ion concentration expressed in moles per liter;

13. “Properly shredded garbage” means the wastes from the preparation, cooking, and dispensing of food that has been shredded to such degree that all particles shall be carried freely under the flow conditions normally prevailing in public sewers, with no particles greater than one-half inch (1/2”) in any dimension;

14. “Public sewer” means a sewer in which all owners of abutting property shall have equal rights and the use of which is controlled by public authority;

15. “Sanitary sewer” means a sewer that conveys domestic wastewater or industrial wastes or a combination of both, and into which storm, surface, and groundwater or unpolluted wastes are not intentionally passed;

16. “Sewer” means a pipe or conduit that carries wastewater or drainage water;

17. “Slug” means any discharge of water, wastewater, or industrial waste which, in concentration of any given constituent or in quantity of flow, exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration of flows during normal operation;

18. “Standard analysis methods” means the examination and analytical procedures set forth in the latest edition at the time of analysis of “Methods for Chemical Analysis of Water and Wastes” as prepared by the Environmental Protection Agency’s water quality control laboratory, Cincinnati, Ohio, or other procedures set forth in the federal regulations, 40 CFR 136, Guidelines Establishing Test Procedures for the Analysis of Pollutants;

19. “Storm sewer” or “storm drain” means a sewer that carries storm and surface waters and drainage, but excludes domestic wastewater and polluted industrial wastes;

20. “Storm water” means rainfall or any other form of precipitation;

21. “Suspended solids” means solids that either float on the surface of, or in suspension in, water, wastewater, or other liquids, and that are largely removable by a laboratory filtration device;

22. “Unpolluted water or waste” means water or waste containing none of the following: free or emulsified grease or oil; acids or alkalis, phenols or other substances imparting taste or odor to receiving water; toxic or poisonous substances in suspension, colloidal state or solution; and noxious or otherwise obnoxious or odorous gases. It shall contain not more than ten milligrams per liter (10 mg/l) each of suspended solids and BOD. The color shall not exceed twenty (20) color units as measured by the Platinum-Cobalt method of determination as specified in standard analysis methods;

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23. “Wastewater” means a combination of the water-carried waste from residences, business buildings, institutions, and industrial establishments together with such ground, surface, and storm water, that may be present;

24. “Wastewater facilities” means all facilities for collecting, pumping, treating and disposal of wastewater and industrial wastes;

25. “Wastewater service charge” means the charge on all users of the public sewer system whose wastes do not exceed in strength the concentration values established as a representative of normal wastewater;

26. “Wastewater treatment plant” means all facilities for collection, pumping, treatment, and all city-owned facilities, devices and structures used for receiving wastewater, industrial wastes and sludge from the city’s wastewater facility; and

27. “Watercourse” means a natural or manmade channel in which a flow of water occurs, either continuously or intermittently. (Pre 1994 Code, Sec. 20-32)

### SECTION 17-303 CONNECTION TO PUBLIC SEWER REQUIRED.

A. The public sewer system will be used, whenever such system is available or within two hundred (200) feet of the property line, by all persons discharging any wastewater, industrial waste, other polluted liquids or unpolluted waters or liquids, unless an exception is granted by the approving authority.

B. The owners of all lots lying alongside or abutting upon any alley or street upon which a collector of the city sanitary sewer system is now, or in the future will be laid, shall connect in accordance with the provisions of this chapter, all water closets, urinals, sinks, or other places whererefuses, slops, wastewater, or domestic wastewater of any kind is accumulated or deposited, within thirty (30) days after date of official notice to do so, if the public sewer is located in an easement abutting the property. If a private wastewater disposal facility is, in the opinion of the State Department of Health, functioning in a manner that is safe to the health and safety of the public, the private wastewater disposal facility may be allowed to continue so long as the facility continues to be operated and maintained in a safe condition. (pre 1994 Code, Sec. 20-35, in part)

### SECTION 17-304 PERMIT AND INSPECTION REQUIRED FOR SEWER CONNECTION.

- A. No person shall make or attempt to make any such sewer connection:
1. Without first obtaining a sewer permit as provided for in this Part 17; and
  2. Until the sewer connection has been properly inspected as provided in this chapter.
- B. All connections to the sewer system shall be designed and constructed according

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to the provisions of the building and plumbing codes adopted by the city.

C. All new sanitary sewage works that are constructed and tied to the city system shall be designed and constructed in accordance with the requirements of the Oklahoma State Department of Health regulations.

D. If a sewer connection is made without a sewer permit and without inspection, then the connection shall be closed and disconnected from the sewer by order of the city.

### SECTION 17-305 DISCHARGES INTO STORM SEWERS OR NATURAL OUTLETS.

It shall be unlawful to deposit or discharge any wastewater, industrial waste, other polluted waters, or liquids on public or private property, in or adjacent to any natural outlet or watercourse, or in any storm sewer within the city, or in any area under jurisdiction of the city, without the approval of the approving authority. In providing approval, the approving authority will verify that such wastes will receive suitable treatment within the provisions of federal, state or local laws, regulations or ordinances before discharge. (Pre 1994 Code, Sec. 20-36)

### SECTION 17-306 PROHIBITED DISCHARGES.

A. No person shall discharge, or cause to be discharged, any of the following described waters, wastes, liquids, substances, or materials into any wastewater facility:

1. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas;

2. Any storm water, surface water, groundwater, roof runoff, subsurface drainage or uncontaminated cooling water to any sanitary sewer. Storm water and all other unpolluted drainage shall be discharged to such sewers as specifically designated storm sewer or to a natural watercourse approved by the city, and as covered under this chapter;

3. Any liquid or vapor having a temperature higher than one hundred fifty degrees (150°) Fahrenheit or any discharge which causes the temperature of the total wastewater treatment plant in fluent to increase at a rate of ten (10) degrees Fahrenheit or more per hour, or a combined total increase to a plant in fluent temperature of one hundred ten degrees (110) Fahrenheit;

4. Any water or waste containing fats, wax, grease or oils, whether emulsified or not, in excess of one hundred milligrams per liter (mg/l) or containing substances which may solidify or become viscous at temperatures above thirty-two degrees (32°) Fahrenheit and one hundred fifty degrees Fahrenheit (150°), or sixty-five degrees (65°) Centigrade;

5. Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths (0.75) horsepower or greater shall be subject to the review and approval of the city;

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6. Any waters or wastes containing strong acid, iron pickling wastes or concentrated plating solutions, whether neutralized or not;

7. Any waters or wastes containing objectionable or toxic, or poisonous substances or wastes exerting an excessive chlorine requirement to such degree that any such material received in the composite wastewater at the wastewater treatment works exceeds the limits established by the approving authority for such materials;

8. Any waters or wastes containing noxious, toxic, or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create any hazard in the receiving waters of the wastewater treatment plant, including, but not limited to:

- a. Any cyanide greater than 0.0100 mg/l;
- b. Any fluoride other than that contained in the public water supply;
- c. Concentrations of the following greater than the mg/l amounts indicated, to be measured at the point of discharge to the sewer line:

Element	mg/l	Element	mg/l
Arsenic	0.0500	Lead	0.1000
Aluminum	1.0000	Manganese	1.0000
Barium	5.0000	Mercury	0.0050
Boron	1.0000	Phenol	0.0050
Cadmium	0.0200	Selenium	0.0200
Chromium (Hexa)	0.0500	Silver	0.1000
Chromium (Tri)	5.0000	Zinc	1.0000
Copper	0.1000	Nickel	1.0000
Iron	0.3000		

d. Water or wastes which cause concentrations of the following parameters such as: total dissolved solids, chlorides, alkalinity, and sulphates in excess of twenty percent (20%) of the amount normally present in the raw water supply; these concentrations to be measured at the point of discharge to the sanitary sewer line;

e. All other heavy metals and toxic substances, including but not limited to the following, shall be excluded from the wastewater system unless a permit specifying the conditions of pretreatment, concentrations, volumes, etc., is obtained from the city: antimony,



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strontium, tellurium, herbicides, fungicides;

f. Any substance causing an excessive chemical oxygen demand of greater than 500 mg/l;

9. Any waters or wastes having a pH lower than five and five tenths (5.5) or higher than nine and five-tenths (9.5), or having any other corrosive property capable of causing damage or hazard to structures, equipment, or personnel at the wastewater facility;

10. Solids or viscous substances in quantities or sizes capable of or causing obstructing flow in sewers, or other interference with the proper operation of the sanitary sewer system including, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, rubber, unground garbage, animal grease or oil, whole blood, paunch manure, hair, meat fleshings, entrails, paper dishes, cups, milk containers, etc. either whole or ground by garbage grinders, or lime slurry, lime residue, slops, chemical residues, paint residues, or bulk solids;

11. Any waters or wastes containing phenols, hydrogen sulfide or other taste or odor producing substances, in such concentrations exceeding limits that may be established by the city as necessary, after treatment of composite wastewater, to meet the requirements of the state, federal, or other public agencies for such discharge to the receiving waters;

12. Any radioactive wastes or isotopes of such half-life concentration as may exceed limits established by the city in compliance with applicable state or federal regulations;

13. Materials that cause:

a. Unusual concentration of inert suspended solids greater than two hundred fifty milligrams per liter (250 mg/l), (such as, but not limited to, Fuller's earth, lime slurries and lime residues) or of dissolved solids in excess of twenty percent (20%) of that normally found in the raw water supply (such as, but not limited to, sodium chloride and sodium sulfate);

b. Excessive discoloration (including but not limited to dye wastes and vegetable tanning solutions);

c. Unusual biochemical oxygen demand, chemical oxygen demand, or chlorine demand in such quantities as to constitute a significant load on the wastewater treatment works; or unusual volume of flow or concentration of wastes constituting "slugs", as defined herein, shall be regulated to equalize the flow or concentration to levels acceptable to the city if such waste can damage the collection facilities, impair the treatment process, incur treatment costs exceeding those for normal domestic wastewater, or render the waste unfit for stream disposal and industrial use;

14. Waters or wastes containing substances that are not amenable to treatment processes employed, or are amenable to treatment only to such a degree that the wastewater

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treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters;

15. Except in quantities or concentrations, or with provisions as stipulated herein, it shall be unlawful for any person or corporation to discharge water or wastes to the sanitary sewer that:

- a. Can deposit grease or oil in the sewer lines in such a manner as to clog the sewers;
- b. Can overload skimming or grease handling equipment;
- c. Are not amenable to bacterial action, and will, therefore, pass to the receiving waters without being affected by normal wastewater treatment process; or
- d. Can have a deleterious effect on the treatment process due to excessive quantities; and

16. The allowable infiltration for all existing sewers is hereby established at no more than two hundred gallons per inch of sewer diameter per day per mile for sewers twenty-four (24) inches in diameter and smaller. All new sewers shall be tested for infiltration in accordance with an acceptable testing method. (pre 1994 Code, See 20-30)

### SECTION 17-307 PROHIBITED WASTES PERMITS SPECIAL HANDLING OF HARMFUL WASTES.

A. If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, that contain the substances or possess the characteristics enumerated in Section 17-319 and 17-320 herein, and that in the judgment of the city may have a deleterious effect upon the wastewater works, processes, equipment, or the natural outlet, or that otherwise create a hazard to life or constitute a health hazard or public nuisance, the city may:

1. Reject the wastes;
2. Require pretreatment to an acceptable condition for discharge to the public sewers;
3. Require control over the quantities and rates of discharge; or
4. Require payment to cover the cost of handling and treating the wastes under this chapter.

B. If the city permits the pretreatment or equalization of waste flows, the design and installation of the plant and equipment shall be subject to the review and approval of the city and subject to the requirements of all applicable codes, ordinances, and laws.

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C. The approving authority will either apply paragraph 1, 2 or 3 above and in all cases will apply paragraph 4. (pre 1994 Code, Sec. 20-38)

### SECTION 17-308 INFORMATION AND COOPERATION OF INDUSTRIAL USERS.

Industrial users shall cooperate at all times with the city in the inspecting, sampling, and study of the industrial wastes and any facilities provided for pretreatment. The industrial user shall also furnish any additional information relating to the installation or use of the industrial sewer as may be requested by the city and shall operate and maintain any waste pretreatment facilities as may be required as a condition of the acceptance into the public sewer of the industrial wastes involved, in an efficient manner at all times and at no expense to the city. The user shall notify the city immediately in the event of any accident or other occurrence that occasions discharge to the public sewers of any wastes or process waters not covered by agreement and permit.

### SECTION 17-309 GREASE OIL AND SAND INTERCEPTORS; EXCEPTION.

Grease, oil, and sand traps shall be provided for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients, except that such traps shall not be required for private living quarters or dwelling units. All traps shall be of a type and capacity approved by the city and shall be located so as to be readily and easily accessible for cleaning and inspection. (Pre 1994 Code, Sec. 20-39)

### SECTION 17-310 MAINTENANCE OF FACILITIES.

Where preliminary treatment or flow-equalizing facilities are provided for any wastes or waters, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense. (Pre 1994 Code, Sec. 20-40)

### SECTION 17-311 CONTROL MANHOLE METERS.

The owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessible and safely located and shall be constructed in accordance with plans approved by the city. The manhole shall be installed by the owner, at his expense, and shall be maintained by him so as to be safe and accessible at all times. (pre 1994 Code, Sec. 20-41)

### SECTION 17-312 MEASUREMENTS. TESTS. AND ANALYSIS OF WASTES.

All measurements, tests, and analysis of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the procedures set forth in "Methods for Chemical Analysis of Water and Wastes", and shall be determined at the control manhole. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to health, life,

## Utilities

limb and property. The particular analysis involved will determine whether a twenty-four (24) hour composite sample from, all outfalls of a premises is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analysis are obtained from twenty-four-hour composites of all outfalls, whereas PHs are determined from periodic grab samples. (Pre 1994 Code, Sec. 20-42)

### SECTION 17-313 SPECIAL AGREEMENTS.

No statement contained in this chapter shall be construed as preventing any special agreement or arrangement between the city and an industrial concern whereby an industrial waste of unusual strength or character may be accepted by the industrial concern, as set forth in this chapter. However, the waste control order (discharge permits), state pollution control board orders and other federal, state and local laws shall not be violated. (pre 1994 Code, Sec. 20-43).

### SECTION 17-314 CONDITIONS FOR INDUSTRIAL USER PERMITS.

A. No person, after effective date of this chapter, not now so doing, shall deposit or discharge any industrial waste into any sanitary sewer that leads to any of the city's treatment plants, or deposit or discharge any waste stipulated in Sections 17-319 and 17-320 herein, without first obtaining a permit therefor.

B. Permits for new industrial users, after the effective date of this chapter, shall be issued after the following conditions are met:

1. Formal application is submitted on a form issued by the city;
2. Where applicable, pretreatment facilities or flow regulating devices approved by the city have been installed;
3. Estimated amount and strength of any wastes have been agreed upon by both parties. When a discharger discharges twenty thousand (20,000) gallons or more daily, strength shall be based on actual samples from the point or points of discharge;
4. Agreement forms have been completed by the discharger agreeing to payment of any surcharges as required, or agreeing to the installation of pretreatment facilities, and operation and maintenance of any pretreatment facilities where applicable;
5. All new dischargers shall provide a sampling point subject to approval of the approving authority.

C. Permits granted to existing persons after the effective date of this chapter will be issued only after the following conditions are met:

1. Formal application is submitted on a form issued by the city within one hundred twenty (120) days after the initial effective date of this chapter;

## Utilities

2. Where applicable, plans and specifications for pretreatment facilities have been approved by the city;

3. Estimated amount and strength of any wastes have been agreed upon by both parties. When a discharger discharges twenty thousand (20,000) gallons or more daily, strength shall be based on actual samples from the point or points of discharge;

4. Agreement forms have been completed by the discharger agreeing to payment of any surcharges as required, or agreeing to the installation of pretreatment facilities by July 1, and operation and maintenance of any pretreatment facilities where applicable. (Pre 1994 Code, Sec. 20A 7)

### SECTION 17-315 SAFETY RULES FOLLOWED DURING INSPECTIONS INDEMNIFICATION.

While performing the necessary work under this chapter on private property, the city or its agents shall observe all safety rules applicable to the premises established by the company, and the company shall be held harmless for injury or death of the city's employees or agents. The city shall indemnify the company against loss or damage to its property by city employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging or sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in this chapter. (Pre 1994 Code, Sec. 20-50)

### SECTION 17-316 RIGHTS OF CITY TO INSPECT WATER AND WASTES.

The city and its agents shall be permitted to enter all properties, private and public, and including but not limited to those through which the city holds a duly negotiated easement, at all reasonable times for the purposes of inspection, observation, measurement, sampling and testing in accordance with the provisions of this chapter. The city and its agents shall be no authority to inquire into any process including metallurgical, chemical, oil refining, ceramic, paper or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers, waterways or facilities for waste treatment. (Pre 1994 Code, Sec. 20-49)

### SECTION 17-317 DISCONNECTION OF SERVICE.

In addition to other grounds authorized by this part 17, the city or its agents shall retain the right to terminate water and wastewater disposal service and immediately disconnect an industrial customer from the system for the following reasons:

1. Where acids or chemicals damaging to sewer lines or treatment process are released to the sewer causing rapid deterioration of these structures or interfering with proper conveyance and treatment of wastewater;

2. When the customer discharges industrial waste or wastewater that is in violation

## Utilities

of the permit issued by the approving authority;

3. Where any governmental agency informs the city that the effluent from wastewater treatment plant is no longer of a quality permitted for discharge to a watercourse, and it is found that a customer is delivering wastewater to the city's system that cannot be sufficiently treated or requires treatment that is not provided by the city as normal domestic treatment. In this instance, the city shall immediately supply the customer with the governmental agency's report, and provide the customer with all pertinent information. The customer's water and wastewater lines will then be disconnected until such time as he has provided additional pretreatment facilities designed to remove the objectionable characteristics from his industrial waste; and

4. Where the owner delivers his wastewater at an uncontrolled, variable rate in sufficient quantity that it causes an imbalance in the wastewater treatment system. (Pre 1994 Code, Sec. 20-52)

### SECTION 17-318 CLEAN-OUT PLUGS REQUIRED.

No building, dwelling or structure shall hereafter be constructed unless the same shall be constructed in conformity to the following provisions: all underground drainage systems of a building, dwelling or structure hereinafter installed shall contain at least one clean-out plug which shall be extended to or above the finished grade level directly above the place where the clean-out is installed. The clean-out shall be located between the outside wall of the building, dwelling or structure where used, and the point where the underground drainage system connects to the city sewer system. Additional clean-outs shall be installed at each change of direction of the building drainage system greater than forty-five (45) degrees. (Pre 1994 Code, Sec. 20-59)

### SECTION 17-319 PENALTIES.

A. Any person found to be violating any provision of this chapter shall be served by the city 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.

B. Any person who shall continue any violation beyond the time limit provide for in Subsection A above shall be deemed guilty of a violation of this code, and upon conviction thereof, shall be punished as provided in Section 1-108 of the city's code of ordinances. Each day in which any such violation shall continue shall be deemed a separate offense.

C. Any person violating any of the provisions of this chapter shall become liable to the city for any expense, loss or damage occasioned by the city by reason of such violation. (pre 1994 Code, Sees. 20-53 to 20-55)

## ARTICLE B

### USER CHARGES

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### SECTION 17-331 SEWER RATE FOR USERS. MODIFICATION FOR LAWN WATERING IN THE SUMMER.

A. There is hereby established a monthly rate for the treatment of wastewater placed into the sanitary sewer system of the city to ensure that each user will pay their proportionate share of the cost of operating, maintaining and replacing the wastewater facilities.

B. Classes of users include:

1. Residential, Class A;
2. Commercial, Class B;
3. Institutional, Class C;
4. Industrial, Class D;

C. Multi-family dwellings and mobile home parks having separate water meters for each of the residential units shall be charged for sanitary sewer services at the same rate as residences hereunder, the charges to be payable by the occupants thereof at the same rate and in the same manner as those charged to individual residential customers. Multi-family dwellings and mobile home parks having only one water meter shall be charged the basic residential rate per month per dwelling unit with the owner of the multi-family dwelling or mobile home park deemed to be responsible for the payment therefor.

D. In the event an industrial user located in the city wishes to discharge industrial wastewater in the wastewater facilities, a sewer use charge shall be developed in accordance with applicable requirements of the state, the federal government or any agency thereof.

E. Any person whose property is connected to the sanitary sewer system of the city and using water furnished by the city for lawn watering purposes during June, July, August or September may, during any of these months, notify the city treasurer in writing of such usage, and the city treasurer shall, for the month so notified, and such subsequent summer months of that year, bill the sanitary sewer service customer for sanitary sewer services during the months for an average of his sanitary sewer service charges made for his property for the months of January, February and March of that year. In case such usage shall have occurred only during a part of the period, then such average usage figure shall be based on the average monthly sanitary sewer service charge made during any part of the period.

F. When a user of the sanitary sewer service furnished by the city has not occupied the property involved during the months to be used for determining such charges, then the city treasurer shall use the average sanitary service charges made during the latest such period when the property involved was used and occupied.



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G. In the event that the property served by such sanitary sewer services has for some reason not ever been so served during the months from which the average sewer use charge is to be ascertained, then upon such notification of lawn watering use the city treasurer shall be authorized to make a reasonable adjustment in the sanitary sewer charges due from the customer during the months listed above to reflect the best estimate of the amount of water actually going into the sanitary sewer system of the city. However, this shall not be done in more than one calendar year. The adjustment shall be in effect only during and after the month when such written application for adjustment shall have been subjected. (Pre 1994 Code, Secs. 0-26, 20-27; 20-61; 20-63)

Cross Reference: See Fee Schedule, Appendix 2, for applicable fees.

### SECTION 17-332 SURCHARGE FOR INDUSTRIAL USERS.

A. If the city determines that an industrial waste is acceptable for admission to the sanitary sewer system, under the discretionary powers given in this chapter, the industrial user shall be charged and assessed a surcharge, in addition to any sewer user charges, if these wastes have concentrations greater than normal domestic wastewater as defined in this chapter. The surcharge provides a means by which each significant industrial user who discharges pollutants to the system that causes an increase in the cost of managing sludge or effluent shall pay for the increased cost.

B. An industrial cost recovery system shall be adopted by the city and approved by EPA.

C. If volume or character of the waste to be accepted by the city is such that it will not overload the sewage collection, pumping, handling, treating or disposal facilities of the city, then prior to such acceptance, the city and industrial concern shall enter into an agreement whereby the industrial concern shall make payment of an industrial waste charge to be determined as set forth below:

$$C_i = \frac{jV_i + V_i [Y (\text{BOD } 200) + Z (\text{SS}-200)]}{1000}$$

The BOD is a five-day BOD in mg/l and SS = suspended solids in mg/l, and shall be determined from a twenty-four-hour composite sample. The determination of flow, BOD and suspended solids shall be made by an independent firm or laboratory selected by the city. The time of selection of the sample shall be at the sole discretion of the city, but at least on an annual basis to adjust the industrial charge to reflect the current costs of wastewater treatment. The applicable surcharge determined by such tests shall be retroactive for two (2) billing periods and shall continue for six (6) billing periods unless subsequent tests determine that the surcharge should be further increased. The basis for determining the surcharge shall be reviewed annually, and shall be adjusted to reflect any increase or decrease in wastewater treatment costs based on the previous year's experience.

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D. Where industrial wastes having excessive concentration of suspended solids or biochemical oxygen demand are permitted to be discharged into the city sewer system, a surcharge shall be levied in addition to the charges established under the rate schedule. The surcharge shall be assessed by the city per thousand gallons of industrial waste of suspended solids in excess of the normal concentration of two hundred (200) parts per million, and per thousand gallons for BOD in excess of the normal concentration of two hundred twenty two (222) parts per million. The city and its agents shall determine the quantity and strength of the waste, or the user may install measuring devices and perform tests satisfactory to the city, and the results thereof may be used to compute the amount of the surcharge. (Pre 1994 Code, Secs. 20-44, 20-45, 20-61)

**CHAPTER 4**

**REFUSE COLLECTION SERVICES**

Section 17-401	Definitions.
Section 17-402	Refuse service.
Section 17-403	Accumulations of garbage and refuse.
Section 17-404	Authority rules adopted by reference, penalty.
Section 17-405	Collection of garbage, refuse and rubbish.
Section 17-406	Permits for private refuse collection, disposal required.
Section 17-407	Open burning prohibited
Section 17-408	Disposal.
Section 17-409	Fees.
Section 17-410	Inspections.
Section 17-411	Penalty.
Section 17-412	Additional provisions relating to representatives of the City authorized to be involved in the process of handling, collecting, and/or inspecting refuse.
Section 17-413	Additional provisions relating to the issuance of a permit or license under Section 17-406 of the Atoka City Code for private refuse collection.

SECTION 17-401     DEFINITIONS.

For the purpose of this chapter, 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. (pre 1994 Code, Sec. 10-1)

SECTION 17-402     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

## Utilities

route and providing such service and otherwise enforcing the regulatory measures herein prescribed and collecting the fees or charges to be paid therefor. (pre 1994 Code, Sec. 10-21)

### SECTION 17-403 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 fly-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. (Pre 1994 Code, Sec. 10-2)

### SECTION 17-404 AUTHORITY RULES ADOPTED BY REFERENCE, PENALTY.

Rules and regulations adopted by the Atoka 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 17-405 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 Atoka Municipal Authority.

## Utilities

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 Atoka Municipal 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 Atoka Municipal 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 Atoka Municipal 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. (pre 1994 Code, Sec. 10-3 to 10-6, 10-9 to 10-11, in part, 10-13, 10-15; Ord. No. 390, 10/1/90)

Cross Reference: See also Part 8 of this code for provisions on sanitation, accumulations on premises.

### SECTION 17-406 PERMITS FOR PRIVATE REFUSE COLLECTION DISPOSAL REQUIRED.

A. It is unlawful for any person who does not possess an unrevoked 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 Atoka Municipal 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 chapter.

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.

## Utilities

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. (Prior Code, Sec. 10-7, 10-8)

### SECTION 17-407      OPEN BURNING PROHIBITED.

There shall be no open burning on premises unless the operations are carried out in an approved type incinerator or approval is obtained from the city. (Pre-1994 Code, Sec. 10-4)

### SECTION 17-408      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. (Pre-1994 Code, Sec. 10-14, 10-12)

### SECTION 17-409      FEES

A. 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.

B. The City Manager shall make a periodic review of the refuse service rates on or before July 1 of each year and recommend rates to the city council for approval based on his review. (pre-1994 Code, Sec. 10-16 to 10-20, 10-22 in part; Ord. No. 390, 10/1/90)

Cross Reference: See fee schedule for applicable fees.

### SECTION 17-410      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. (pre-1994 Code, Sec. 10-15)

### SECTION 17-411      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. (Pre-1994 Code, Sec. 10-23)

SECTION 17-412     ADDITIONAL PROVISIONS RELATING TO REPRESENTATIVES OF THE CITY AUTHORIZED TO BE INVOLVED IN THE PROCESS OF HANDLING, COLLECTING AND/OR INSPECTING REFUSE.

A. As used in this Section 17-412, the term, phrase or expression” Authorized Representative” means and includes:

1. the City Manager, the City Health Officer, the City Attorney, the Chief of Police and any peace officer specifically designated by the Chief of Police; and

2. such likewise means and includes any other person (whether or not such person, at the time, happens to be a police officer or other employee or agent of the City of Atoka) authorized or designated by anyone or more of the Officials above described or designated in subparagraph (1) hereof

B. Among other employees or agents of the City of Atoka who (regardless of frequency or regularity or official job title or description, whether expressly or implicitly, directly or indirectly, wholly or conditionally) have been (and are) authorized to be involved in all or any part of the process of handling, collecting and/or inspecting refuse under or by virtue of any Code provisions or rule or regulations relating thereto, and/or any direction by the City Manager or designatee thereof, it is hereby declared that it has been, and remains, the intent of the City of Atoka that:

1. any and all such “Authorized Representatives” have been, and are, authorized by the City to be involved in the process of handling, collecting and/or inspecting refuse; and,

2. that any Code provision and/or rule and/or regulation relating thereto be accordingly so interpreted or construed.

C. Whenever (by way of example and not by way of exclusion) the terms, phrases or expressions “by the city” and/or “by the city or authority” and/or “by the city health officer” and/or “the refuse collector” and/or “the collector” and/or “the city or its agents” and/or “the city health officer or his agent” and/or “the city health officer or his designates” or any like or similar term, phrase or expression appears and/or is used in any Rules or Regulations adopted by the Atoka Municipal Authority and/or Sections 17-401 et seq., or any other Code provisions relating to any aspect of the process of handling, collecting and/or inspecting refuse, then such term, phrase or expression shall be interpreted and construed as likewise including any such “Authorized Representative”.

D. The prohibitions and permit requirements of Sections 17-405(1),406, and 408 of the Code, and any similar provision, rule or regulation relating to any aspect of the process of handling, collecting and/or inspecting refuse, shall not be interpreted or construed as applying to any such “Authorized Representative”. (Ordinance No. N. C. 462, 11/16/98)

SECTION 17-413      ADDITIONAL PROVISIONS RELATING TO THE ISSUANCE OF A PERMIT OR LICENSE UNDER SECTION 17-406 OF THE ATOKA CITY CODE FOR PRIVATE REFUSE COLLECTION.

A.      The provisions of this Section 17-413 of the Atoka City Code are strictly in addition to, and not in any way a limitation upon or amendment to the provisions of Section 17-412 of the Atoka City Code, and, no portion or provision of either shall be otherwise construed or interpreted.

B.      Furthermore, the provisions of Section 17-406 of the Atoka City Code are specifically hereby continued in full force and effect except as otherwise supplemented or amended hereby.

C.      No such permit referred to in said Section 17-406 of the Atoka City Code, nor otherwise any license or other permit for the collection and/or disposal of refuse for compensation within the City of Atoka shall be issued by the City or the Authority in the absence of a written contract therefore between the City and/or the Authority and the person (as defined in Section 17-302 hereof) of whom such permit is required and/or desired, which said contract shall include provisions for compensation to be paid to the City and/or the Authority for and/or reflecting and/or relating to any loss of revenues which would or might be otherwise payable to the City and/or Authority for refuse collection and/or disposal by the City and/or Authority and/or a designatee thereof.

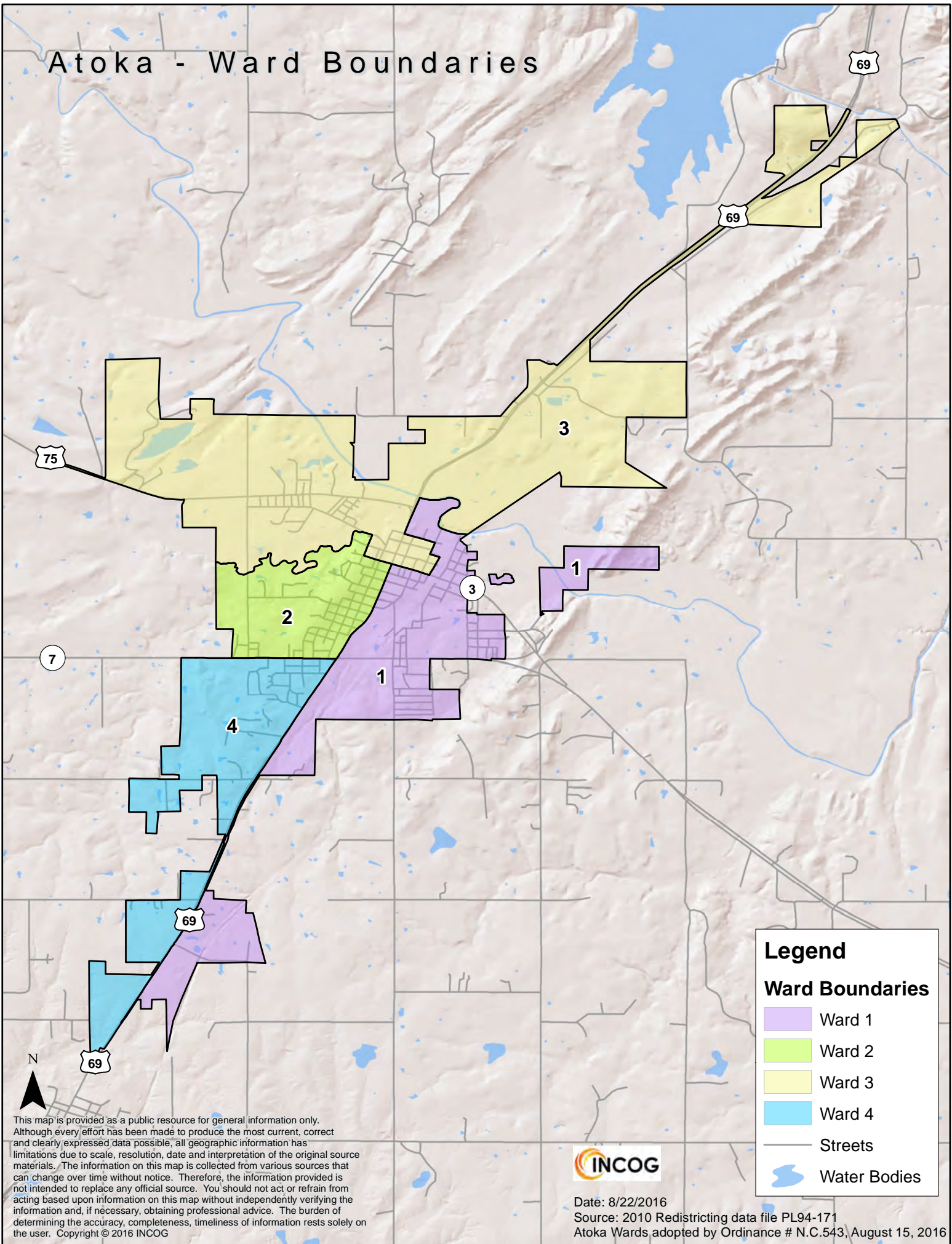
D.      No person within the City of Atoka shall be deemed to be relieved from his or her or its duty to pay in full all billings due or payable to the City and/or Authority for refuse collection and/or disposal on account of the collection and/or disposal of such refuse by any person unless so specified in said contract. (Ordinance No. N.C. 472, 7/3/04)

## Appendices

- 1 MAP OF THE CITY
- 2 SCHEDULE OF FEES AND CHARGES
- 3 BOND SCHEDULE
- 4 SCHEDULE OF FINES AND PENALTIES
- 5 ELECTRIC FRANCHISE
- 6 GAS FRANCHISE
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- 11 ATOKA CITY INDUSTRIAL DEVELOPMENT AUTHORITY
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- 13 ATCO PUBLIC IMPROVEMENT AUTHORITY
- 14 THE ATOKA CITY CEMETERY TRUST
- 15 THE ATOKA CITY EMERGENCY MANAGEMENT AUTHORITY TRUST
- 16 THE ATOKA CITY AIRPORT AUTHORITY TRUST



# Atoka - Ward Boundaries

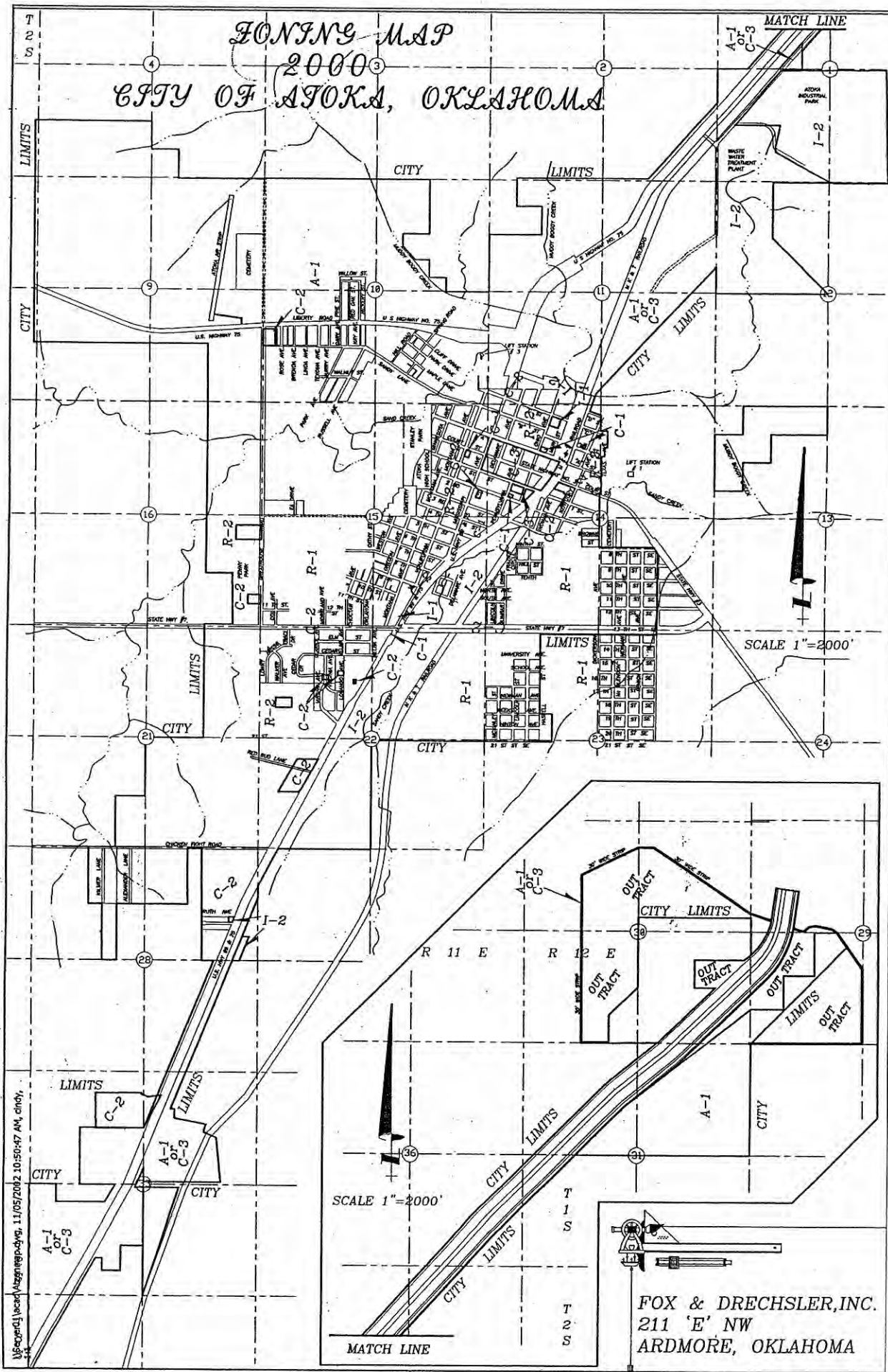


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Date: 8/22/2016  
Source: 2010 Redistricting data file PL94-171  
Atoka Wards adopted by Ordinance # N.C.543, August 15, 2016

# ZONING MAP 2000 CITY OF APOKA, OKLAHOMA



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**FOX & DRECHSLER, INC.**  
211 'E' NW  
ARDMORE, OKLAHOMA

Appendix 2 – Schedule of Fees and Charges

**APPENDIX 2**

**SCHEDULE OF FEES AND CHARGES**

For purposes of providing a clear and concise listing of the fees and charges authorized by the provisions of this code in payment for licenses, permits and services performed in accordance with the regulations and controls upon which the licenses and permits are conditioned and to provide uniformity in the supervision and administration of the issuance of licenses and permits and the collection of amounts prescribed, a schedule of fees and charges, or fee schedule, is hereby set forth in this appendix. Also included are certain fines and charges for failure to comply with the provisions of this code. 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 city.

**ADMINISTRATION AND GOVERNMENT**

City Records

<u>Code Section</u>	<u>Description</u>	<u>Amount</u>
2-309	Copying fee per page	.25
	Certified copies per page	1.00
	Mailing Fee	4.00
	Atoka City Code Book	100.00
	Atoka City Code CD	50.00
2-310	Mechanical reproduction fee per page	10.00
2-311	Search fee per hour	25.00
2-312	Prepayment required when estimated cost exceeds	20.00
	Fax fees	
	First page	5.00
	Thereafter	1.00

**ALCOHOLIC BEVERAGES**

Alcoholic Beverages

3-102	Occupation tax relating to alcoholic beverage:	
	1. Brewer	1,250.00
	2. Brewpub	1,005.00
	Brewpub if licensee also holds a Mixed Beverage or Wine & Beer permit	1,250.00
	3. Distiller	3,125.00

Appendix 2 – Schedule of Fees and Charges

4. Retail Spirits Store	605.00
5. Mixed beverage	1,005.00
Renewal	905.00
6. On Premises Beer and Wine	500.00
Renewal	450.00
7. Mixed beverage/caterer combination	1,250.00
Renewals	1,250.00
8. Rectifier	3,125.00
9. Winemaker	625.00
10. Wholesaler	3,000.00
11. Class B wholesaler	500.00
12. Retail Beer	500.00
13. Retail Wine	1,000.00
14. Annual Special Event License	55.00
15. Quarterly Special Event License	55.00
16. Hotel Beverage License	1,005.00 Initial 905.00 Renewal
17. Small Brewer License	125.00
18. Small Farm Winery License	75.00
19. Beer Distributor License	750.00
20. Bottle Club License	1,000.00 Initial 900.00 Renewal
21. Caterer License	1,005.00 Initial 905.00 Renewal
22. Airline/Railroad/Commercial Passenger Vessel Beverage License	1,005.00 Initial 905.00 Renewal
23. Agent License	55.00
24. Employee License	30.00
25. Industrial License	23.00
26. Carrier License	23.00
27. Private Carrier License	23.00
28. Bonded Warehouse License	190.00
29. Storage License	23.00
30. Nonresident, Seller License or Manufacturer's License	750.00
31. Manufacturer's Agent License	55.00
32. Sacramental Wine Supplier License	100.00
33. Charitable Auction License	1.00
34. Charitable Alcoholic Beverage License	55.00
35. Winemaker Self-Distribution License	750.00
36. Annual Public Event License	1,005.00
37. One-Time Public Event License	255.00
38. Small Brewer Self-Distribution License	750.00
39. Brewpub Self-Distribution License	750.00
40. Complimentary Beverage License	75.00



Appendix 2 – Schedule of Fees and Charges

41. Satellite Tasting Room License 100.00  
 (Amended by Resolution No. 2021-11, 5/17/21)

**ANIMALS**

General Provisions

4-121	Rabies vaccination certificate furnished by veterinarian Copying & Filing fee	1.00
4-122	Dog over 6 months, annual tax Tag replacement fee	3.00 1.00
4-133	Impounding and keeping animal or fowl First day Thereafter (plus Euthanasia fee)	10.00 5.00
	Dog not vaccinated against rabies, pay deposit To be refunded upon proof of vaccination	
	Euthanasia fee	10.00
4-134	Redeeming animal: To pay required fees against animal Plus per day for housing and eating	10.00 5.00
	Adoption fee: Cost of necessary vaccinations and deposit for neutering or spaying Per day Maximum	1.00 5.00
4-135	If impounded animal sold Owner to claim excess of sale price above Impounding and related fees and fee of	10.00
4-161	Supervised quarantine at owner's expense Vet fee whichever is greater	5.00
4-173	Impoundment of vicious, dangerous diseased animal Expenses responsibility of owner	Owner's Expense
4-175	Determination if animal is Vicious dangerous or diseased	Quarantine and all Court Cost

(Amended by Resolution No. 2021-11, 5/17/21)

Appendix 2 – Schedule of Fees and Charges

**BUILDING REGULATIONS AND CODES**

Licenses & Fees, Permits, Bond and Insurance

- 5-101 Licenses, registration certificate, for electrical, plumbing and, roofing, mechanical contractor, journeymen and apprentice  
(See Sec. 5-312 for fees)
- 5-121 Building permit required
- New Construction .25 per square foot  
(Does not include Floodplain permit or MEP's; pulled separate)(\$250.00 minimum)
- Remodel Construction .25 per square foot  
(Does not include Floodplain permit or MEP's; pulled separate)(\$100.00 minimum)
- New Commercial, Industrial, Warehouse Construction .25 per square foot  
(Does not include Floodplain permit or MEP's; pulled separate)(250.00 minimum)
- Remodel Commercial, Industrial, Warehouse Construction .25 per square foot  
(Does not include Floodplain permit or MEP's; pulled separate)(\$100 minimum)
- Commercial Building Construction Plans Review (Pricing included the cost of a 50% and 100% on-site acceptance inspection)
- Actual costs paid directly to the State Fire Marshal approved Consultant
  - Additional on-site inspections due to non-compliance with applicable codes and/or deviations from approved plans will be billed at \$200 per visit, paid directly to the State Fire Marshal approved Consultant.
- \$50 per visit – Code Enforcement Officer charges for inspections and administrative costs, etc.
- Commercial Fire and Life Safety Inspections and Plan Reviews:
- Commercial Fire Sprinkler, Fire Alarm and Fire Suppression Plan Reviews
- Actual costs paid directly to State Fire Marshal approved Consultant
- Commercial On-Site Fire Sprinkler, Fire Alarm and Fire Suppression Walkthroughs
- \$200 per visit – 50% walkthrough (paid directly to State Fire Marshal approved Consultant)
  - \$200 per visit – 100% walkthrough (paid directly to State Fire Marshal approved Consultant)
  - Additional on-site inspection(s) due to non-compliance with applicable codes

## Appendix 2 – Schedule of Fees and Charges

and/or deviations from approved plans will be billed at \$200 per visit (paid directly to State Fire Marshal approved Consultant)

- \$50 per visit – Code Enforcement Officer charges for inspections and administrative costs, ect.

Certificate of Occupancy Permit	50.00
Cellar Permit	50.00
Fencing Permit	50.00
Accessory Building Permit	75.00
Swimming Pools (all in ground and above ground 24” or deeper)	100.00
Roofing Residential Permit	50.00
Roofing Commercial Permit	100.00
Demolition Permit	50.00
Building/Structure Relocation Fee	50.00
Electrical Permit	.05 per square foot
Plumbing Permit	.05 per square foot
Mechanical Permit	.05 per square foot
Antenna & Antenna Support Permit Fee	500.00
Residential Building Inspection Fee	50.00/trade per inspection
Commercial Inspection Fee	50.00/trade per inspection
Electrical Inspection Fee	50.00/trade per inspection
Plumbing or Mechanical Inspection Fee	50.00/trade per inspection
Red Tag Fee	100.00 per visit
Onsite Consultations	50.00 per labor hour (2 hour minimum)
Night, Weekend, Holiday Inspections	75.00 per hour (2 hour minimum)
Contractor License – Electrical, Mechanical, Plumbing, Roofing	100.00 annually (expires June 30 each year)
Asbestos Inspection Fee (per structure)	actual cost of materials and shipping plus \$25.00
Property Abatement Fee	actual costs incurred
Property Condemnation Fee	actual costs incurred
New Sign Construction Permit	100.00
Sign Modification Permit	50.00
New Sign/Modification Permit	25.00

Appendix 2 – Schedule of Fees and Charges

Temporary Sign Permit	25.00
Floodplain Development Review	300.00
Flood Hazard Development Review	100.00
Floodplain Development Inspection	100.00
The floodplain fee schedule shall not exceed a cumulative amount of \$500.00, in accordance with the Title 82, Section 1604, Item 4.	
Consultant Engineering Review	50.00 plus invoiced cost

5-123 Plumbing, electrical and mechanical, gas or LPG work permits  
(See Sec. 5-312 for fees)

5-124 Inspection fees for electrical, plumbing, gas, fire, construction, heat and air, each 50.00 per inspection

Building Code and Regulations

5-222 Permit to move building required by city

5-224 Permit fee to move building  
(See Sec. 5-121)

5-225 Security bond required to move building 1,000.00

Plumbing Code and Regulations

5-312 State license and city registration required for:

Plumbing contractor, annual	100.00
Renewal	75.00
Journeyman plumber, annual	25.00
Renewal	15.00
Apprentice plumber, annual	5.00
Renewal	5.00

5-313 Certificate of registration fee, surety bond for plumbing contractor  
(State requirement)

Electric Code

5-422 State license and city registration required for:

Electrical contractor, annual	100.00
Renewal	75.00
Journeyman electrician, annual	25.00
Renewal	15.00
Electrical apprentice, annual	5.00
Renewal	5.00



Appendix 2 – Schedule of Fees and Charges

Mechanical Code

5-512	State license and city registration for:	
	Mechanical contractor, annual	100.00
	Renewal	75.00
	Mechanical journeyman, annual	25.00
	Renewal	15.00
	Mechanical apprentice, annual	5.00
	Renewal	5.00
	Roofer's License	100.00
	Renewal	75.00
	(Amended by Resolution No. 2021-11, 5/17/21)	

**COURT**

Court Procedure

6-126	Deferred sentence administrative fee	40.00
6-127	Judgement of Conviction Entered or the maximum sum permitted by state law, whichever is greater.	30.00
	Municipal Court Technology Fee (Amended by Ordinance No. 589, 10/17/2022)	25.00

**FINANCE AND TAXATION**

Purchases by City

7-206	Disposition of surplus or obsolete materials over \$500.00; Bidding required	500.00
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Unclaimed and Surplus Property

7-802	Disposition of personal property to highest bidder Certified mailing to address	10.00
7-804	Disposition of seized property	
7-805	Disposition of unclaimed property of deceased persons	
7-806	Unclaimed or confiscated weapons; bidding required.	
7-807	Recovery of property sold by owner (Amended by Resolution No. 2021-11, 5/17/21)	Amount paid

Appendix 2 – Schedule of Fees and Charges

**HEALTH AND NUISANCES**

Nuisance and Health Generally

8-110 Abatement of health nuisances; cost of abating or removing nuisance charged to owner or occupant, per hour. 150.00

Actual costs and other expenses including notice and mailing to be paid by property owner.

8-118 Fee for Administrative Hearing(s) 50.00  
The Administrative Hearing Office may waive said fee if disposition is pursuant to a written agreement or consent decree. (Adopted by Ordinance No. 580; 01/25/2022)

8-130 Burn Permits 10.00

Weeds, Grass or Trash

8-205 Cleaning and mowing, per hour 150.00

Actual costs and other expenses including notice and mailing to be paid by property owner.

Dilapidated Building

8-303 Costs of dismantling and removal or boarding or securing:  
Labor plus equipment rental, per hour 150.00

Actual costs and other expenses including cost of notice and mailing to be paid by property owner

Abandoned, Junk Vehicles

8-407 Owner responsible for all expenses incurred by removal and deposition, per hour 150.00

Actual costs and other expenses including cost of notice and mailing to be paid by property owner

8-413 Redemption of impounded vehicles or motor vehicle, prior to sale; actual and reasonable expense of removal plus storage. Cost plus 50.00

Appendix 2 – Schedule of Fees and Charges

Hazardous Chemical Code

8-601 Regulations adopted  
(Amended by Resolution No. 2008-03, 4/7/08, 2016-16, 2/1/16, 2021-11, 5/17/21)

**LICENSE AND BUSINESS REGULATIONS**

General Provisions

9-102	Issuance of licenses conditioned upon approval, fees, inspection or bond		
9-109	Processing fee for all licenses, permits filed for and not granted, non-refundable		10.00
9-110	License fees per year for businesses (except carnivals per day)		75.00
	Carnivals, circuses and other road shows;	Per Day	150.00

Itinerant Vendors

9-202	License required prior to soliciting in		
9-203	the city to cover each person and each		
9-204	location or separate place of business	Per Day	50.00
		Per Year	300.00
	(Amended by Resolution No. 2005-13, 5/16/05, Resolution No. 2006-11, 3/20/06)		
	Owners or lessees of buildings to obtain blanket itinerant vendor license		75.00
9-206	Security bond for license and permit		1,000.00
9-208	Sale of foods individual license only		
	Daily		25.00
	Monthly		50.00
	Yearly		200.00

Flea Markets

9-302	License required for each flea market	Annual	50.00
9-305	Separate license required for each place of business		

Garage Sales

9-405	Permit required, fee 2 per year		Free
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Appendix 2 – Schedule of Fees and Charges

Thereafter per day 25.00

Taxicabs  
Uber, Lyft, etc.

9-602 license required to operate  
First license 75.00  
Each additional license 25.00  
(Amended by Resolution No. 2021-11, 5/17/21)

Medical Marijuana

9-802 Medical Marijuana Dispensary Annual Business License 750.00  
Commercial Medical Marijuana Growing/Processing Facility Annual Business License 750.00  
Medical Marijuana Wholesale and/or Storage Facility Annual Business License 750.00  
Individual Medical Marijuana Growing for Personal Use Annual License 50.00  
Fee for Completion of Certificate of Compliance for UMMA Business 100.00  
(Adopted by Ordinance No. 581; 01/25/2022)

**OFFENSES AND CRIMES**

Offenses Against Property

10-327 Permit for electrically charged fence to retain animals 25.00  
10-329 Fireworks license required by state and city registration (See Sec. 9-110 for fee)

Offenses Against Public Peace

10-405 Parade permit (street fair, carnival or assemblage) Per Day 25.00  
(Amended by Resolution No. 2021-11, 5/17/21)

**PARKS, RECREATION AND CEMETERY**

Cemetery

11-302 Permit required for interment. Permit fee included on charges set in Section 11-306.  
11-303 Purchase of lots, per lot 500.00

Appendix 2 – Schedule of Fees and Charges

(Amended by Resolution No. 2002-34, 12/2/02)

11-305	Rate for each burial lot	500.00
	Deed Transfer Fee	25.00
11-306	Rate for interment	
	Per grave - to open/close on week days	200.00
	Saturday or Sunday interment and legal holidays	400.00
	(Amended by Resolution No. 2005-03, 5/25/05)	
	Disinterment (week days only)	500.00
	(Amended by Resolution No. 2021-11, 5/17/21)	

**PLANNING, ZONING AND DEVELOPMENT**

12-201	Zoning districts:	
	A-1 agricultural district	
	R-1 single family residential district	
	R-2 general residential district	
	C-1 convenience commercial district	
	C-1A extended hours commercial district	
	C-2 highway commercial district	
	C-3 general commercial district	
	C-4 commercial recreation district	
	I-1 light industrial district	
	I-2 heavy industrial district	
12-235	Mobile Home Application Fees	50.00
	Variance Application Fees	50.00
	Certified Mailing Fees per letter	10.00
	Publication of Legal Notice Fees	50.00
12-361	Re-zone Application Fees	100.00
	Certified Mailing Fees per letter	10.00
	Publication of Legal Notice Fees	50.00

Flood Plain Regulations

12-507	Development permit	
	(See Sec. 5-121 for fee, Building Permits)	
	(Amended by Resolution No. 2021-11, 5/17/21)	

**PUBLIC SAFETY**

Fire Prevention Code

Appendix 2 – Schedule of Fees and Charges

- 13-106 New materials, processes or occupancies may require permit 50.00
- 13-224 Charges for calls made outside limits

**STREETS AND SIDEWALKS**

General Provisions

- 14-103 Abatement procedure for removal of trees and shrubs, 75.00

Excavations

- 14-201 to Permit to tunnel under or make any
- 14-203 excavation in street, alley or public place 20.00  
See 17-106 for pavement replacement charge.
- 14-204 Bond to cut street
- 14-205 Deposit to cover cost of restoration of the ground and laying of pavement  
If no pavement replacement 100.00  
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 State
- 15-306 State vehicle license tag, as required by State

Certain Vehicles Prohibited

- 15-403 Permit for vehicles with protruding parts on wheels

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:

Appendix 2 – Schedule of Fees and Charges

owner or lessee of real property; or owner of vehicle 20.00

Impoundment

15-1912 Release conditioned on payment of:  
Impoundment costs and accrued storage charges  
All fines and costs due city

**UTILITIES**

General Provisions

17-103 Utility fees generally.  
See specific headings below.  
17-104 Reconnection of utility service, charge. 25.00  
17-106 Utility connections:

(Amended by Resolution No. 2002-20, 6/3/02, Resolution No. 2010-24 12/20/10, Resolution No. 2012-10, 3/19/2012, Resolution No. 2014-17, 8/4/14, 2021-11, 5/17/21, Resolution No. 2022-14, 10/03/2022)

Water

Class 1 Water Tap (primary small business and residential) 800.00  
up to a 1” water meter plus cost of materials

Class 2 Water Tap (large commercial or industrial) 1000.00  
plus cost of water meter from 1 1/4” up and cost of materials

Class 3 Water Tap (fire suppression systems, non metered) 1200.00  
plus cost of materials and tap

Sewer

Class 1 Sewer Tap (residential and small business) 800.00  
(includes up to 4” service)

Class 2 Sewer Tap (some commercial) 1200.00  
(includes up to 8” service)

Class 3 Sewer Tap (large industrial) 1500.00  
(above 8” service where applicable)

17-106 Utility deposits  
(Pre-1994 code amended by Ordinance No. N.C. 429, 10/2/95, Resolution No. 2004-12, 5/17/04,  
Resolution No. 2010-24, 12/20/10, Resolution No. 2014-17, 8/4/14, 2021-11, 5/17/21)

Water

Appendix 2 – Schedule of Fees and Charges

Single Family - Homeowner	100.00
Single Family - Rental	200.00
Multi Family	125.00 per unit
(On 1 meter; deposit x # of units)	
Prior Bad Accounts	250.00
Noncommercial business	225.00
Commercial business	325.00
Large volume Commercial users	450.00
(27,500 Gallons Plus (+))	
Bulk Water	500.00

Water Service

17-202 Water Rates  
 (Pre-1994 Code amended by Resolution No. 1995-10, 7/1/95, Resolution No. 1997-19, 8/4/97, Resolution No. 2000-27, 8/1/00 Resolution No. 2002-22, 6/3/02, Resolution No. 2010-24 12/20/10, Resolution 2013-13, 6/17/2013, Resolution No. 2014-17, 8/4/14, Resolution No. 2019-04, 1/7/19)

**Effective March 1, 2019**

Residential Rates: Inside City	
0-1,000 gallons, or any part thereof	15.00
Thereafter per 1,000 gallons or parts thereof	3.20
Commercial Rates: Inside City	
0-1,000 gallons, or any parts thereof	18.00
Thereafter per 1,000 gallons or parts thereof	3.20

**Effective March 1, 2020**

Residential Rates: Inside City	
0-1,000 gallons, or any part thereof	15.00
Thereafter per 1,000 gallons or parts thereof	3.75
Commercial Rates: Inside City	
0-1,000 gallons, or any parts thereof	18.00
Thereafter per 1,000 gallons or parts thereof	4.75

**Effective March 1, 2021**

Residential Rates: Inside City	
0-1,000 gallons, or any part thereof	15.15
Thereafter per 1,000 gallons or parts thereof	4.50
Commercial Rates: Inside City	
0-1,000 gallons, or any parts thereof	18.15
Thereafter per 1,000 gallons or parts thereof	7.50

**Effective March 1, 2022**



Appendix 2 – Schedule of Fees and Charges

Residential Rates: Inside City	
0-1,000 gallons, or any part thereof	15.30
Thereafter per 1,000 gallons or parts thereof	4.50

Commercial Rates: Inside City	
0-1,000 gallons, or any parts thereof	18.30
Thereafter per 1,000 gallons or parts thereof	7.50

**Effective December 1, 2022**

Residential Rates: Inside City	
0-1,000 gallons, or any part thereof	\$17.60
Thereafter per 1,000 gallons or parts thereof	\$5.20

Commercial Rates: Inside City	
0-1,000 gallons, or any parts thereof	\$21.05
Thereafter per 1,000 gallons or parts thereof	\$8.65

Bulk Water	
Per 1,000 gallons or parts thereof	\$20.00

Re-read Charge	
No charge if our mistake	\$20.00

17-204	See Section 17-106	
17-207	Tamper charge	
	First Offense	\$100.00
	Second Offense	\$250.00

**Effective March 1, 2023**

Rate for Water Sold to Municipalities, Municipal Trusts, Rural Water Districts, or other Governmental Entity	
Per 1,000 gallons or parts thereof	\$3.00

(Amended by Resolution No. 2010-24, 12/20/10, Resolution No. 2014-17, 8/4/14, Resolution No. 2022-14, 10/3/2022)

Sewer Service

17-331	Residential Sewer Rates, inside City (Class A Residential)	
	(Pre-1994 Code Amended by Resolution No. 1997-19, 8/4/97 Resolution No. 2000-27, 8/1/00, Resolution No. 2002-22, 6/3/02, Resolution 2006-08, 2/21/06, Resolution 2007-13, 6/4/07, Resolution No. 2010-24, 12/20/10, Resolution 2022-14, 10/3/2022)	
	0 - 1,000 gallons, or any part thereof	18.50
	1,001 - 2,000 gallons, or parts thereof	2.00
	2,001 - 3,000 gallons, or parts thereof	2.25
	3,001 - 4,000 gallons, or parts thereof	2.50
	4,001 and thereafter, per 1,000 gallons, or parts thereof	2.75

Appendix 2 – Schedule of Fees and Charges

17-331 Commercial Sewer Rates, inside City  
(Prior Code amended by Resolution No. 1995-10, 7/1/95, Resolution No. 2010-24, 12/20/10)

Class B, C & D Commercial	
0 - 1,000 gallons of water	27.50
1,001 - 2,000 gallons, or parts thereof	2.00
2,001 - 3,000 gallons, or parts thereof	2.25
3,001 - 4,000 gallons, or parts thereof	2.50
4,001 and thereafter, per 1,000 gallons, or parts thereof	2.75

**Effective December 1, 2022**

Residential Sewer Rates: Inside City (Class A Residential)	
0 – 1,000 gallons, or any part thereof	\$22.90
1,001 – 2,000 gallons, or parts thereof	\$2.50
2,001 – 3,000 gallons, or parts thereof	\$2.80
3,001 – 4,000 gallons, or parts thereof	\$3.15
4,001 and thereafter, per 1,000 gallons, or parts thereof	\$3.45

Commercial Sewer Rates, Inside City (Class B, C, and D Commercial)	
0 – 1,000 gallons, or any part thereof	\$34.40
1,001 – 2,000 gallons, or parts thereof	\$2.50
2,001 – 3,000 gallons, or parts thereof	\$2.80
3,001 – 4,000 gallons, or parts thereof	\$3.15
4,001 and thereafter, per 1,000 gallons, or parts thereof	\$3.45

**Effective March 1, 2023**

Rate for wastewater discharged by Municipalities, Municipal Trusts, Rural Water Districts, or other Governmental Entity	
Per 1,000 gallons or parts thereof	\$3.00

**Refuse Collection Services**

17-409 Fees for refuse service, per month, inside City  
(Pre-1994 Code amended by Resolution No. 1998-21, 11/16/98, Resolution No. 2000-27, 8/1/00,  
Resolution No. 2004-01, 1/20/04, Resolution No. 2006-08, 2/21/06, Resolution No. 2010-24, 12/20/10,  
Resolution No. 2014-17, 8/4/14, Resolution 2021-07, 4/5/21, Resolution 2021-13, 7/6/21)

**Year 1 – Beginning June 1, 2021**

Dumpster		
Size	1xWK	2xWK
2YD	\$57.27	\$114.54
3YD	\$85.90	\$172

Appendix 2 – Schedule of Fees and Charges

4YD	\$114.53	\$229.06
6YD	\$171.80	\$343.60
8YD	\$229.06	\$458.12

Commercial Poly Carts (2)	\$38.00
Extra Carts	\$5.00

Residential Poly Carts	\$16.50
Extra Poly Carts	\$5.00

**Year 2 – Beginning June 1, 2022**

Dumpster

Size	1xWK	2xWK
2YD	\$58.70	\$117.40
3YD	\$88.05	\$176.10
4YD	\$117.39	\$234.78
6YD	\$176.10	\$352.20
8YD	\$234.79	\$469.58

Commercial Poly Carts (2)	\$38.95
Extra Carts	\$5.13

Residential Poly Carts	\$16.91
Extra Poly Carts	\$5.13

**Year 3 – Beginning June 1, 2023**

Dumpster

Size	1xWK	2xWK
2YD	\$60.17	\$120.34
3YD	\$90.25	\$180.50
4YD	\$120.32	\$240.64
6YD	\$180.50	\$361.00
8YD	\$240.66	\$481.32

Commercial Poly Carts (2)	\$39.92
Extra Carts	\$5.29

Residential Poly Carts	\$17.33
Extra Poly Carts	\$5.29

**Year 4 – Beginning June 1, 2024**

Dumpster

Size	1xWK	2xWK
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Appendix 2 – Schedule of Fees and Charges

2YD	\$61.67	\$123.34
3YD	\$92.51	\$185.02
4YD	\$123.33	\$246.66
6YD	\$185.01	\$370.02
8YD	\$246.68	\$493.36

Commercial Poly Carts (2)	\$40.92
Extra Carts	\$5.42

Residential Poly Carts	\$17.76
Extra Poly Carts	\$5.42

**Year 5 – Beginning June 1, 2025**

Dumpster

Size	1xWK	2xWK
2YD	\$63.21	\$126.42
3YD	\$94.82	\$189.64
4YD	\$126.41	\$252.82
6YD	\$189.64	\$379.28
8YD	\$252.85	\$505.70

Commercial Poly Carts (2)	\$41.94
Extra Carts	\$5.56

Residential Poly Carts	\$18.20
Extra Poly Carts	\$5.56

**Year 6 – Beginning June 1, 2026**

Dumpster

Size	1xWK	2xWK
2YD	\$64.79	\$129.58
3YD	\$97.19	\$194.38
4YD	\$129.57	\$259.14
6YD	\$194.38	\$388.76
8YD	\$259.17	\$518.34

Commercial Poly Carts (2)	\$42.99
Extra Carts	\$5.70

Residential Poly Carts	\$18.66
Extra Poly Carts	\$5.70

**Year 7 – Beginning June 1, 2027**

Appendix 2 – Schedule of Fees and Charges

Dumpster

Size	1xWK	2xWK
2YD	\$66.41	\$132.82
3YD	\$99.62	\$199.24
4YD	\$132.81	\$265.62
6YD	\$199.24	\$398.48
8YD	\$265.65	\$531.30

Commercial Poly Carts (2)	\$44.06
Extra Carts	\$5.84

Residential Poly Carts	\$19.13
Extra Poly Carts	\$5.84

Roll off containers, used specifically for construction and demolition debris - placement and disposal fee to be charged each time a container is emptied by the City of Atoka

20 yard	350.00
40 yard	600.00

Trash Service Only Deposits

(Adopted by Resolution No. 2000-32, 8/7/00)

A) Commercial Use	75.00
B) Residential Use	25.00

Appendix 3 – Bond Schedule

**APPENDIX 3**

**BOND SCHEDULE**

<u>Code Section</u>	<u>Description</u>	<u>Amount</u>
5-222	House Mover to be bonded	1,000.00 Security bond
5-313	Plumbing contractors bond	State required amount
5-425	Electrical contractor bond	State required amount
5-513	Mechanical contractor bond	State required amount
6-108	Bond issued by Clerk of Court	10,000.00
6-114	Traffic bail bond	See Appendix 4
6-119	Procedure for bail or bond	
6-305	Cost bond for jury trial	Set by judge
7-102	Deposits of city to be secured by unit collateral systems	
7-803	Sheriffs bond for seized property relating to gambling	Set by county
9-206	Itinerant vendor bond before license issued	1,000.00 Security bond
9-605	Liability insurance for each licensed taxicab	
14-204	Bond for tunneling or excavation in street, alley or public place	

**APPENDIX 4**

**SCHEDULE OF FINES AND PENALTIES**

Ed Note: The following schedule was initially adopted as part of the Atoka City Code, which was adopted by Ordinance No. 418, on 1/10/94, and thereafter amended by the adoption of Ordinance No. N.C. 455, on 4/6/98, Ordinance No. N.C. 471, adopted on 7/3/00, as amended by Resolution No. 2001-20, as amended by Resolution No. 2004-24, adopted 7/6/04, as amended by Resolution No. 2004-46, adopted 11/1/04, as amended by Resolution No. 2009-13, adopted 4/20/09. Amended by Ordinance No. 546, adopted 9/5/17. Amended by Resolution 2021-16. Amended by Ordinance 585, adopted 6/6/2022.

<u>Section in City Code</u>	<u>Description</u>	<u>Amount</u>
<b>1-108</b>	<b>GENERAL PENALTIES</b>	
	All violations not otherwise provided for elsewhere in the city code, ordinances or this schedule	500.00
<b>3-101 et seq.</b>	<b>ALCOHOLIC BEVERAGES</b>	
	1. Selling, giving, distributing, delivering or contributing intoxicating or non-intoxicating alcoholic beverage or any controlled dangerous substance or other intoxicating substance to a minor	800.00
	2. Possession or consumption of non-intoxicating alcoholic beverage by a minor	200.00
	3. Possession or consumption of intoxicating alcoholic beverage or other intoxicating substance by a minor	250.00
	4. Drinking, consuming or possession of an open container of a non-intoxicating alcoholic beverage in a public place not licensed for consumption on the premises	200.00
	5. Drinking, consuming or possession of an open container of an intoxicating alcoholic beverage in a public place not licensed for consumption on the premises	250.00

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- |  |        |
|--|--------|
| 6. Transportation of an open container of liquor or other intoxicating alcoholic beverage in a motor vehicle   | 160.00 |
| 7. Transportation of an open container of 3.2 beer or other non-intoxicating alcoholic beverage  | 130.00 |
| 8. Sale, distribution or delivery of an intoxicating or non-intoxicating alcoholic beverage to a person under the influence of alcohol or other intoxicating substance | 300.00 |

### **4-101 et seq. ANIMALS**

- |   |        |
|---|--------|
| 1. Keeping or maintaining 1 or more animal in violation of Code | 300.00 |
| 2. Failure to keep animals restrained                           | 150.00 |
| 3. Cruelty to animals   | 300.00 |
| 4. Any other violation of city ordinance relating to animals    | 100.00 |

### **6-111, 6-119 TRAFFIC AND NON TRAFFIC BAIL AND BOND SCHEDULES.**

See Remainder of this Schedule (Traffic = Sections 15-101 et seq; Non-Traffic = Alcoholic Beverages, 3-101 et seq; Animals, 4-101 et seq; Licenses, 9-101 et seq; Offenses, 10-101 et seq)

### **8-101 et. seq NUISANCES AND HEALTH GENERALLY**

- |   |        |
|---|--------|
| 1. Burning without a permit                       | 200.00 |
| 2. Abandoned refrigerators, freezers, or iceboxes | 500.00 |

### **8-202, 8-203, 8-206 TRASH, GRASS, AND WEEDS**

- |  |        |
|--|--------|
| 1. Violation of Sections 8-202 and 8-203 as they relate to the accumulation of trash, grass, and weeds | 500.00 |
|--|--------|

### **8-415 ABANDONED JUNK VEHICLES**

- |                            |        |
|----------------------------|--------|
| 1. Abandoned junk vehicles | 250.00 |
|----------------------------|--------|

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**9-101 et seq LICENSING**

- |                               |        |
|-------------------------------|--------|
| 1. Garage sales               | 100.00 |
| 2. Vending without a license  | 350.00 |
| 3. Massage business violation | 200.00 |

(Sec. 5-48, 5-49 of Ord. 362, 12/5/88)

**10-101 et seq OFFENSES AND CRIMES GENERALLY**

The amount of such bail or fines as to non-traffic related violations or alleged violations is and shall be as follows:

- |  |        |
|--|--------|
| 1. False representation to a Police Officer  | 250.00 |
| 2. Interfering or obstructing a Peace Officer in the line of duty,   | 500.00 |
| 3. Failure to comply with the lawful order or directions of an officer   | 500.00 |
| 4. Resisting arrest, breaking arrest, escape from arrest, or refusing or failing to assist an officer upon request | 700.00 |
| 5. Escape or aiding or assisting an escape from confinement  | 500.00 |
| 6. Attempted escape or aiding or assisting an attempted escape from confinement                                    | 300.00 |
| 7. Destruction or attempting destruction of evidence   | 500.00 |
| 8. Malicious damage or injury to a city emergency vehicle  | 700.00 |
| 9. Tampering with or damage or injury to any city or other public utility  | 700.00 |
| 10. Removal or destruction of or injury  |        |

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to barricade, or traffic control device or sign	200.00
11. Tampering with or damage or injury to any other real or personal property of the city	250.00
12. False fire alarm or other false alarm	500.00
13. Littering or unlawful dumping (See also 8-117 of city code)	250.00
14. Indecent exposure	500.00
15. Excessive noise/loud noise	150.00
16. Offense against city ordinances prohibiting nudity, prostitution, gambling or related activity,	700.00
17. Disorderly house or nuisance	500.00
18. Unlawfully obtaining, delivering, or possessing a controlled dangerous substance, possession of marijuana	700.00
19. Possession of drug paraphernalia	700.00
20. Public intoxication, first offense in the preceding 12 months	200.00
21. Contributing to the delinquency of a minor	500.00
22. Possession or use of a firearm while intoxicated, or under the influence of alcohol or other intoxicating substance	500.00
23. Sale, distribution or delivery of a firearm to a person mentally ill, intoxicated, or under the influence of alcohol or other intoxicating substance	700.00
24. Carrying a concealed weapon	200.00

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25. Discharge of a firearm other than a B.B. gun, air gun, or other device discharging a projectile without the use of spark or powder, first offense in preceding 12 months	500.00
26. Discharge of B.B. gun, air gun or other device discharging a projectile without the use of spark or powder, first offense in preceding 12 months	100.00
27. Unlawful assembly	150.00
28. Disturbing religious worship or assembly	300.00
29. Disturbing assembly of a public body	150.00
30. Disturbing the peace, public or individual	150.00
31. Disorderly conduct	150.00
32. Displaying insulting sign	100.00
33. Malicious damage or injury to real or personal property, willful injury to property	500.00
34. Tampering with or molesting a motor vehicle, unlawful use/interference with the use of property	250.00
35. Unlawful trespassing	200.00
36. Unlawful entrance	500.00
37. Petty larceny	500.00
38. False or bogus check	500.00
39. Obtaining services under false pretenses	500.00
40. Possessing, receiving, concealing, or disposing of stolen property	500.00

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41. Assault, battery, or assault and battery, assault and battery - domestic abuse first offense within preceding 12 months	700.00
42. Violation of curfew	100.00
43. Minor in possession of Tobacco product	100.00
44. Failure to appear	250.00
45. Unlawful use/interfere with use of property	250.00
46. Transfer of bodily fluids upon a peace officer	700.00
47. Sniffing glue/paint or other substances	200.00
48. Possession of offensive weapon	200.00
49. Unlawful discharge of fireworks	100.00
50. Throwing objects at vehicles on roadway	200.00
51. Perjury	500.00
52. False accusation of criminal against individual	250.00

### E. Other non-traffic related bail and fine schedule.

The amount of non-traffic bail or such fine and costs referred to in paragraph A of this section as to any non-traffic related violation or alleged violation for which a specific provision was not otherwise made in paragraph D of the section shall be:

1. As to a violation alleged violation  
involving injury or the threat of  
injury to the body of another 500.00
2. As to a violation or alleged violation  
involving injury or the threat of injury  
to the property of another 250.00 and
3. As to any other violation or alleged  
violation 100.00

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**12-289 RECREATIONAL VEHICLES**

- 1. Use of recreational vehicles (RVs) as a primary residence 500.00

**15-101 et seq TRAFFIC VIOLATIONS**

A. As to each violation or alleged violation of state law or ordinance of the city for which a ticket or citation is filed or to be filed or a prosecution is otherwise initiated or to be initiated in the municipal court of the City of Atoka, for any traffic related offense, the amounts hereinbelow set forth shall be and constitute, separately for each such violation or alleged violation:

- 1. The amount of fine and costs, including the penalty assessment provided for in Section 1313.2 of Title 20 of the Oklahoma Statutes, or any similar assessment applicable to prosecutions in municipal courts not of record, upon a plea of guilty or nolo contendere; or
- 2. The amount of bail for which any bail bond, personal recognizance, personal recognizance based upon a signed written promise to appear, or other bail for the person charged or to be charged therewith is acceptable in accordance with the other provisions this code relating to bail.

B. Except as is otherwise provided in paragraph C of this section, the amount of such bail or such fine referred to in paragraph A of this section as to traffic related violations or alleged violations is and shall be as follows:

- 1. Eluding an officer (Sec. 10-609 of code) 700.00
- 2. Attempting to elude an officer 500.00
- 3. Failure to stop and remain at the scene of personal injury accident 500.00
- 4. Failure to stop and remain at the scene of a property damage accident 250.00
- 5. Failure to render aid at the scene of an accident 500.00
- 6. Obstructing traffic 100.00
- 7. Driving, operating, or being in the actual physical control of a motor vehicle while under the influence of alcohol or other intoxicating substance 700.00
- 8. Driving, operating, or being in the actual physical control of a motor

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vehicle while impaired by the consumption of alcohol, drugs or other intoxicating substance	500.00
9. Reckless driving	250.00
10. Careless driving	200.00
11. Operating a motor vehicle in a manner not reasonable and proper	150.00
12. Operating an unauthorized motor vehicle in city street	150.00
13. Transportation of a loaded firearm in a motor vehicle	250.00
14. Defective vehicle or operation of a defective vehicle	100.00
15. Improper modification of exhaust system	100.00
16. Improperly tagged vehicle or improper tag display	100.00
17. Failure to pay taxes due state	100.00
18. Failure to transfer certificate of title	100.00
19. Failure to submit vehicle for inspection or properly display current and valid inspection sticker	N/A
20. Failure to maintain or possess valid vehicle security verification, or otherwise comply with the compulsory insurance laws	150.00
21. Permitting an unauthorized person to operate a motor vehicle, unlawfully lending drivers license to another, improper display of drivers license	250.00
22. Operating motor vehicle without a valid driver's license	300.00

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23. Improper display of another's license	500.00
24. Use of foreign license with license suspended in this state	400.00
25. Violation of a driver's license restriction	100.00
26. Operating a motor vehicle while under suspension, revocation, cancellation or denial of license	400.00
27. Speeding, exceeding limit by 1-10 mph	100.00
28. Speeding, exceeding limit by 11-15 mph	120.00
29. Speeding, exceeding limit by 16-20 mph	140.00
30. Speeding, exceeding limit by 21-25 mph	170.00
31. Speeding, exceeding limit by 26 or more mph	240.00
32. Operating a motor vehicle at a speed greater than that reasonable and proper under the circumstances	120.00
33. Operating a motor vehicle at a speed less than that reasonable and proper under the circumstances, less than the minimum posted speed, or otherwise impeding the reasonable and normal flow of traffic	100.00
34. Failure to properly stop for school bus loading or unloading passengers	150.00
35. Illegally following fire or other emergency vehicle	100.00
36. Failure to yield the right-of-way to an emergency vehicle	150.00
37. Failure to yield the right-of-way while backing	100.00
38. Failure to yield to a pedestrian	150.00

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39. Failure to yield right-of-way from a private drive, or intersection, traffic control device, or while turning, or other failure to yield right-of-way, failure to yield, and failure to yield to oncoming traffic	100.00
40. Failure to stop at a stop sign, other traffic control device, or where a stop is otherwise required by law	100.00
41. Disobeying traffic control sign, device or signal	100.00
42. Improper "U" turn	100.00
43. Driving in an unauthorized area, driving over a fire hose	200.00
44. Failure to properly signal turn, improper turn from direct course, or other improper turn	100.00
45. Failure to properly signal lane change, unsafe or improper lane change, or improper lane use	100.00
46. Improper passing in a marked zone, on the right, without appropriate signal, or other improper passing	100.00
47. Improper passing in an unmarked zone	100.00
48. Driving left of the center of a roadway	100.00
49. Failure to remain right on road of sufficient width	100.00
50. Driving the wrong way on a one-way street	100.00
51. Leaving direct course of travel	100.00
52. Following too closely	100.00
53. Failure to dim headlights	100.00

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54. Overload on any axle or gross weight from 700 up to and including 3,000 pounds	200.00
55. Overload on any axle or gross weight from over 3,000 up to and including 6,000 pounds	250.00
56. Overload on any axle or gross weight from 6,000 pounds or over	300.00
57. Violation of a special permit by exceeding authorized permit weight	300.00
58. Violation of terms of a special permit other than weight	250.00
59. Failure to secure load properly	150.00
60. Operating a motor carrier without lawful authority	200.00
61. Operating a motor carrier without proper identification devices	100.00
62. Any violation relating to the transportation of hazardous materials	500.00
63. Driving or operating a truck on posted "no truck" roadway or on residential street or alleyway, without permit, involving a vehicle of 12 wheels or less	150.00
64. Driving or operating a truck on posted "no truck" roadway or on residential street or alleyway, without permit, involving a vehicle of more than 12 wheels	300.00
65. Depositing or throwing destructive or injurious materials or items on roadway	250.00
66. Littering from a motor vehicle	150.00
67. Riding on the outside of or hanging onto the outside of a moving motor vehicle	27.00

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68. Failure of motorcycle operator or passenger under 18 years to wear a crash helmet	100.00
69. Operating a 4-wheeler upon the highway	100.00
70. Operating a motorcycle without proper endorsement	100.00
71. Driving or operating a motor vehicle without wearing seat belts, as to driver or front seat passenger other than a child	20.00
72. Driving or operating a motor vehicle without proper seat belt or other restraining device provided to or worn by a minor child	50.00
73. Improper driving, standing or parking vehicle on sidewalk	100.00
74. Improper stopping, standing or parking vehicle on roadway	150.00
75. Improper standing or parking of motor vehicle obstructing fire hydrant or crosswalk	100.00
76. Other improper standing or parking of motor vehicle	100.00
77. Bicycle regulations violations	100.00
78. “Jake” Brakes violation	100.00
79. Failure to notify DPS of address change	75.00
80. Over height vehicle	200.00
81. Over weight vehicle	200.00
82. Failure to wear eye protection on motorcycle	100.00

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83. Operating a motor vehicle with illuminated red/blue lights	100.00
84. Affixing unauthorized license plate to vehicle	250.00
85. Unauthorized use of a motor vehicle	500.00
86. Improper towing of a motor vehicle	100.00
87. Moving oversize load without a permit, moving house without a permit	300.00
88. Failure to remove hazardous material from roadway	150.00

C. Other traffic related bail and fine provisions.

The amount of traffic related bail or such fine referred to in paragraph A of this section as to any traffic related violation or alleged violation for which specific provision is not otherwise made in paragraph B of this section shall be:

1. As to a violation or alleged violation involving a vehicle in motion 100.00 and
2. As to any other violation or alleged violation 70.00

**APPENDIX 5**

**ELECTRIC FRANCHISE**

Section 1	Grant of Franchise
Section 2	Term
Section 3	Grantee
Section 4	Rules and Regulations
Section 5	Corporation Commission Rules
Section 6	Manufacture, Transmission of Electricity
Section 7	Rates
Section 8	Service to City
Section 9	Franchise Fee
Section 10	Restructuring
Section 11	Option to Purchase by City
Section 12	Election
Section 13	Acceptance
Section 14	Severability
Section 15	Emergency

**SECTION 1 GRANT OF FRANCHISE**

That there is hereby granted by the City of Atoka, a municipal corporation of the State of Oklahoma (hereinafter referred to as “Grantor”), unto Public Service Company of Oklahoma, an Oklahoma corporation, its successors and assigns, (hereinafter referred to as “Grantee”) , the right, power, and authority to use the streets, alleys, avenues, ways, and other public places and grounds of Grantor as now constituted and as it may be hereafter extended or created, for the purpose of building, equipping, maintaining, extending, owning, and operating any plants and systems for the manufacture, transmission, distribution, sale, and control of electricity for lighting, heating, and power purposes, as well as for such other purposes as electric energy may be put, in and to said Grantor and to the public generally, and to transmit electric energy and data over distribution and transmission lines throughout the City and to connections and systems in other localities, with poles, wires, conduits, substations, meters, appliances, and apparatus necessary and convenient for such plant and system upon, across, over, and under each and any of said streets, alleys, avenues, ways, and other public places and grounds, provided, however, Grantee will not build any power plant or substation on property owned by Grantor.

**SECTION 2 TERM**

All rights and privileges granted by this Ordinance shall extend and be in force between Grantor and Grantee for a term of twenty-five (25) years from and after the acceptance of this Ordinance, as hereinafter provided.

**SECTION 3 GRANTEE**

All provisions of this Ordinance which are obligatory upon or which inure to the benefit of the Grantee shall also be obligatory upon and shall inure to the benefit of its successors and assigns, and

the word “Grantee”, as used in this Ordinance, shall include and be taken to mean not only Public Service Company of Oklahoma, but also its successors and assigns for which assignment consent is hereby given whether the assignment is for the whole or only a partial assignment. Subject to the provisions of this subsection Grantee may assign all or a portion of its rights and/or obligations under the provisions of this Ordinance and franchise.

#### **SECTION 4 RULES AND REGULATIONS**

Grantee shall have the right to make and enforce reasonable rules and regulations for the sale, delivery, control, and metering of its electric energy and the conduct of its business, and may reserve in such rules and regulations the right to disconnect service to customers where Grantee’s meters, wires, switches, appliances, or apparatus are found to have been tampered with, or who have failed to pay for electricity or services, and to enter upon the premises of its customers at all reasonable times for the purpose of inspecting, repairing, or reading meters or for removing wires, meters, switches, and appliances. Provided that such rules and regulations shall not be in conflict with law or the rules and regulations from time to time made by the Corporation Commission of the State of Oklahoma or by other regularly constituted regulatory authority having jurisdiction over Grantee.

#### **SECTION 5 CORPORATION COMMISSION RULES**

Grantee covenants and agrees in consideration hereof that it will maintain electric service in and to Grantor under the rules and regulations imposed upon it by the Corporation Commission of the State of Oklahoma or by other regularly constituted regulatory authority having jurisdiction over Grantee. But in accepting this franchise and contract, Grantee does not guarantee continuous service at all times and shall be relieved temporarily from its obligation to furnish such services continuously in case of any disability caused by act of God or by the elements, or terrorism, or strikes, or lock-outs, or by any temporary breakdown or failure of machinery, transmission, or distribution lines, appliances or apparatus, or by other causes beyond the control of Grantee; provided Grantee does agree in such cases to exercise due diligence in repair of such machinery, transmission, or distribution lines, appliances and apparatus, and to resume operation of same without unnecessary delay.

The Grantee covenants and agrees that it will indemnify and hold the City of Atoka free and clear of any claims for damages or otherwise caused by the negligence of Grantee in the construction or operation carried on hereunder. But it is understood and agreed that in the event of claims being presented or prosecuted against said City the Grantee shall have the right to defend against the same and to settle and discharge same in such manner as it may see fit. To this end the Grantor agrees to notify Grantee of such claims and to furnish to it such information and assistance as may be necessary in the defense thereof.

#### **SECTION 6 MANUFACTURE, TRANSMISSION OF ELECTRICITY**

In performing the terms and provisions of this Ordinance, franchise, and contract, Grantee is hereby given the continuing right, privilege, and option to manufacture electric energy within the corporate limits of Grantor, and to transmit electric energy over transmission lines from other plants and to distribute same from some central location at proper voltage; together with the right to

## Appendix 5 – Electric Franchise

transmit electric energy from and through said City to other localities. Grantee is hereby authorized to allow others, having a permitted right granted by Grantor, or as may otherwise be authorized or required by applicable law, to attach telecommunications and cable facilities to its poles and structures on such conditions as it deems just and reasonable and in compliance with applicable law; provided, to the extent that applicable law does not establish such conditions and; provided, should the parties be unable to agree, the City Council of the Grantor shall determine such conditions as are just and reasonable, which shall be binding upon all parties.

### **SECTION 7 RATES**

During the life of this franchise and for and in consideration of the acceptance hereof by Grantee, it is agreed that Grantee may charge and collect from Grantor and its inhabitants a rate or rates, which shall at all times be compensatory and reasonable, subject to such rules and regulations as are in effect or that hereafter may be lawfully made by the Corporation Commission of the State of Oklahoma, or by other regularly constituted regulatory authority having jurisdiction over Grantee.

### **SECTION 8 SERVICE TO CITY**

During the life of this franchise, Grantee will, if possible, sell to Grantor all electric energy requested by it for municipal purposes, including, but not limited to, water and waste water treatment, water and storm water pumping, and the lighting of its streets.

### **SECTION 9 FRANCHISE FEE**

From and after the approval and acceptance of this Ordinance, Grantee shall pay, and in consideration of the granting of this franchise agrees to pay to Grantor as a franchise fee, and as compensation for the rights and privileges enjoyed hereunder, a sum equal to two percent (2%) of its gross receipts from the delivery of electrical energy within the City, payable monthly on or before the 20th day of each month, on such receipts for the preceding calendar month, which fee shall be in lieu of all concessions, excise, franchise, licenses, occupation, privilege, and permit fees, or taxes, except assessments for special improvements and ad valorem taxes. Should Grantee accept a franchise from any other city or town in which it agrees to pay a higher percentage of gross receipts than the percent provided in this Section 9, then and in that event, Grantee shall forthwith and without demand inform Grantor's governing body of such occurrence. Thereafter, at the sole discretion of the Grantor's governing body and pursuant to such process as it deems appropriate, Grantee may be directed by Grantor's governing body to increase the percentage of gross receipts to be paid to Grantor hereunder to such higher percentage to the extent such increase is allowed by applicable law. Grantor agrees that the percentage paid to Grantor by Grantee, including any revision thereof, shall in no event exceed the percentage rate used to calculate any fee or tax paid to Grantor by any other person or entity as such fee or tax is based in any way on the amount of revenues from sales of electrical energy by such other person or entity to ultimate customers within the City.

### **SECTION 10 RESTRUCTURING**

Grantor and Grantee acknowledge that there is ongoing public debate concerning the restructuring of the electric utility industry which could result in another person or entity utilizing Grantee's poles,

wires, and similar facilities to provide retail electric service to the ultimate consumer. Grantee will cooperate with the Grantor in protecting Grantor's economic interest, which cooperation includes but is not limited to, Grantee's making reasonable efforts to insure that: (1) those using its poles, wires, and facilities to sell retail electric energy have complied with Grantor's relevant ordinances; and (2) Grantee acknowledges that it will abide by all applicable federal and state statutory and/or regulatory requirements.

## **SECTION 11 OPTION TO PURCHASE BY CITY**

Grantor is granted two options to purchase all of the electric facilities, including but not limited to substations and office buildings, distribution system, machinery, property, both real and personal, of whatsoever kind and nature, then owned by Grantee, its successors and assigns, together with all equipment and apparatus functionally related and subordinate thereto (collectively, the "PSO Property"), being applied to and under the exercise of this franchise, or acquired for such purpose, situated within the incorporated limits of Grantor, the exercise of such option to be effected exclusively upon the following terms and following manner to-wit:

Not more than twelve (12) months nor fewer than six (6) months prior to the expiration date of the fifth (5th) and tenth (10th) years, respectively, of this franchise, Grantor may by lawful ordinance determine its intention to purchase all of the PSO Property located within the city limits of Grantor, and, if so, shall, subject to first obtaining any required approval or consent (a "Regulatory Approval") of any federal or state regulatory authority having jurisdiction over Grantee or its Atoka situs electric system facilities, which efforts shall toll the period of time the Grantor has to furnish said ordinance to Grantee, the City Council of Grantor shall serve upon the corporate secretary of Grantee as notice of such intention to purchase, a certified copy of such ordinance; thereafter, the City Council of Grantor shall, within fifteen (15) days, contract for, engage, hire, appoint and designate as an arbitrator (the "City Arbitrator") an engineer of well-known experience and ability who shall not be a resident or taxpayer of Grantor nor directly or indirectly interested, as a shareholder, director, employee, contractor or otherwise, in Grantee or any entity involved or to become involved in the analysis, management, or operation of electric facilities in Atoka, Oklahoma, within twelve (12) months prior to such appointment and at the time thereof; and shall within ten (10) days after such appointment and designation notify Grantee by furnishing to its corporate secretary a certified copy of the ordinance or resolution appointing such arbitrator; and Grantee shall within fifteen (15) days after the receipt of such certified copy appoint and designate as an arbitrator (the "PSO Arbitrator") an engineer of like qualifications and within ten (10) days after such appointment furnish to the City Clerk of Grantor written notification of the appointment of such arbitrator. The City Arbitrator and the PSO Arbitrator shall select as a third arbitrator an engineer of like qualifications. If the City and PSO Arbitrators shall, for more than fifteen (15) days, fail to agree upon the appointment of the third arbitrator, or if either Grantor or Grantee shall fail or neglect to select its arbitrator as herein required, then the District Court of Atoka County, State of Oklahoma, shall have the power upon application of either Grantor or Grantee, as the case may be, and pursuant to the provisions of the Oklahoma Uniform Arbitration Act, 15 O.S. 801 et seq., to appoint such required arbitrator or arbitrators of like qualifications. The parties specifically contract and agree that venue shall lie in Atoka County and that any dispute that might arise under this arbitration provision shall be governed by the Uniform Arbitration Act, as the same may from time to time be amended. The three arbitrators shall thereupon proceed to determine the fair market value of all of the PSO

## Appendix 5 – Electric Franchise

Property by such criteria as by practice are used to determine compensation for public utility property taken for public use by eminent domain proceedings. Said criteria shall include but not be limited to the damages done to Grantee by the severance of the PSO Property from the rest of its system and the value of all the PSO Property as a going concern, except no value shall be given to the grant of the franchise. The three Arbitrators shall make their return of the appraised value (the “Return”) of all of the PSO Property to Grantor and Grantee and file the Return with the City Clerk of Grantor within ninety (90) days after the due appointment of the third arbitrator; and the valuation so fixed by the Return shall be binding and conclusive upon the Grantor and Grantee as to the purchase price of all of the PSO Property. Thereafter, if the City Council of Grantor elects to proceed further to exercise its option to purchase, it shall within ninety (90) days from the date of filing the Return with the City Clerk of Grantor, submit to the voters of Grantor at an election held for that purpose the question of purchasing all of the PSO Property at the purchase price fixed by the Return, which question shall be the only question on the ballot at that election.

If the acquisition of all of the PSO Property at the purchase price fixed by the Return is not approved by a majority of the lawful voters of Grantor voting thereon, the notice of intention to purchase all of the PSO Property by Grantor shall be deemed null and void.

If, between the date the Return’s filed with the City Clerk and the “Closing Date”, which shall be within one hundred eighty (180) days following entry of a final non-appealable order finding that regulatory approval for PSO to sell to Grantor is granted or no regulatory approval is required, scheduled for Grantor’s purchase of all of the PSO Property any reasonable and necessary additions, betterments or replacements shall have been made by Grantee, Grantor shall pay, in addition to the purchase price fixed by the Return, as provided in this section, the actual cost of such additions, betterments, and replacements. If such additions, betterment or replacements are made, Grantee shall file with the City Clerk of Grantor complete information as to the actual cost thereof to Grantee, not later than ten (10) business days prior to the Closing Date scheduled for Grantor’s purchase of all of the PSO Property.

Notwithstanding any provision hereof to the contrary, the three arbitrators shall not include in the Return any values for electric facilities located within Grantor’s incorporated limits where the same are used exclusively for the provision of electric service to areas without such incorporated limits; such facilities shall not be part of the PSO Property which may be purchased by Grantor pursuant to its option as set forth herein, and if the purchase by Grantor is completed in the manner provided herein, Grantee shall have the right thereafter to own, operate and dispose of such electric facilities as its private property in such manner as it may see fit.

Time is of the essence to Grantor’s exercise of its purchase option privilege under each of the particulars of this Section 10. If (i) Grantor shall fail to furnish the corporate secretary of Grantee a certified copy of Grantor’s ordinance determining and manifesting its intention to purchase all of the PSO Property within the required time therefore; or if (ii) Grantor shall either fail to appoint and designate a qualified arbitrator within the required time therefore or fail to notify Grantee thereof by furnishing a certified copy of the ordinance or resolution making such appointment to the corporate secretary of Grantee within the required time therefore; or if (iii) once duly appointed, the three (3) arbitrators shall fail to make and file the Return with the City Clerk of Grantor within the required time therefore; or if (iv) an election, wherein the question of Grantor purchasing all of the PSO



## Appendix 5 – Electric Franchise

Property at the purchase price fixed by the Return is the only question on the ballot, is not conducted within the required time therefore; or if (v) any Regulatory Approval required with respect to any of the electrical facilities being acquired shall not have been obtained as and when required under applicable regulations or orders; or if (vi) Grantor shall fail to complete its purchase of all of the PSO Property by payment to Grantee of the purchase price fixed by the Return in cash at the Closing Date, then and in any such event Grantor's option to purchase all of the PSO Property shall thereupon terminate immediately and become null and void.

For purpose of determining the valuation of the PSO Property, all the books, records and other information in possession of Grantee pertaining thereto shall be open and available to the three arbitrators during the time their appraisal is being made for the purpose of aiding the arbitrators in fixing the purchase price to be paid therefore.

Each party shall pay its own arbitrator's fees and expenses and the parties agree that the fees and expenses of the third arbitrator shall be divided and paid in equal amounts by Grantor and Grantee.

### **SECTION 12 ELECTION**

This Ordinance shall be in full force and effect from and after its acceptance as hereinafter provided, upon its passage and approval by a vote of the qualified electors residing within the City, who shall vote thereon at a special election called under or pursuant to the provisions hereof; and if this Ordinance fails to be so approved at said election, it shall be wholly void and of no effect. The Mayor of the City is hereby authorized and instructed to call by proclamation such election in the manner and form provided by the laws of the State of Oklahoma for the calling of special elections, giving such notice and preparing such proclamation, ballot title and call therefor as provided by law, for the purpose or submission to the qualified elections residing within the City the proposition of approval or refusal of this Ordinance, non-exclusive franchise contract hereby granted; and the proper officers of the City are hereby directed to do all things that may be necessary for the holding of the election and for the submission of said question, and shall, in all things, comply with the laws of the State of Oklahoma, in the designation of the day, month and year of the election, the hours of opening and closing the polls, the voting places within the City in which the election shall be held and the proper persons within the respective precincts of the City for the purpose of holding the election.

It is understood and agreed that in the event said franchise be approved at such election the Grantee shall within thirty (30) days after the result of such election is declared as provided by law, file with the Clerk of the City an acceptance in writing duly executed according to law, accepting this Ordinance and franchise.

### **SECTION 13 ACCEPTANCE**

Upon the filing by Grantee of the acceptance of this Ordinance as hereinabove provided, all rights, privileges, and obligations of any other ordinances and franchises, or portions thereof, under which Grantee may now be exercising its privileges of use of the streets, alleys, avenues, ways, and public places and grounds within the incorporated limits of Grantor, and particularly Ordinance No. NC-153 of said City, and all other ordinances and parts of ordinances in conflict herewith, shall be

and thereafter remain canceled, annulled, and repealed.

**SECTION 14 SEVERABILITY**

If any provision or clause of this Ordinance is held invalid for any reason, such invalidity shall not affect other provisions or clauses of this Ordinance which can be given effect without the invalid provision or clause, and to this end the provision and clauses of this Ordinance are declared to be severable.

**SECTION 15 EMERGENCY**

Whereas an immediate necessity exists in order that the inhabitants of Grantor may be provided an adequate supply of electricity for heating, lighting, and power purposes and for the purpose of providing light, heat, and power for the streets, alleys, public grounds, parks, and other public places and institutions of Grantor, and for the preservation of public health, peace, and safety, an emergency is hereby declared to exist by reason whereof this ordinance shall be in full force and effect from and after its passage, approval, and publication; and same shall be submitted at a special election. (Ord. 465 3/4/1999)

**APPENDIX 6**

**GAS FRANCHISE**

Section 1	Definitions
Section 2	Grant of Franchise
Section 3	Use and Repair of the Public Ways
Section 4	Regulation of Service
Section 5	Depth of Pipeline
Section 6	Duty to Move or Alter Lines
Section 7	Grantee’s Rules and Regulations
Section 8	Consideration for franchise: Franchise Fee
Section 9	Election Required
Section 10	Acceptance and Effective Date
Section 11	Emergency Declared

**SECTION 1      DEFINITIONS**

As used in this Ordinance, the following words and phrases shall have the following meanings:

A.      “Consumer” shall mean any individual person, corporation, company, partnership, firm, unincorporated association in the City of Atoka, trust, municipality or public corporation served by the Grantee through any use of the public ways.

B.      “Distribution system” shall mean a system of works, pipes, pipelines, apparatus, machinery, structures, appliances and appurtenances as are reasonably necessary for the transportation, distribution or sale of gas to consumers.

C.      “Franchise” shall mean the rights and privileges granted by Grantor to Grantee under Section 2A of this Ordinance.

D.      “Grantor” shall mean the City of Atoka, Oklahoma, a municipal corporation.

E.      “Gross receipts” shall mean cash, cash equivalents, or other considerations actually received by Grantee from a Consumer.

F.      “Install, operate and maintain” shall mean to acquire, erect, construct, install, extend, repair, remove, relocate, replace, or otherwise operate and maintain.

G.      “Public ways” shall mean any street, alley, avenue, boulevard, lane, park, parkway, sidewalk, driveway, utility easement, right of way, and any other public ways, places, areas, or grounds within the corporate limits of the City of Atoka as now constituted or as may be added or extended hereafter.

**SECTION 2      GRANT OF FRANCHISE**

08/01/2020

## Appendix 6 – Gas Franchise

A. The Grantor hereby grants to Grantee for the term of twenty-five (25) years from the passage of this Ordinance and the filing of a written acceptance by the Grantee, the right to enter upon the public ways to install, operate and maintain a distribution system along, across, over and under the public ways for the privilege of transporting, distributing and selling gas to consumers and the public generally within the corporate limits of the City of Atoka.

B. This Ordinance shall have the effect of and shall be a contract between Grantor and Grantee and shall be the measure of the rights and liabilities of Grantor as well as Grantee.

C. The franchise granted by this Ordinance is not exclusive and nothing herein shall be construed to divest the Grantor of its control and regulation of the public ways.

D. “Grantee” shall mean CenterPoint Energy Resources Corp., d/b/a/ CenterPoint Energy Oklahoma Gas, a corporation, its successors and assigns.

### **SECTION 3 USE AND REPAIR OF THE PUBLIC WAYS**

A. Grantee’s distribution system shall be erected, placed, laid or otherwise installed, operated and maintained in such a manner as will, consistent with reasonable necessity, least interfere with other public uses of the public ways.

B. Before Grantee shall excavate or disturb the surface of any public way, except in the case of emergency, at least forty-eight (48) hours’ notice shall be given to the City Engineer or other proper authority designated in writing by the Grantor. After such excavation or disturbance, the Grantee shall, with due diligence and dispatch, place the public ways in a condition in compliance with the Grantor’s reasonable standards and specifications.

C. Upon Grantee’s failure to commence or complete any construction, maintenance or restoration work required by this Ordinance with due diligence and dispatch, the Grantor may cause such work to be done after written notice to Grantee, given so as to afford Grantee an opportunity to commence and complete such work within a reasonable time. The cost of such construction, maintenance or restoration incurred by Grantor upon Grantee’s failure after notice shall then be charged and collected from the Grantee.

D. Grantor reserves the right to make and enforce reasonable regulations concerning the construction, operation and maintenance of Grantee’s distribution system located along, across, over, or under the public ways and to reasonably designate where the distribution system’s works and pipelines shall be placed.

### **SECTION 4 REGULATION OF SERVICE**

The distribution system of the Grantee shall at all times be installed, operated and maintained in such condition as will enable the Grantee to furnish adequate and continuous service as required by the orders, rules and regulations of the Corporation Commission of Oklahoma or other regulatory authority having jurisdiction.

08/01/2020

**SECTION 5 DEPTH OF PIPELINE**

After the operative date of this franchise, Grantee’s main or lateral lines installed or replaced in public ways shall be installed or replaced at depths which comply with all applicable state and federal rules and regulations establishing minimum safety standards for the design, construction, maintenance and operation of pipelines. Depth shall be measured from the lower of existing grade or proposed future grade as set forth on plans or other specifications existing at the time such lines are installed or replaced.

**SECTION 6 DUTY TO MOVE OR ALTER LINES**

A. Grantor reserves the right to lay or permit to be laid cables, electric conduits, water, sewer, gas or other pipelines and to do or permit to be, done any underground work deemed necessary and proper by the Grantor, along, across, over or under the public ways.

B. Whenever by reason of establishing a grade or changes in the grade of any street or in the location or manner of construction of any public way, cables, electric conduits, water, sewer, gas or other underground structures, it shall be deemed necessary by the Grantor to alter, change, adapt or conform the distribution system of the Grantee, such alterations or changes shall be made within a reasonable time by the Grantee, as ordered in writing by the Grantor, without claim for reimbursement or compensation for damages against Grantor.

C. If Grantor shall require the Grantee to adapt or conform its distribution system, or in any way to alter, relocate or change its property to enable any other person, firm corporation or entity (whether public or private), other than the Grantor, to use the public ways, the Grantee shall be reimbursed by the person, firm, corporation or entity desiring or occasioning such change for any and all loss, cost or expense occasioned thereby.

D. “Person,” “firm,” “corporation,” and “entity” as used in the preceding Paragraph shall not include regular departments of the Grantor, or any trust or authority formed by or for the benefit of Grantor for public utility purposes, but shall include any other agency or authority of the City of Atoka, whether acting in a governmental or non-governmental capacity, including, but not limited to, any urban renewal authority, or any other agency or authority, which as a part of its program clears whole tracts of land within the city limits and relocates citizens for the purpose of urban development or similar aims.

**SECTION 7 GRANTEE’S RULES AND REGULATIONS**

The Grantee shall have the right to make and enforce such reasonable rules and regulations as it may deem necessary for the extension of its facilities, the sale of its gas and the prudent conduct of its business, provided that such rules and regulations shall neither be in conflict with the laws of the State of Oklahoma, with the orders, rules or regulations of the Corporation Commission of Oklahoma or other regulatory authority having jurisdiction, nor with the ordinances and regulations of the Grantor insofar as they are consistent with the jurisdiction of the Corporation Commission of Oklahoma or such other regulatory authority.

**SECTION 8 CONSIDERATION FOR FRANCHISE: FRANCHISE FEE**

A. In consideration for the rights and privileges enjoyed under the franchise, Grantee agrees to pay Grantor, as a franchise fee, a sum equal to two percent (2%) of Grantee's gross receipts from the sale of gas for domestic or commercial consumption within the corporate limits of the City of Atoka. Such fee so levied shall be in lieu of all other franchise, license or occupation taxes or fees which may be levied or attempted to be levied by Grantor.

B. Grantee's franchise fee shall be payable monthly on or before the 25th day of each month, on its gross receipts of the preceding calendar month.

**SECTION 9 ELECTION REQUIRED**

This Ordinance shall not become effective until it shall be approved by a majority of the qualified electors voting thereon residing within the corporate limits of the City of Atoka at an election called for that purpose, and a special election is hereby called for the purpose of submitting to the qualified electors residing in said City of Atoka, the question of approval or disapproval of this Ordinance, which election shall be held on the 24th day of June, 2014, between the hours prescribed by law. The Mayor of the City of Atoka is hereby authorized and directed to issue a proper and lawful call and proclamation of such special election to be held on such date as aforesaid for said purpose, and the executive officers of said City are hereby directed to give due and lawful notice of such election and submission of said question to the electors of said City, prescribing in said proclamation and notice of the proposition to be voted upon, the time of opening and closing the polls, the number and location of the polling places and the names of the precinct election officers who shall conduct said election, and all other things prescribed by law, or the ordinances of the City of Atoka, Oklahoma. Regardless of the outcome thereof, Grantee shall be exclusively responsible for, and pay, all costs and expenses of and/or relating to said election.

**SECTION 10 ACCEPTANCE AND EFFECTIVE DATE**

In the event this Ordinance is approved by a majority vote of said electors voting thereon at said election, the Grantee shall file with the City Clerk of said City of Atoka, within ten (10) days after the official canvass of the votes and declaration by the City Council of the results thereof, a written acceptance. This Ordinance shall become operative on the date of filing of such acceptance.

**SECTION 11 EMERGENCY DECLARED**

An emergency is hereby declared to exist by reason of the fact that no other person, firm or corporation has a franchise to furnish gas to inhabitants of the City of Atoka, Oklahoma, and for the preservation of the public peace, health and safety, and by reason whereof this Ordinance shall be effective immediately from and after its passage, approval and publication. (Ord. No. 536 10/21/2013)

**APPENDIX 7**

**CABLE TV PERMITS**

**ARTICLE A**

**PERMIT I**

Section 1	Grant of permit
Section 2	Definition
Section 3	Use of poles
Section 4	Standards for installation
Section 5	Maps
Section 6	Not to interrupt service, traffic
Section 7	Rates
Section 8	Color signals
Section 9	Hold harmless to city
Section 10	Permit fee
Section 11	Assignment

**SECTION 1 GRANT OF PERMIT**

In consideration of the faithful performance and observance of the conditions and reservations hereinafter specified, the right is hereby granted to the McGee Creek Cablevision, organized under the laws of the State of Oklahoma, its successors, assigns or designees, provided such successors, assigns or designees are approved by the city council, and the electors of the City of Atoka, hereinafter referred to as “the company”, the right to erect, maintain, and operate television transmission and distribution facilities, and additions thereto, in, under, over, along, across and upon the streets, lanes, avenues, sidewalks, alleys, bridges and other public places in the City of Atoka (hereinafter referred to as the city), and subsequent additions thereof, cables, poles, lines, wires, antennas and other appurtenant equipment for the purpose of transmission and distribution of television impulses and television energy for a period of twenty-five (25) years from the date hereof. (Ord. No. 174, 2/7/77; Ord. No. 352, 1/7/88)

Ed. Note: Ord. No. 352 approved the transfer of the original franchise from Atoka Cablevision company to McGee Creek Cablevision.

**SECTION 2 DEFINITION**

Wherever used in this ordinance, the word “television” shall mean a system for transmission of audio signals and visual images by means of electrical impulses. (Ord. No. 174, 2/7/77)

**SECTION 3 USE OF POLES**

The poles used for the company’s distribution system shall be those erected and maintained by the Bell Telephone Company, or the Public Service Company, when and where practicable,

## Appendix 7 – Cable TV Permits

providing mutually satisfactory rental agreements can be entered into with the companies. Where the use of poles owned by the Bell Telephone Company, or the Public Service Company, is not practicable, or mutually satisfactory rental agreements cannot be entered into with the companies, the company shall have the right to erect and maintain its own poles, as may be necessary for the proper construction and maintenance of the television distribution system, with the approval of locating poles by the city engineer. (Ord. No. 174, 2/7/77)

### **SECTION 4      STANDARDS FOR INSTALLATION**

A. The company's transmission and distribution system poles, wires and appurtenances shall be located, erected and maintained so as not to endanger or interfere with the lives of persons, or to interfere with new improvements this city may deem proper to make, or to unnecessarily hinder, or obstruct the free use of the streets, alleys, bridges or other public property; removal of poles to avoid such interference will be at the company's expense.

B. Construction and maintenance of the transmission distribution system, including house connections, shall be in accordance with the provisions of the National Electrical Safety Code, prepared by the National Bureau of Standards, the National Electrical Code of the National Board of Fire Underwriters, and such applicable ordinances and regulations of the city, affecting electrical installations, which may be presently in effect, or changed by future ordinances.

C. Installation and housedrop hardware shall be uniform throughout the city, except that the company shall be free to change its hardware and installation procedure as the art progresses. (Ord. No. 174, 2/7/77)

### **SECTION 5      MAPS**

The company shall furnish to city plats and maps of the location of all its poles and lines, both above and below the ground surface. (Ord. No. 174, 2/7/77)

### **SECTION 6      NOT TO INTERRUPT SERVICE, TRAFFIC**

In the maintenance and operation of its television transmission and distribution system in the streets, alleys and other public places, and in the course of any new construction, or addition to its facilities, the company shall proceed so as to cause the least possible inconvenience to the general public; any opening or obstruction in the streets, or other public places made by the company in the course of its operations shall be guarded and protected at all times by the placement of adequate barriers, fences or boardings, the bounds of which, during periods of dusk and darkness, shall be clearly designated by [red] warning lights. (Ord. No. 174, 2/7/77)

### **SECTION 7      RATES**

A. All rates and charges exacted by the company shall be fair, reasonable, just and uniform. The monthly service rate charge to a subscribed shall not exceed Eight Dollars (\$8.00) per month for a single-outlet residential installation.



## Appendix 7 – Cable TV Permits

B. The single-outlet residential monthly service rate as is herein provided for, shall continue thereafter; provided, however, that the company reserves the right to increase this monthly rate in the following manner and procedure, namely: The company shall notify the city in writing by registered mail, of the proposed rate change in the single-outlet monthly rate. Within twenty-one (21) days of the receipt of the registered letter by the city, the city must arrange a meeting between the company and the city to discuss the proposed rate change. If the city does not agree with the company regarding the rate increase within fifteen (15) days of the first meeting with the company, then a board of arbitrators should be selected. The board of arbitrators shall be composed of five (5) members, two (2) to be selected by the city, two (2) to be selected by the company, and the fifth to be selected by the four (4) aforementioned representatives on the board of arbitrators. The board of arbitrators are to render a decision for or against the rate change after fifteen (15) days from the date of their appointment to the board. Any decision made by such board of arbitrators shall be in writing, and a copy thereof, duly authenticated, shall be delivered on the day the decision is rendered to each the company, and the city, and shall be binding upon all parties concerned.

C. The determination of the company's rates shall be subject solely to the rules and regulations of any state or federal authority which may subsequently, by due process of law, acquire jurisdiction over this type of industry or enterprise. (Ord. No. 174, 2/7/77)

### **SECTION 8 COLOR SIGNALS**

Installation and maintenance of equipment shall be such that standard color signals shall be transmitted to any subscriber receiver. (Ord. No. 174, 2/7/77)

### **SECTION 9 HOLD HARMLESS TO CITY**

The company shall indemnify, protect and save harmless the city from and against losses and physical damages to property, and bodily injury, or death, to persons, including payments under any workmen's compensation law, which may arise out of, or be caused by the erection, maintenance, presence, use or removal of the attachments on poles within the city, or by any act of the company, its agents or employees. The company shall carry insurance to protect the parties hereto from and against all claims, demands, actions, judgments, costs, expenses, and liabilities which may arise or result, directly or indirectly from or by reason of such loss, injury or damage. The amounts of such insurance against liability due to physical damage to property shall not be less than Twenty Five Thousand Dollars (\$25,000.00) as to any one accident, and not less than Two Hundred Thousand Dollars (\$200,000.00) aggregate in any single policy year; and against liability due to bodily injury or to death of persons, not less than One Hundred Thousand Dollars (\$100,000.00), as to any one accident. The company shall also carry such insurance as it deems necessary to protect it from all claims under any workmen's compensation laws in effect that may be applicable to the company. All insurance required by this agreement shall be and remain in full force and effect for the entire life of this agreement. The policy, or policies, of insurance, or a certified copy or copies thereof, shall be approved by the city attorney, and then deposited with, and kept on file by the city clerk. (Ord. No. 174, 2/7/77)

### **SECTION 10 PERMIT FEE**

08/01/2020

## Appendix 7 – Cable TV Permits

A. The company agrees to pay to the city, as compensation for the use of its streets, under this grant, a sum of money equal to two percent (2%) of its gross cash receipts from the sale of domestic and commercial television impulses within the city, payable annually one before the 25th day of February of each year for the year immediately preceding, during which television impulses have been sold and collected for under the rights and privileges herein granted. The city shall have the right to inspect or audit, through duly authorized representatives, and during reasonable business hours, any books or records of the company evidencing, or recording the amount of such cash collections actually made by the company.

B. The above compensation in the amount of two percent (2%) of the company's gross receipts from the sale of domestic and commercial television impulses within the city shall be in lieu of any other franchise, license, occupation or excise taxes, inspection fees, or other tax, fee or charge of similar nature that might be levied by the city during the period of this grant, on account of the company exercising the privilege of carrying on its business in the city, or by reason of its using the streets, alleys or other public ways within the city; provided, however, that this exemption shall not be deemed to relieve company from liability to pay ad valorem taxes upon its properties. (Ord. No. 174, 2/7/77)

### **SECTION 11 ASSIGNMENT**

The company shall have the right to assign the rights and privileges of this franchise, and any assignee thereof by accepting such assignment, shall be bound by the provisions of the franchise but in the event of such assignment, such assignment shall be in writing, and a duly authenticated copy thereof shall be filed with the city clerk of the city within fifteen (15) days from the date thereof. (Ord. No. 174, 2/7/77)

## **ARTICLE B**

### **PERMIT II**

Ordinance Number N.C. 110, adopted October 21, 1968, granted a twenty-five (25) year cable permit to Thompson Theatres, later assigned to Thompson Cablevision Company, to operate a cable system for a two percent (2%) permit fee. The permit expires October 21, 1993. A copy is on file in the office of the city clerk.

**APPENDIX 8**

**ATOKA MUNICIPAL AUTHORITY**

Article I	Creation of trust.
Article II	Powers and purposes.
Article III	(Reserved)
Article IV	(Reserved)
Article V	The trust estate.
Article VI	The trustees.
Article VII	Powers and duties of the trustees.
Article VIII	Beneficiary of trust.
Article IX	Termination of trust.
Article X	Acceptance.

KNOW ALL MEN BY THESE PRESENTS:

THIS TRUST INDENTURE dated as of the 16th day of December, 1968, by Fred McKaskle hereinafter referred to as the Trustor, and Fred McKaskle, Herbert Grist, John M. Lee, Charles Dyer, Max Copeland, J.O. Stewart, Bill Goforth, W.L. Evans and Don Milam and their respective successors in office, to be known as the Trustees of the Atoka Municipal Authority, who shall be and are hereinafter referred to as Trustees of the said Authority (hereinafter referred to as Trust) herein set out.

WITNESSETH:

That in consideration of the payment by the Trustor to the Trustees of the sum of One Dollar (\$1.00), receipt of which is hereby acknowledged, the mutual covenants herein set forth, and other valuable considerations, the said Trustees herein provided, authorized and directed, such property as Trustor, or others, may from time to time assign, transfer, lease, convey, give, bequeath, devise or deliver unto this Trust or the Trustees hereof.

TO HAVE AND TO HOLD such property and the proceeds, rents, profits and increases hereof unto said Trustees and said Trustee's successors and assigns, but nevertheless in trust, for the use and benefit of the City of Atoka, Oklahoma, hereinafter referred to as Beneficiary, and upon the following trusts, terms and conditions herein stated.

**ARTICLE I  
CREATION OF TRUST**

The undersigned Trustor creates and establishes a trust for the use and benefit of the Beneficiary, to finance, operate, construct and administer any public works, improvements or facilities, and for the public purposes hereinafter set forth, under the provisions of Title 60, Oklahoma Statutes 1961, Sections 176 to 180, inclusive, the Oklahoma Trust Act and other applicable statutes of the State of Oklahoma.

**ARTICLE II**

## POWERS AND PURPOSES

The Trustees of this Trust shall conduct all business and execute or authorize the execution of all instruments in the name of this Trust, and otherwise perform the duties and functions required in the execution of this Trust.

The purposes of this Trust are:

(1) To acquire, construct, reconstruct, extend, lease, purchase, install, equip, maintain, repair, enlarge, remodel and operate buildings and other facilities for use by the United States of America, or the State of Oklahoma, or for use by authorities or agencies of the United States of America or of the State of Oklahoma or of any municipality thereof, or for use by municipal or other political subdivisions of the State of Oklahoma, including the Beneficiary hereof, or for the use of corporations, individuals, partnerships, associations or proprietary companies for industrial development; to plan, establish, develop, construct, enlarge, improve, extend, maintain, equip, operate, lease, furnish, provide, supply, regulate, hold, store and administer utilities and/or buildings or other facilities either within or without the territorial boundaries of the Beneficiary which are or shall be of public use, or useful in securing, developing, and maintaining industrial and manufacturing activities including, but without limitation, water, sewer, garbage, trash disposal, recreational and industrial facilities; and to service machinery or equipment in connection with such utilities, buildings and facilities.

(2) To hold, maintain and administer any leasehold rights in and to physical properties demised to the Beneficiary and to comply with the terms and conditions of any such lease.

(3) To acquire by lease, purchase, production, reduction to possession or otherwise, and to plan, establish, develop, construct, enlarge, improve, extend, maintain, equip, operate, furnish, provide, supply, regulate, hold, store and administer any and all physical properties (real, personal or mixed), rights, privileges, immunities, benefits, and any other thing of value, designated or needful for utilization in furnishing, providing or supplying the aforementioned services, utilities, buildings and facilities to finance and refinance and to enter into contracts of purchase, lease-purchase or other interest in or operation and maintenance of said properties, and revenue thereof, and to comply with the terms and conditions of any such contracts, leases or other contracts made in connection with the acquisition, equipping, maintenance and disposal of any of said property; and to relinquish, dispose of, rent or otherwise make provisions for properties owned or controlled by the Trust but no longer needful for trust purposes.

(4) To perform on behalf of the Beneficiary the functions and powers as authorized by industrial development statutes.

(5) To provide funds for the cost of financing, refinancing, acquiring, constructing, purchasing, equipping, maintaining, leasing, repairing, improving, extending, enlarging, remodeling, holding, storing, operating and administering any or all aforesaid property, improvements, buildings, facilities, and all properties (real, personal or mixed) needful for executing and fulfilling the Trust purposes as set forth in this instrument and all other charges, costs, and expenses necessarily incurred in connection therewith and in so doing, to incur indebtedness, either unsecured or secured by all or any part of the Trust Estate and its revenues.

(6) To expend all funds coming into the hands of the Trustees as revenue or otherwise for the payment of any indebtedness incurred by the Trustees for purposes specified herein, and in the payment of the aforesaid costs and expenses, and in payment of any other obligation properly

Appendix 8 – Atoka Municipal Authority

chargeable against the Trust Estate, and to distribute the residue and remainder of such funds to the Beneficiary.

This Trust shall have duration for the term of duration of the beneficiary and until such time as its purpose shall have been fully fulfilled, or until it shall be terminated as hereinafter provided.

ARTICLE III  
(RESERVED)

ARTICLE IV  
(RESERVED)

ARTICLE V  
THE TRUST ESTATE

The Trustee Estate shall consist of:

(1) The funds and property presently in the hands of the Trustees or to be acquired or constructed by Trustees and dedicated by the Trustor and others to be used for trust purposes.

(2) Any and all leasehold rights remised to the Trustees by the Beneficiary as authorized and empowered by law.

(3) Any and all money, property (real, personal or mixed), rights, choses in action, contracts, leases, privileges, immunities, licenses, franchises, benefits, and all other things of value coming into the possession of the Trustees pursuant to the provisions of this Trust Indenture.

(4) Cash in the sum of \$10.00 paid to Trustees, receipt of which is hereby acknowledged by the Trustees.

The instruments executed for each project, and such issuance of Trustees Bonds and other indebtedness, shall set out the specific property of the Trust Estate exclusively pledged and mortgaged for the payment of such indebtedness.

ARTICLE VI  
THE TRUSTEES

(1) The Trustees of this Trust shall be citizens and residents of the Beneficiary, who are the persons presently constituting the Mayor of the City of Atoka, and members of the governing board of the Beneficiary, and the persons who shall be their successors as Mayor of the city [City] of Atoka, and members of said governing board of said Beneficiary, and each such successor in office shall without any further act, deed or conveyance, automatically become Trustees of this Trust and become fully vested with all the estate, properties, rights, powers, duties and obligations of his predecessor hereunder with like effect as if originally named as a Trustee herein.

(2) The person who shall be the Mayor of the Beneficiary, shall become automatically the Chairman of the Trustees and shall preside at all meetings and perform other duties designated by the Trustees. The Trustees shall designate the time and place of all regular meetings. All

## Appendix 8 – Atoka Municipal Authority

actions by the Trustees pursuant to the provisions of this Trust Indenture shall be approved by the affirmative vote of at least a majority of the Trustees qualified to act as such under the provisions of this Trust Indenture. The Trustees shall select one of their members to be Vice-Chairman who shall act in the place of the Chairman during the latter's absence or incapacity [incapacity] to act.

(3) The person who shall be the City Clerk of the Beneficiary, shall act as secretary of the Trustees. The Secretary shall keep minutes of all meetings of the Trustees and shall maintain complete and accurate records of all their financial transactions, all such minutes, books and records to be on file in the office of the Trust. All meetings of the Trustees shall be open to the public, and the books, records and minutes of the Trustees shall be considered as public records and available for inspection at all times by any interested party.

(4) The person who shall be the City Treasurer of the Beneficiary, shall act as Treasurer of the Trustees.

(5) The City Manager of the Beneficiary shall be the general manager for the Trust Estate. The Trustees and the general manager for the Trust Estate may employ such other clerical, professional legal and technical assistance as may be deemed necessary in the discretion of the Trustees to properly operate the business of the Trust Estate, and may fix their duties, terms of employment and compensation. Any such employee may be a person who shall be an officer or employee of the Beneficiary, in which event such officer or employee may receive compensation from the Trust Estate. All Trustees shall serve without compensation but shall be reimbursed for actual expenses incurred in the performance of their duties hereunder. In the event a general manager for the Trust Estate is appointed by the Trustees, the said general manager shall administer the business of the Trust Estate as directed from time to time by the Trustees.

(6) The Trustees are authorized to contract, in connection with the incurring of any funded indebtedness secured by the Trust Estate and/or its revenues, or any part of either or both, that in the event of a default in the fulfillment of any contract obligation undertaken on behalf of the Trust Estate or in the payment of any indebtedness incurred on behalf of the Trust Estate, that a Temporary Trustee or Trustees or Receiver shall be appointed to succeed to the rights, powers and duties of the Trustees then in office. Any such contract, if made, shall set out the terms and conditions under which such Temporary Trustee or Trustees or Receiver shall be appointed, and operate the Trust Estate and provide for compensation to be paid, and appointment to be vacated and permanent Trustees to be automatically reinstated upon termination of all defaults by which their appointment was authorized.

(7) Bonds or other evidences of indebtedness to be issued by the Trustees shall not constitute an indebtedness of the State of Oklahoma, or of the Beneficiary, or personal obligations of the Trustees of the Trust, but shall constitute obligations of the Trustees payable solely from the Trust Estate.

(8) The Trustees, the State of Oklahoma, and the Beneficiary hereof shall not be charged personally with any liability whatsoever by reason of any act or omission committed or suffered in good faith or in the exercise of their honest discretion in the performance of such Trust or in the operation of the Trust Estate; but any act or liability for any omission or obligation of the Trust Estate, shall extend to the whole of the Trust Estate or so much thereof as may be necessary to discharge such liability or obligation.

(9) Notwithstanding any other provision of this Indenture which shall appear to provide otherwise, no Trustee or Trustees shall have the power or authority to bind or obligate any other

Trustee, or the Beneficiary, in his or its capacity, nor can the Beneficiary bind or obligate the Trust or any individual Trustee.

ARTICLE VII  
POWERS AND DUTIES OF THE TRUSTEES

To accomplish the purposes of the Trust, and subject to the provisions and limitations otherwise provided in this Trust Indenture, the Trustees shall have, in addition to the usual powers incident to their office and the powers granted to them in other parts of this Trust Indenture, the following rights, powers, duties, authority, discretion and privileges, all of which may be exercised by them without any order or authority from any court:

(1) To finance, refinance, acquire, establish, develop, construct, enlarge, improve, extend, maintain, equip, operate, lease, furnish, provide, supply, regulate, hold, store and administer any of the facilities designated pursuant to Article III hereof as the Trustees shall determine necessary for the benefit and development of the Beneficiary.

(2) To enter into contracts for the acquisition and construction of facilities authorized to be acquired and constructed pursuant to the terms of this Trust Indenture and in compliance herewith, other than those facilities to be constructed by the employees of the Trustees;

(3) To employ such architectural and engineering firm or firms as the Trustees deem necessary to prepare such preliminary and detailed studies, plans, specifications, cost estimates and feasibility reports as are required in the opinion of the Trustees. The cost of such engineering and architectural work shall be paid out of the proceeds of the sale of bonds or from such other funds as may be available therefor.

(4) To enter into contracts for the sale of bonds, notes or other evidences of indebtedness or obligations of the Trust for the purpose of acquiring or constructing facilities authorized to be acquired or constructed pursuant to the terms of this Trust Indenture and for that purpose may:

- (a) Employ a financial advisor, or committee of advisors, to advise and assist the Trustees in the marketing of such bonds, notes or other evidences of indebtedness or obligations, and to present financial plans for the financing of the acquisition or construction of each project, and to recommend to, or consult with, the Trustees concerning the terms and provisions of bond indentures and bond issues, and may pay appropriate compensation for such work and services performed in the furtherance of the project;
- (b) Sell all bonds, notes or other evidences of indebtedness or obligations of the Trust in whole or in installments or series and on such terms and conditions and in such manner as the Trustees shall deem to be in the best interest of the Trust Estate; and
- (c) Appoint and compensate attorneys, paying agencies and corporate trustees in connection with the issuance of any such bonds, notes, evidences of indebtedness or other obligations of the Trust.

(5) To enter into and execute, purchase, lease or otherwise acquire property, real, personal or mixed, contracts, leases, rights, privileges, benefits, choses in actions, or other things of value and to pay for the same in cash, with bonds or other evidences of indebtedness or otherwise.

(6) To make and change investments, to convert real into personal property, and vice versa, to lease, improve, exchange or sell, at public or private sale, upon such terms as they deem proper, and to resell, at any time and as often as they deem advisable, any and/or all the property

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in the Trust, real and personal; to borrow money, or renew loans to the Trust, to refund outstanding bonded indebtedness and to execute therefor notes, bonds or other evidences of indebtedness, and to secure the same by mortgage, lien, pledge or otherwise; to purchase property from any person, firm or corporation, and lease land and other property to and from the Beneficiary and construct, improve, repair, extend, remodel and equip facilities thereon and to operate or lease or rent the same to individuals, partnerships, associations, corporations and others, including the United States of America, or the State of Oklahoma and agencies or authorities of the United States of America, or of the State of Oklahoma, or of any municipality thereof, and also including all municipal or other political subdivisions of the State of Oklahoma as well as the Beneficiary hereof, and to do all things provided for in Article III of this Trust Indenture, and procure funds necessary for such purpose by the sale of bonds or other evidences of indebtedness by a mortgage, lien, pledge or other encumbrance or otherwise of such real and personal property and facilities owned or otherwise acquired, leased or controlled by Trustees, and by rentals, income, receipts and profits therefrom, or from any other revenues associated with the ownership, operation or control of the property of the Trust; to lease or sublease any property of the Trust or of which the Trustees may become the owners or lessees.

(7) To fix, demand and collect charges, rentals and fees for the services and facilities of the Trust to the same extent as the Beneficiary might do and to discontinue furnishing of services and facilities to any person, firm or corporation, or public instrumentality, delinquent in the payment of any indebtedness to the Trust; to purchase and sell such supplies, goods and commodities as are incident to the operation of its properties.

(8) To make and perform contracts of every kind, including management contracts, with any person, firm, corporation, association, trusteeship, municipality, government or sovereignty; and without limit as to amount to draw, make, accept, endorse, assume, guarantee, account, execute and issue promissory notes, drafts, bills of exchange, acceptances, warranties, bonds, debentures and other negotiable or non-negotiable instruments, obligations and evidences of unsecured indebtedness, or of indebtedness secured by mortgage, deed of trust or otherwise upon any or all incomes of the Trust, in the same manner and to the same extent a natural person might or could do. To collect and receive any property, money, rents or income of any sort and distribute the same or any portion thereof for the furtherance of the authorized Trust purposes set out herein.

(9) To do all other acts in their judgment necessary or desirable, for the proper and advantageous management, investment and distribution of the Trust Estate and income therefrom.

The whole title, legal and equitable, to the properties of the Trust is and shall be vested in the Trustees, as such title in the Trustees is necessary for the due execution of this Trust. Said Trustees shall have and exercise exclusive management and control of the properties of the Trust Estate for the use and benefit of the Beneficiary; but may agree for approval of any or all of its actions and transactions by the governing board of the Beneficiary.

The Trustees may contract for the furnishing of any services or the performance of any duties that they may deem necessary or proper, and pay for the same as they see fit.

The Trustees may select depositories for the funds and securities of this Trust. Temporary Trustee or Trustees or Receiver appointed pursuant to paragraph 6 of Article VI hereof may employ special counsel to represent them and such special counsel's compensation shall be paid from revenues of the Trust Estate.



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The Trustees may compromise any debts or claims of or against the Trust Estate, and may adjust any dispute in relation to such debts or claims by arbitration or otherwise and may pay any debts or claims against the Trust Estate upon any evidence deemed by the Trustees to be sufficient. The Trustees may bring any suit or action, which in their judgment is necessary or proper to protect interest of the Trust Estate, or to enforce any claim, demand or contract for the Trust; and they shall defend, in their discretion, any suit against the Trust, or the Trustees or employees, agents or servants thereof. They may compromise and settle any suit or action, and discharge [discharge] the same out of assets of the Trust Estate, together with court costs and attorneys' fees. All such expenditures shall be treated as expenses of executing this Trust.

No purchaser at any sale or lessee under a lease made by the Trustees shall be bound to inquire into the expediency, propriety, validity or necessity of such sale or lease or to see to or be liable for the application of the purchase or rental moneys arising therefrom.

### ARTICLE VIII BENEFICIARY OF TRUST

(1) The Beneficiary of this Trust shall be the Beneficiary, under and pursuant to Title 60, Oklahoma Statutes 1961, Sections 176 to 180, inclusive, as amended and supplemented, and other statutes of the State of Oklahoma presently in force and effect. Trustor now declares that this Trust Indenture shall not be subject to revocation, alteration, amendment, revision, modification or termination from and after the date any indebtedness is incurred by the Trustees.

(2) The Beneficiary shall have no legal title, claim or right to the Trust Estate, its income, or to any part thereof or to demand or require any partition or distribution thereof. Neither shall the Beneficiary have any authority, power or right, whatsoever, to do or transact any business for, or on behalf of, or binding upon the Trustees or upon the Trust Estate, nor the right to control or direct the actions of the Trustees pertaining to the Trust Estate, or any part thereof [thereof]. The Beneficiary shall be entitled solely to the benefits of this Trust, as administered by the Trustees hereunder, and at the termination of the Trust, as provided herein, and then only, the Beneficiary shall receive the residue of the Trust Estate.

### ARTICLE IX TERMINATION OF TRUST

This Trust shall terminate - - -

(1) When the purposes set out in Article III of this instrument shall have been fully executed; or

(2) In the manner provided by Title 60, Oklahoma Statutes 1961, Section 180. Provided, however, that this Trust shall not be terminated by voluntary action if there be outstanding indebtedness or fixed term obligations of the trustees, unless all owners of such indebtedness and obligations shall have consented in writing to such termination.

Upon the termination of this Trust, the Trustees shall proceed to wind up the affairs of this Trust, and after payments of all debts, expenses and obligations out of the moneys and properties of the Trust Estate to the extent thereof, shall distribute the residue of the money and properties of the Trust Estate to the Beneficiary hereunder. Upon final distribution, the powers, duties and authority of the Trustees hereunder shall cease.



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County of Atoka                    ) SS  
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BEFORE ME, the undersigned, a Notary Public in and for said County and state, on this 16th day of December, 1968, personally appeared Fred McKaskle, Herbert Grist, John M. Lee, Charles Dyer, Max Copeland, J.O. Stewart, Bill Goforth, W.L. Evans and Don Milam to be known to be the identical persons who executed the within and foregoing instrument and acknowledged to me that they execute the same as their free and voluntary act and deed for the uses and purposes therein set forth.

GIVEN UNDER MY HAND AND SEAL the day and year last above written.

/s/ Luna O. Phillips  
Notary Public

(SEAL)

My commission expires Oct. 4, 1972/

KNOW ALL MEN BY THESE PRESENTS:

That the Board of Commissioners of the City of Atoka, Oklahoma, a municipal corporation, hereby accepts the beneficial interest in the Trust created by the within and foregoing Trust Indenture, for and on behalf of said beneficiary in all respects in accordance with the terms of said Trust Indenture.

WITNESS my hand as Mayor of the City of Atoka, Oklahoma, attested by the City Clerk of the City of Atoka, Oklahoma, pursuant to directions of said Board of Commissioners, this 16th day of December, 1968.

/s/ O. Fred McKaskle  
Mayor

ATTEST:

/s/ Peggy Garside  
City Clerk

**ATOKA MUNICIPAL AUTHORITY LEASE**

THIS LEASE AGREEMENT (hereinafter called “Agreement”), dated as of May 1, 1972, by and between the CITY OF ATOKA, OKLAHOMA (hereinafter called “City”), a municipal corporation acting by its Mayor and City Council, and the TRUSTEES OF THE ATOKA MUNICIPAL AUTHORITY (hereinafter called “Authority”), a public trust created under the authority of and pursuant to the provisions of Title 60, Oklahoma Statutes 1971, Sections 176 to 180.3, as amended and supplemented, and the Oklahoma Trust Act; WITNESSETH:

WHEREAS, an Offer of Grant for project number 08-1-00958 has been made to the Authority by the United States Department of Commerce, Economic Development Administration (hereinafter called “EDA”) for an eighty percent (80%) grant in aid of the construction of improvements to the water system of the City of Atoka, Oklahoma; and

WHEREAS, the Authority has received additional grant awards from EDA, the Environmental Protection Agency (hereinafter called “EPA”) and the Ozarka Regional Commission (hereinafter called “ORC”) designated as projects WPC-OKLA-447 (EDA 08-2-00951) and ORC 92-1-1-2228 for grants in aid of the construction of improvements to the water and sanitary sewer system of the City of Atoka, Oklahoma; and

WHEREAS, the estimated cost of the improvements to the water and sanitary sewer system (hereinafter called the “Project”) is \$1,350,000 of which the local share not supplied by EDA, EPA and ORC is \$390,000; and

WHEREAS, on April 25, 1972, the City issued its \$105,000 General Obligation Bonds to provide part of the local share of the cost of the Project; and

WHEREAS, Atoka County, Oklahoma (hereinafter called “County”), acting by and through its Board of County Commissioners, has issued its \$350,000 General Obligation Limited Tax Bonds of 1969, dated July 1, 1969, and pursuant to agreement with the Trustees of the Atoka County Industrial Authority (hereinafter called “County Authority”) has agreed to expend the balance of the proceeds of such County General Obligation Bonds in the approximate amount of \$260,000 for paying part of the local share of the cost of the Project; and

WHEREAS, the City has accumulated sufficient additional funds which together with the proceeds of the City General Obligation Bonds and the County General Obligation Bonds will be sufficient to pay the local share of the cost of the Project; and

WHEREAS, the City, pursuant too Section 1-3 of the Charter of the City, has determined to lease its presently existing and hereafter acquired water and sanitary sewer systems, together with appurtenances thereof and all incidents thereto, more fully described in Section 1 (hereinafter called the “Facilities”) to the Authority to enable the Authority to pay to the County annual sums equal to the debt service requirement on the County General Obligation Bonds during the ensuing fiscal year, and to make it unnecessary to levy and collect a tax on all the real and personal taxable property in the County for the purpose of meeting debt service requirements on the County General Obligation Bonds, such annual sums to be paid from the proceeds, fees,

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charges, revenue, income, rents, receipts, issues and benefits (hereinafter called the “Revenues” and together with the Authority’s leasehold interest in the Facilities called the “Trust Estate”) from the Facilities; and

WHEREAS, the City, the Authority, the County and the County Authority have entered into a Contract, Indenture of Leasehold Mortgage and Depository Agreement (hereinafter called “Contract”) of even date herewith providing for contribution by the City and the County to local share requirements and securing the payment of annual sums to the County by the Authority:

NOW, THEREFORE, THE AUTHORITY AND THE CITY AGREE AS FOLLOWS:

SECTION 1. The City, in consideration of the agreements of the Authority, does and by these presents demises, leases and rents to the Authority and the Authority leases from the City the following described property, real or personal or both, herein defined as the Facilities, owned by or under the control of the City as follows:

(1) All of the presently existing water and sanitary sewer systems of the City and all appurtenances thereof presently belonging to the City, or under its custody, management or control, located within the without the corporate limits of the City, together with the rights-of-way, real estate and interests therein, licenses, easements and other rights and privileges appertaining or related thereto and including, but not limited to the real and personal property and improvements to the City’s water and sanitary sewer system included in the Project.

(2) All interest of the City in and to all unexpired leases and contracts heretofore or hereafter executed by the City pertaining to use of any part of said water and sanitary sewer system, including revenue and income to be received therefrom and retained by the City.

(3) All interest of the City in and to proceeds, fees, charges, revenues, income, rents, receipts, issues and benefits from the use of said Facilities of the City.

(4) All property, real, personal or mixed, together with all rights and privileges appertaining or related thereto which hereafter may be acquired by or in the name of the City for use in connection with furnishing of water and sanitary sewer service to persons, firms, corporations and others within or without the corporate limits of the City; including but not limited to the Project extensions and improvements to the water and sanitary sewer system, title to which Project shall be vested in the City upon completion thereof as hereinafter provided; it being the intention of this paragraph that any of the foregoing, including income therefrom, immediately upon acquisition shall be a part of the property demised and leased hereunder.

TO HAVE AND TO HOLD THE SAME TO THE AUTHORITY for an original term of twenty-six (26) years and two (2) months, commencing on May 1, 1972, and ending on June 30, 1998, and for an additional fifty (50) years from the 30th day of June, 1998, to the 30th day of June, 2048, or to such date as all indebtedness incurred by the Authority pursuant to a Bond Indenture, Mortgage Indenture or similar financing document, mortgaging the property of Authority, including the foregoing leasehold interest, and pledging the income therefrom, has been paid or provision for payment has been duly made, whichever is later. The leased property is demised to the Authority for the purpose of enabling the Authority to assist the Lessor in the execution and performance of the public functions of the Lessor in respect of

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furnishing and providing adequate water and sanitary sewer services and facilities at all times during the term of this Lease Agreement. (Added by Amendment, 6/18/90)

The Lease Agreement is amended to include those properties described on the Schedule A of this Amendment to Lease Agreement, which is attached hereto and incorporated herein by reference. (Added by Amendment, 6/18/90)

[Language deleted with the 6/18/90 amendment: TO HAVE AND TO HOLD the same to the Authority for a term of twenty-six (26) years and two (2) months, commencing on May 1, 1972, and ending on June 30, 1998, provided that such term shall be extended beyond June 30, 1998, until all indebtedness and obligations secured by and payable from the Trust Estate have been retired and paid or provision for the payment thereof has been made, and further provided that such term shall expire prior to June 30, 1998, upon the Authority's retirement and payment of all such indebtedness and obligations. Upon expiration of the initial term of this Agreement as above provided, the leasehold interest granted in this Section 1 may be renewed for an additional fifty (50) year term at the option of the Authority to the end that the leasehold estate herein granted may be pledged as security for additional indebtedness issued by the Authority.]

The City hereby consents and agrees that the leasehold interest in the Facilities herein granted to the Authority may be pledged by the Authority as security for indebtedness issued by the Authority as well as to secure the Authority's obligation under the Contract to pay annual sums to the County. The mortgage and pledge of the Trust Estate granted by the Authority to the County under the Contract shall be subordinate and inferior to any mortgage and pledge hereafter granted by the Authority to secure other indebtedness incurred by the Authority, at the option of the Authority.

**SECTION 2.** In consideration of the lease of the Facilities the Authority hereby covenants and agrees during the term of this Agreement set out in Section 1 above, as follows:

(1) From the Revenues of the Trust Estate, to maintain and operate in first class condition, keep in good repair and make necessary replacements, extensions and improvements to the Facilities and from said Revenues to pay all bank or Trustees' compensation, fees and expenses in accordance with the terms of any Indenture, agreement or mortgage securing indebtedness of the Authority or other obligations for payment, and from said Revenues to protect and hold the City harmless for damages due to injury to persons or property arising by reason of the Authority's operation, maintenance, repair, replacements, extensions and improvements of the Facilities. The amounts paid from the Revenues for such purposes are hereinafter called the "Operation and Maintenance Expenses". The Operation and Maintenance Expenses shall include the cost of water and the cost of treatment and distribution of water and sewage. During such period as the Authority's obligation under the Contract for payment of annual sums to the County remains the only long-term outstanding obligation of the Authority payable from the Trust Estate, the Operation and Maintenance Expenses shall be paid from the Gross Revenues prior to payment or making provision for payment of annual sums due the County. In the event the Authority incurs indebtedness maturing for a period greater than one (1) year secured by the Revenues in the Trust Estate or a pledge thereof, the Authority may contract to meet debt service

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requirements on such indebtedness from Gross Revenues prior to payment of Operation and Maintenance Expenses, at the discretion of the Authority.

(2) To fix a schedule of uniform and non-discriminatory rates, fees and charges for the use of the Facilities and the services supplied by the Facilities, such as will provide in any year Revenues sufficient to pay monthly debt service requirements on the indebtedness incurred by the Authority and to pay or make adequate provision for payment of annual sums due the County, in accordance with the terms of any such indebtedness and any Indenture or other agreement securing the same, and in addition to paying all Operation and Maintenance Expenses, as defined in Section 2(1) above.

(3) To adjust the rents, rates, fees and charges for the services supplied by and the use of the Facilities to reflect uniform changes in such rents, rates, fees and charges requested from time to time by ordinance or resolution of the governing body of the city, provided that such adjustments and changes in such rents, rates, fees and charges do not in any way impair the ability of the Authority to comply fully with all of the covenants of this Agreement, to meet debt service requirements on Authority indebtedness, and to pay or make adequate provision for payment of the annual sums due the County.

(4) In accordance with the uniform rates, fees and charges fixed by the Authority, to bill water and sewer rates, fees and charges to each and every user of the Facilities and the services thereof, and to enforce payment of said rates, fees and charges by termination of water service to users delinquent in payment of water or sewer rates, fees or charges, and in addition, by any other legally available means. Authority billings for water and sewer charges will be rendered on the same bill, but each will be shown as a separate item.

(5) To collect all Revenues from the Facilities and the users of the services thereof and remit to the Depository Bank or Banks designated by the Authority, all such Revenues for deposit in an account or accounts to be established and known as Atoka Municipal Authority Revenue Account -Water and Sewer.

(6) Not to commit or allow any waste with respect to any of the Facilities.

(7) To comply faithfully and fully with and abide by every statute, rule, order and regulation now in force or hereafter enacted by any competent government agency or authority with respect to or affecting the Facilities or the operation or maintenance thereof, and to keep the Facilities and the Revenues and all parts thereof free from judgments, mechanics' and materialmen's liens and free from all other mortgages, liens, claims, demands and encumbrances of whatever nature or character to the end that the priority of the mortgage and pledge provided for in any Indenture or agreement securing Authority indebtedness or payment of annual sums to the County may at all times be maintained and preserved free from any claim or liability. The provisions set out in this subparagraph (1) of this Section 2 shall not prevent the transfer of possession or control of the Trust Estate or any part thereof to temporary trustees or receivers for operation thereof in accordance with the provisions of any Indenture or agreement securing the payment of indebtedness issued by the Authority or securing the payment of annual sums to the County.

(8) To carry, as long as any indebtedness or obligation of the Authority secured by a mortgage and pledge of the Authority's leasehold interest in the Facilities and the Revenues therefrom are outstanding, the insurance required to be carried by the Authority under the terms of any Indenture or agreement securing such indebtedness or obligation, and to apply the proceeds of any such insurance in accordance with the terms of such Indenture or agreement.

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(9) To keep proper books of record and account of all transactions relating to the Trust Estate in accordance with the terms of any Indenture or other agreement securing indebtedness or obligations of the Authority, and to cause statements and audits to be furnished to the City and other designated parties in accordance with the terms of the Indenture or other agreement securing such indebtedness or obligations.

(10) To be bound by and keep and perform all covenants, acts and things by it to be kept and performed according to the true intent and meaning of the Trust Indenture creating the Authority, this Agreement and any Indenture or other agreement securing indebtedness or obligations of the Authority.

Amendment added December 2, 1991 to paragraph (11) of Section II: (a) Except as otherwise hereinbelow provided in subparagraph (b) of this paragraph 11:

(11) (a) To pay to the City or cause the Depository Bank to pay to the City, as rental for the Facilities, for deposit in the general fund of the City and use by the City for any lawful purpose, all Revenues of the Facilities remaining in the Revenue Account - Sewer and (except as below provided) Water after there has been paid from said Revenue Account - Sewer and (except as below provided) Water the monthly debt service requirements and accumulations for payment of annual sums to the County and the Operation and Maintenance Expenses for the period prior to the last payment of Operation and Maintenance Expenses (it further being the intent and purpose of the aforesaid that the amount paid to the City shall be paid as early as possible in each monthly period).

(b) PROVIDED, HOWEVER, any language in the Trust Indenture and/or elsewhere in this Lease Agreement permitting to the contrary notwithstanding, if and for so long as there may or shall remain due and payable any debt (principal, interest and/or otherwise), presently existing or hereinafter coming into existence, by the Authority to the United States of America by reason of any loan(s) thereby to the Authority through the United States Department of Agriculture (Acting through the Farmers Home Administration), hereinafter referred to as “FmHA Loan Debt”, then and in such events no such excess or other water revenues shall be distributable or distributed by Authority to City as such rental or otherwise, until such time as said FmHA Loan Debt shall have been paid in full, without the prior written consent of said Farmers Home Administration. (Amendment, 12/2/91)

[Language deleted by the 12/2/91 amendment: (11)To pay to the City or cause the Depository Bank to pay to the City, as rental for the Facilities, for deposit in the general fund of the City and use by the City for any lawful purpose all Revenues of the Facilities remaining in the Revenue Account –Water and Sewer after there has been paid from said Revenue Account - Water and Sewer the monthly debt service requirements and accumulations for payment of annual sums to the County and the Operation and Maintenance Expenses for the period prior to the last payment of Operation and Maintenance Expenses. It is the intent and purpose of the aforesaid that the amount paid to he City shall be paid to the City as early as possible in each monthly period.]

(12) To issue only such indebtedness and obligations secured by the Trust Estate as may be approved from time to time by ordinance or resolution of the governing body of the City.



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SECTION 3. In consideration of the agreements of the Authority, the City hereby covenants and agrees during the term of the Agreement set out in Section 1 above as follows:

(1) To furnish or cause to be furnished, for distribution through the facilities, a supply of water adequate to meet the demands of the users of the Facilities and insure the efficient operation thereof.

(2) To promptly institute and diligently prosecute appropriate proceedings in eminent domain for the condemnation of land or interests therein necessary for construction or acquisition of any improvement or betterment to or extension of the properties of the Trust Estate which has been approved by the governing body of the City. The costs and expenses of such proceedings, and the award of damages as a result thereof are to be paid by the Authority from the Revenues of the trust Estate unless otherwise agreed to by the parties hereto. Title to all such property is to be taken in the name of the City and upon acquisition shall become a part of the properties leased to the Authority hereunder and included in the Trust Estate.

(3) To do any and all things required to be done by the city under the terms of this Agreement and to cooperate with the Authority to the end that the facilities may be efficiently operated and maintained.

SECTION 4. It is understood and agreed that by agreement of the City and the Authority, the City may assume the obligation to operate and maintain the Facilities and collect the Revenues therefrom for and on behalf of the Authority, to deposit such Revenues in the Revenue Account - Water and Sewer, and to perform the requirements of Section 2(1) and 2(4) through 2(9), inclusive, such obligation to be assumed by the City at the time the Authority contracts any additional indebtedness secured by the Trust Estate other than the obligation to pay annual sums to the County, provided that such assumption of obligation is permitted by law and is approved by the purchasers of the indebtedness incurred by the Authority or their counsel.

SECTION 5. From and after the issuance of any indebtedness or other obligation secured by the Trust Estate, this Agreement shall not be assignable by either party; provided, however, that any change of trustees of the Authority, or the taking of possession or control of leased properties for operation thereof in accordance with the provisions of any Indenture or agreement securing the payment of indebtedness or obligations of the Authority, shall not be considered as an assignment prohibited by the provisions hereof. Except as provided in the immediately preceding Section 4, this Agreement shall not be subject to amendment without the written consent of the City, the Authority and the holder of any indebtedness issued by the Authority (or Trustee therefor).

SECTION 6. Indebtedness issued by the Authority shall not constitute an indebtedness of the State of Oklahoma or of the City, nor shall such indebtedness be the personal obligation of the Authority's trustees but such indebtedness shall be a special and limited obligation of the Authority payable solely from the Trust Estate.

SECTION 7. The provisions of this Agreement shall be deemed separable. If it shall ever be held by a court of competent jurisdiction that any one or more sections, clauses or provisions of this Agreement is invalid or ineffective for any reason, such holding shall not affect the validity and effectiveness of the remaining sections, clauses and provisions hereof.

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SECTION 8. The Authority hereby agrees with the City that the full legal title to any water and sewer system extensions and improvements constructed by the Authority, including the Project, upon completion thereof and the approval of a Certificate of Completion thereof in accordance with the terms of any Indenture or other agreements, shall be vested in the City, and the City agrees that such extensions and improvements shall become part of the Facilities herein leased to the Authority, to be operated and maintained by the Authority in accordance with the terms of this Agreement.

SECTION 9. In the event of the Authority’s default, which default results in the appointment of temporary or permanent receivers or trustees for the Trust Estate of the Authority, the City hereby agrees to perform with respect to such receivers or trustees, all covenants and agreements herein undertaken with respect to the Authority.

In the event of the Authority’s default hereunder resulting in receivers or temporary trustees taking over operation of the Facilities, the City agrees as follows:

- (a) To sell to the Authority or its receivers or temporary trustees water at a wholesale rate based on the lowest rate in effect at the time for any consumer using a comparable quantity of water;
- (b) in arriving at the quantity or water used, all consumption from the mains and services covered in the receivership or trusteeship shall be considered as consumed by one customer or through one meter notwithstanding the fact that two or more meters may be required to properly serve the mains and services involved;
- (c) that only one charge to the Authority or its receivers or temporary trustees based on the size of service or meter will be made and that the same shall be based on the largest size meter required to serve the mains and services;
- (d) to continue to perform the agreements of the Authority set out in this Agreement.

IN WITNESS WHEREOF, the City has caused this instrument to be signed by its Mayor and City Clerk and its seal affixed, and the Authority has caused this instrument to be signed by its Chairman and Secretary and its seal affixed, all as of the day and year first above written.

CITY OF ATOKA, OKLAHOMA

/s/ Walter Reed Mayor

(SEAL)

ATTEST: /s/ Peggy Garside  
City Clerk

TRUSTEES OF THE ATOKA  
MUNICIPAL AUTHORITY

/s/ Walter Reed Chairman

/s/ Peggy Garside  
Secretary

STATE OF OKLAHOMA )

Appendix 8 – Atoka Municipal Authority

COUNTY OF ATOKA ) SS  
)

BEFORE ME, the undersigned, a Notary Public in and for the said State, on the 1st day of May, 1972, personally appeared Walter Reed, Mayor, and Peggy Garside, City Clerk of the City of Atoka, Oklahoma, one of the makers of the above and foregoing instrument of writing, and to me further known to be the identical persons who subscribed the name of said maker thereof to the foregoing instrument, and acknowledged to me that they executed the same as their free and voluntary act and deed, and as the free and voluntary act and deed of said City for the uses and purposes therein mentioned and set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year aforesaid.

/s/ Andrew J. Haswell, Jr. Notary Public

(SEAL)  
My commission expires 7-25-73 .

STATE OF OKLAHOMA )  
) SS  
COUNTY OF ATOKA )

BEFORE ME, the undersigned, a Notary Public in and for the said State, on the 1st day of May, 1972, personally appeared Walter Reed, Chairman and Peggy Garside, Secretary of the Trustees of the Atoka Municipal Authority, one of the makers of the above and foregoing instrument of writing, and to me further known to be the identical persons who subscribed the name of said maker thereof to the foregoing instrument, and acknowledged to me that they executed the same as their free and voluntary act and deed, and as the free and voluntary act and deed of the Authority for the uses and purposes therein mentioned and set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year aforesaid.

/s/ Andrew J. Haswell, Jr.  
Notary Public

(SEAL)  
My commission expires 7-25-73 .

**SCHEDULE A**

The real property situated in Atoka County, State of Oklahoma, and more particularly described as follows:

(Insert Legal Description of Leased Property)

**OLD HIGH SCHOOL WATER TOWER  
BY FOOTBALL FIELD**

Commencing at the NW corner of Lot 1 of Block 91 of the Atoka Heights Addition to Atoka; thence South along the West line of said Block 91 a distance of 74.36 feet to the true point of beginning; thence N 71° 53' 32" W parallel with the North line of said Lot 1 a distance of 60.95 feet; thence S 180° 06' 28" W parallel with the East line of said Lot 1 a distance of 80 feet; thence S 71° 53' 32" E parallel with the South line of said Lot 1 a distance of 87.11 feet to a point on the West line of said Block 91; thence North along the West line of Block 91 a distance of 84.17 feet to the true point of beginning, containing 0.136 acres, more or less, as the case may be.

**WATER TOWER  
BY MIDDLE SCHOOL**

Lot 6. in Block 2 of the White's Sub-Division of the City of Atoka, Oklahoma according to the official plat thereof.

**WATER PLANT NORTH OF CITY**

Beginning at a point on the East line of Section 36, Township 1 South, Range 11 East. The said point being 700 feet North of the SE corner of said section, thence North 03° 32" East along the East line of said Section, a distance of 835.06 feet, thence S 47° 36' 08" W a distance of 563.39 feet, thence S 42° 23' 52" E a distance of 616.10 feet to the point of beginning.

**ATOKA MUNICIPAL AUTHORITY INDENTURE AGREEMENT**

**CONTRACT, INDENTURE OF LEASEHOLD MORTGAGE  
AND DEPOSITORY AGREEMENT**

THIS CONTRACT, INDENTURE OF LEASEHOLD MORTGAGE AND DEPOSITORY AGREEMENT (hereinafter called “Contract”), dated as of the 1st day of May, 1972, by and among the CITY OF ATOKA, OKLAHOMA (hereinafter called “City”), a municipal corporation acting by its Mayor and City Council; THE TRUSTEES OF THE ATOKA MUNICIPAL AUTHORITY (hereinafter called “City Authority” or “Mortgagor”), a public trust created under the authority of and pursuant to the provisions of Title 60, Oklahoma Statutes 1971, Sections 176 to 180.3, as amended and supplemented, and the Oklahoma Trust Act; THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF ATOKA OF THE STATE OF OKLAHOMA (ATOKA COUNTY, OKLAHOMA) (hereinafter called “County”); and THE TRUSTEES OF THE ATOKA COUNTY INDUSTRIAL AUTHORITY (hereinafter called “County Authority”), an Oklahoma public trust; WITNESSETH:

WHEREAS, the City Authority has been created by a certain Trust Indenture, dated as of December 16, 1968, designating the City Council of the City as Trustees of the City Authority for the use and benefit of the City; and

WHEREAS, Ordinance No. N.C. 111 has been enacted by the City Council of the City, duly accepting beneficial interest under said Trust Indenture; and

WHEREAS, the County Authority has been created by a certain Trust Indenture, dated as of July 30, 1968, designating certain individuals as Trustees of the County Authority for the use and benefit of the County; and

WHEREAS, a Resolution, dated July 30, 1968 has been enacted by the Board of County Commissioners of the County, duly accepting beneficial interest under said Trust Indenture; and

WHEREAS, an Offer of Grant for Project N. 08-1-00958 has been made to the City Authority by the United States Department of Commerce, Economic Development Administration (hereinafter called “EDA”), for an eighty percent (80%) grant in aid of the construction of improvements to the water systems of the City; and

WHEREAS, the City Authority has received additional grant awards from EDA, the Environmental Protection Agency (hereinafter called “EPA”) and the Ozarka Regional Commission (hereinafter called “ORC”), designated as Projects WPC-OKLA-447 (EDA 08-2-00951) and ORC 92-1-1-2228, for grants in aid of the construction of improvements to the water and sanitary sewer system of the City; and

WHEREAS, the estimated cost of the improvements to the water and sanitary sewer system (hereinafter called the Project”) is \$1,350,000 of which the local share not supplied by EDA, EPA and ORC is \$390,000; and

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WHEREAS, on April 25, 1972, the City issued its \$105,000 General Obligation Bonds (hereinafter called the “City Bonds”) to provide part of the local share of the cost of the Project; and

WHEREAS, the County has issued its \$350,000 General Obligation Limited Tax Bonds of 1969, dated July 1, 1969 (hereinafter called the “County Bonds”), and pursuant to an agreement with the County Authority, has agreed to expend the balance of the proceeds of such County Bonds, excluding investment earnings, for paying part of the local share of the cost of the Project; and

WHEREAS, the City has accumulated additional funds which, together with the proceeds of the City Bonds and the County Bonds, will be sufficient to pay the local share of the cost of the Project; and

WHEREAS, the City of Oklahoma City, Oklahoma, the Oklahoma City Municipal Improvement Authority and the City Authority have entered into an Agreement, dated February 18, 1969, pursuant to which the City Authority has leased space in Lake Atoka in an amount and quantity of 2,000 acre feet during any period in which such storage space is surplus to the immediate needs of Oklahoma City, and the total volume of water stored in Lake Atoka is in excess of 80,000 acre feet; and

WHEREAS, the City Authority and the City have entered into a Lease Agreement (hereinafter called the “Agreement”), of even date herewith, pursuant to which the City has leased its presently existing and hereafter acquired water and sanitary sewer systems (hereinafter together with all appurtenances thereof and incidents thereto as hereinafter more particularly described in Section 11, called the “Facilities”) and the proceeds, revenues, charges, income, rents, receipts, issues and benefits from the Facilities (which proceeds, revenues, charges, income, rents, receipts, issues and benefits are hereinafter called the “Revenues” and together with the City Authority’s leasehold interest in the Facilities are herein called the “Mortgaged Property”, all as set out in Section 11 hereof); and

WHEREAS, pursuant to the terms of the Agreement the City Authority has agreed to operate and maintain the Facilities and collect the Revenues therefrom during the term of the Agreement until all indebtedness and obligations secured by and payable from the Mortgaged Property have been retired and paid or provision for the payment thereof has been made; and

WHEREAS, pursuant to the terms of the Agreement, the City Authority has agreed to deposit in the Depository Bank or Banks to be designated by the Authority under the terms of this Contract, all Revenues for deposit in the Atoka Municipal Authority Revenue Account-Water and Sewer (hereinafter called “Revenue Account”) established under the Agreement; and has agreed to pay monthly from said Revenue Account, the Operation and Maintenance Expenses (hereinafter defined) for the period preceding the last payment of such Operation and Maintenance Expenses; and the City Authority has further agreed to pay to the City as rental for the Facilities for deposit in the General Fund of the City and for use by the City for any lawful purpose all Revenues of the Facilities remaining in the Revenue Account hereinafter established, after there has been paid from said Revenue Account the Operation and Maintenance Expenses,

## Appendix 8 – Atoka Municipal Authority

the monthly debt service requirements on indebtedness incurred by the Authority and the monthly portion of annual sums due the County as hereinafter provided;

NOW THEREFORE, THE PARTIES HERETO AGREE AS FOLLOWS:

### SECTION 1. Expenditure of City Bond Proceeds.

As required by Oklahoma law, the proceeds of the City Bonds shall be deposited in a special City Construction Fund in the custody of the City Treasurer, and shall be expended upon warrants against claims filed with the City Clerk and approved by the City Council. The City hereby covenants and agrees to expend the proceeds of the City Bonds (excluding accrued interest and premium which shall be deposited in the City Sinking Fund established in the custody of the City Treasurer for the payment of principal and interest requirements on the City Bonds) for the purpose of paying part of the local share of the costs of the Project in a manner hereinafter provided in Section 4.

### SECTION 2. Expenditure of Balance of County Bond Proceeds.

From the \$350,000 proceeds of the County Bonds (excluding accrued interest and premium of \$1,952 deposited in the County Sinking Fund established for the County Bonds) there were paid financial consultants' fees of \$4,125, the costs of acquiring an industrial site in the amount of \$62,055 and miscellaneous costs of \$192.78. Earnings from investment of the County Bond proceeds in the amount of \$8,937.50, originally commingled with the proceeds of the County Bonds, were later transferred to the County Sinking Fund. On June 30, 1970, there was transferred from the proceeds of the County Bonds to the County Sinking Fund the amount of \$22,581.14, representing a capitalization of the first fiscal year's (1970-1971) County Sinking Fund requirements for the County Bonds, leaving on deposit in the County Construction Fund from the proceeds of the County Bonds the sum of \$261,046.08 (excluding investment earnings received prior to June 30, 1971, which have been transferred to the County Sinking Fund). The net investment earnings received during the 1971-1972 fiscal year shall on or before June 30, 1972 be transferred to the County Sinking Fund and applied in reduction of the annual sum of \$33,068.97 due and payable by the City Authority to the County for deposit in the County Sinking Fund as hereinafter provided.

The net amount on deposit in the County Construction Fund of \$259,469.19 shall be expended in accordance with the requirements of Oklahoma law upon warrants against claims filed with the County Clerk and approved by the Board of County Commissioners of the County. The County hereby covenants and agrees to expend the net proceeds of the County Bonds in the County Construction Fund for the purpose of paying part of the local share of the costs of the Project in the manner hereinafter set out in Section 4.

### SECTION 3. Balance of Local Share of Project Costs.

The City has accumulated funds, which together with the proceeds of the City Bonds and the balance of the proceeds of the County Bonds, are sufficient to pay the local share of the costs of the Project, and the City agrees to expend such funds for such purpose. Such amounts shall be

## Appendix 8 – Atoka Municipal Authority

expended upon warrants against claims filed with the City Clerk and approved by the City Council in the manner hereinafter set out in Section 4.

### SECTION 4. EDA Construction Fund; EPA Construction Fund.

There is hereby created and established in the custody of the City Authority Treasurer an account to be designated as the “EDA Construction Fund” from which there shall be paid the costs of the portions of the Project in which the EDA and/or the ORC shall participate, together with the parties to this Contract supplying the local share funds. Such portions of the Project are the portions covered by Construction Contracts A-1, A-2, B and C (with Construction Contract A-2 to be paid exclusively from local share funds). There is also hereby created and established in the custody of the City Authority Treasurer a special account to be known as the “EPA Construction Fund” from which there shall be paid the portion of the costs of the Project in which EDA, EPA and ORC shall participate, together with the parties to this Contract supplying the local share funds. Such portions of the Project are the portions covered by Construction Contracts D-1, D-2, E-1 and E-2.

The EDA Construction Fund and the EPA Construction Funds shall be kept and maintained as separate accounts and shall be maintained in such manner as shall facilitate audit thereof for or on behalf of the respective Federal Government agencies participating in grants for the Project.

Upon receipt by the City Authority Treasurer of a claim or demand for payment of a part of the costs of the Project the City Authority Treasurer shall prepare and submit to the City and/or the County a claim for all or part of the local share of the costs of the Project. The warrants issued by the City and/or the County upon approval of the claim submitted by the City Authority Treasurer, shall be deposited by the City Authority Treasurer in the EDA Construction Fund or the EPA Construction Fund, as appropriate, and expended, together with other funds on deposit in such Construction Funds, to pay the costs of the Project. The manner of expenditure of funds on deposit in the EDA Construction Fund and the EPA Construction Fund shall be upon warrants against claims or upon requisition or in any other manner determined by the City Authority and approved by the participating Federal Governmental agencies. It shall not be necessary that the pro rata claims be drawn against each of the local share fund sources, but to the extent possible, local share funds from City sources shall be exhausted prior to exhaustion of County Bond proceeds allocated to the Project.

### SECTION 5. Investment of City Construction Fund and County Construction Fund.

The proceeds of the County Bonds and the City Bonds in the respective County and City Construction Funds above the current need for payment of the local share of the Project costs shall be invested in short term direct obligations of the United States of America or obligations guaranteed by the United States of America, or in other forms of investment authorized by Oklahoma Law, maturing in time to meet a schedule of estimated demands upon each such Construction Fund. A schedule of estimated times and amounts of demands upon each such Construction Fund for payment of the local share of Project costs shall be furnished to the County and City Treasurers by the Engineer for the Project, and earnings from the investment of each such Construction Fund shall be credited to each such Fund generating such income. After



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all Project costs have been paid, funds on deposit in the City Construction Fund shall be transferred to and deposited in the City Sinking Fund.

### SECTION 6. Industrial Park Site.

The County Authority shall retain ownership and control of the industrial park site presently owned by the County Authority, and the proceeds of the County Bonds not needed for meeting the Project local share requirements shall be retained in the County Construction Fund and used for improvement and development of the industrial park site and/or for the purpose of securing and developing industry within the County.

### SECTION 7. Annual Sums to be Paid to the County; Authority G.O. Sinking Fund.

The City Authority, for and in consideration of the agreement of the County to expend the County Bond proceeds for payment of part of the local share of Project costs and in consideration of the other covenants and agreements herein contained, hereby agrees to pay to the County, at the office of the County Treasurer, annual sums sufficient to make it unnecessary to levy and collect taxes on all the real and personal property in the County for the purpose of meeting principal and interest requirements on the County Bonds during the ensuing fiscal year. Such County Sinking Fund requirements are calculated to be equal to the annual sums set out on Schedule A attached hereto. Such annual sums shall be paid by the City Authority's Treasurer from the Authority G.O. Sinking Fund, hereinafter described, on or before June 30th of each year.

The City Authority's Treasurer shall create and maintain in the Depository Bank or other Bank designated by the City Authority an Atoka Municipal Authority County General Obligation Bond Sinking Fund (herein called "Authority G.O. Sinking Fund") which shall be held as a special trust or escrow account as long as the County Bonds are outstanding. Such trust or escrow account shall not be subject to any lien or attachment by any creditor of the City Authority, the City or the County. From the Revenues on deposit in the Revenue Account each month after meeting the monthly debt service requirements, including reserve requirements, on indebtedness incurred by the Authority, and after payment of the Operation and Maintenance Expenses for the period since the last payment of such Operation and Maintenance Expenses, all as in accordance with the terms of the Agreement, the Authority Treasurer shall transfer from the Revenue Account and deposit in the Authority G.O. Sinking Fund a monthly sum equal to 1/12th of the annual sum payable to the County on the following June 30. The term "Operation and Maintenance Expenses," as used herein, shall mean all costs and expenses of operation and maintenance, repairs, replacements, extensions and improvements of the Facilities, including, but not limited to the cost of water, bank and trustees compensation, fees and expenses, the cost of holding the Authority harmless for damages to persons or property arising from the Facilities and adequate reserves for all of said purposes. Amounts on deposit in the Authority G.O. Sinking Fund shall be held and used in the following manner:

On June 30 of each year the City Authority's Treasurer shall transfer from the Authority G.O. Sinking Fund and deposit in the County Sinking Fund in the custody of the County Treasurer a sum sufficient to make it unnecessary to levy and collect taxes on all the real and personal

## Appendix 8 – Atoka Municipal Authority

property in the County for the purpose of meeting principal and interest requirements on the County Bonds during the ensuing fiscal year. The amount of each said sum to be transferred from the Authority G.O. Sinking Fund and deposited in the County Sinking Fund shall be determined in accordance with Oklahoma law. As prescribed by Oklahoma law, said sums to be transferred from the Authority G.O. Sinking Fund shall be composed of interest due on County Bonds during the ensuing fiscal year plus an annual sum determined by dividing the total amount of County Bonds originally issued by the number of levying periods between the date of the County Bonds and the date of the final maturity of any such County Bonds. The sum so determined for transfer and deposit in the County Sinking Fund on June 30 of each year shall be reduced by the amount on deposit in the County Sinking Fund on each June 30 (including investment earnings) except monies accrued for meeting future principal maturities as they came due, as set forth in Schedule A. Schedule A attached to this Contract contains calculations as to the amount to be transferred from the Authority G.O. Sinking Fund and deposited in the County Sinking Fund on June 30 of each year, in accordance with the first sentence of this paragraph. Nothing set forth in said Schedule A shall reduce the City Authority's responsibility to pay annual sums in accordance with the first sentence of this paragraph.

The balance remaining in the Authority G.O. Sinking Fund after making the above transfer on June 30 of each year, to the extent not applied as a credit against the next due deposit therein, shall be retained by the City Authority's Treasurer in the Authority G.O. Sinking Fund until May 15, 1984 (except that funds in the Authority G.O. Sinking Fund may be used prior thereto to purchase General Obligation Bonds at par and accrued interest). On May 15, 1984, funds on deposit in the Authority G.O. Sinking Fund shall be transferred in multiples of \$1,000 to and deposited in the County Sinking Fund and used, together with funds on deposit there, to redeem outstanding County Bonds on July 1, 1984. The County Bonds to be so redeemed shall be redeemed in addition to the County Bonds maturing on July 1, 1984. If the total amount on deposit in the Authority G.O. Sinking Fund on June 30 of each year is less than the net amount of the annual sum required to be paid to the County Treasurer by any such date, funds shall be transferred from the Revenue Account to the Authority G.O. Sinking Fund in an amount necessary to eliminate such deficiency.

If the total amount on deposit in the Authority G.O. Sinking Fund by any June 30 is in excess of the total amount required to be paid by any such date, such excess shall be used as a credit against the next required deposit therein or shall be retained in the Authority G.O. Sinking Fund until May 15, 1985, on which date such excess shall be transferred to the County Sinking Fund and used to redeem General Obligation Bonds on July 1, 1984.

### SECTION 8. Security for and Investment of the Authority G.O. Sinking Fund and the County Sinking Fund.

Money in the County Sinking Fund shall be secured, invested and reinvested to the extent possible in the manner prescribed by Oklahoma law for securing and investing County Sinking Funds. Money in the Authority G.O. Sinking Fund shall be invested and reinvested to the extent possible in direct obligations of or guaranteed by the United States of America (herein called "Government Securities") or in time deposits or certificates of deposit of a bank or banks designated by the City Authority. To the extent possible, such investments shall mature in time

## Appendix 8 – Atoka Municipal Authority

for payment from the Authority G.O. Sinking Fund and the County Sinking Fund of the amount necessary for payment of principal and interest on the County Bonds as due and for making other payments therefrom in accordance with this Contract. If need for the money so invested shall arise for carrying out the purposes of such County Sinking Fund or the Authority G.O. Sinking Fund, the investments so purchased shall be sold to the extent necessary to meet such payments and the proceeds of sale applied to making such payments.

### SECTION 9. Credits against Annual Sums.

On or before June 15 of each year, the County Treasurer shall notify the City Authority in writing of the amount of earnings received since the date of the previous statement from investment of the funds on deposit in the County Sinking Fund. The total amount of such County Sinking Fund earnings shall be credited against and considered as reduction of the annual sum coming due in accordance with Schedule A on or before June 30 of that year and shall be credited against and considered as a reduction of the amount required to be transferred before June 30 from the Authority G.O. Sinking Fund for deposit in the County Sinking Fund.

### SECTION 10. Prepayment of Annual Sums.

The City Authority may, on any date on or before May 15, 1984, prepay in full the annual sums set out in Schedule A then remaining unpaid by paying to the County Treasurer, for deposit in the County Sinking Fund, a sum equal to the principal amount of the County Bonds then outstanding plus interest thereon to July 1, 1984.

The Authority may, on any date on or before May 15, 1984, pay to the County Treasurer for deposit in the County Sinking Fund, a sum of not less than \$1,000, which sum shall be paid from funds on deposit in the Authority G.O. Sinking Fund in excess of currently required deposits therein. The amount so prepaid by the Authority shall be used to purchase County Bonds prior to maturity and shall pro tanto reduce the then last due annual sum set out in Schedule B of this Contract.

### SECTION 11. Mortgage of Mortgaged Property.

In consideration of the above agreement of the County to expend the balance of the County Bond proceeds for payment of part of the local share of Project costs, and in consideration of the other covenants and agreements herein contained, and to secure and assure payment of the annual sums due the County hereunder and all other sums due or to become due under this Contract, and to assure the strict and formal performance and observance by the City Authority of each and every covenant, warranty and agreement undertaken by it herein, and in consideration of the sum of \$1,000 and other valuable considerations, the receipt of which is hereby acknowledged, intending to be legally bound by these presents, the City Authority does hereby grant, bargain, sell, convey and mortgage unto the County and creates a security interest in favor of the County in the following real and personal property (hereinafter together called the “Mortgaged Property”);

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(1) The leasehold interest of the City Authority in and to the presently existing water and sanitary sewer system of the City and all appurtenances thereof presently belonging to the City, or under its custody, management or control, located within and without the corporate limits of the City, together with the rights-of-way, real estate and interest therein, licenses, easements and other rights and privileges appertaining or related thereto and including but not limited to the real and personal property included in the extensions and improvements to the City's water and sanitary sewer system included in the Project;

(2) The leasehold interest of the City Authority in and to all unexpired leases and contracts heretofore or hereafter executed by the City pertaining to use of any part of said water and sanitary sewer system, including revenue and income to be received therefrom;

(3) The leasehold interest of the City Authority in and to all property, real, personal or mixed, together with all rights and privileges appertaining to related thereto, which hereafter may be acquired by or in the name of the City for use in connection with furnishing of water and sanitary sewer service to persons, firms, corporations and others within and without the corporate limits of the City; it being the intention of this paragraph that any of the foregoing, including income therefrom, immediately upon acquisition shall be a part of the property demised and leased hereunder;

(4) The leasehold or other interest of the City Authority in and to proceeds, fees, charges, revenues, income, rents, receipts, issues and benefits (herein called "Revenues") from the water and sanitary sewer system, the Facilities and the Mortgaged Property.

TO HAVE AND TO HOLD the aforesaid Mortgaged Property including all additional property which may become subject to the lien of this Contract, unto the County, or assigns, as security for payment of (a) the annual sums payable to the County under Section 7 of this Indenture, and (b) any and all sums which the County may expend or become obligated to expend (including but not limited to court costs, attorney's fees, abstracting expense and receiver's fees) to preserve or protect any of the Mortgaged Property or to cure any default of the Mortgaged Property or to cure any default of the City Authority hereunder or under the Agreement or in pursuing or exercising any right, rights, remedy or remedies consequent upon any default of the City Authority, and (c) interest at the rate of six percent (6%) per annum upon the aforesaid annual sums in default and all monies expended by the County under the preceding subparagraph (b) from the date of each such expenditure, all of which expenditures and interest shall be payable at once and without demand from the City Authority to the County (all of the foregoing set out in subparagraphs (a), (b) and (c) being hereinafter referred to collectively as the "Secured Indebtedness").

AND CONDITIONED, HOWEVER, that if the City Authority shall well and truly pay or cause to be paid fully and promptly when due, the annual sums and all the Secured Indebtedness and other indebtedness, liabilities and obligations and sums at any time secured hereby, including interest and attorney's fees (or shall make adequate provision for payment of all of the foregoing) and shall promptly, faithfully and strictly keep, perform and observe or cause to be kept, performed and observed all of the covenants, warranties and agreements contained herein to be by them kept, performed and observed, then, in any such event upon payment of all such

## Appendix 8 – Atoka Municipal Authority

sums and retirement of all County Bonds, this Contract shall be and become void and have no further force and effect; otherwise, the same shall remain in full force and effect. The mortgage and pledge of the Mortgaged Property granted by the Authority to the County under this Contract shall be subordinate and inferior to any mortgage and pledges thereafter granted by the Authority to serve other indebtedness incurred by the Authority, at the option of the Authority, without further consent from the County.

### THE CITY AUTHORITY FURTHER COVENANTS AND AGREES AS FOLLOWS:

(1) The City Authority covenants that it will carry, or cause to be carried at the City Authority's expense, as long as the County Bonds are outstanding and to the extent available, insurance against loss covering the Facilities as may be ordinarily maintained on similar property by prudent operators of property of the size and character of the Facilities to the full insurable value thereof, with responsible insurers, for the use and benefit of the Mortgaged Property, and will repair or replace any such destroyed or damaged property included in the Mortgaged Property and apply the available proceeds of any such insurance for such purpose; or in lieu thereof will use the proceeds of such insurance for the purpose of prepaying the annual sums.

(2) The City Authority covenants to keep, or cause to be kept, proper books of record and account (separate and apart from all other records and accounts) in which complete and correct entries shall be made of all transactions relating to the receipts, disbursements, allocation and application of the Revenues accruing to the City Authority and the amount thereof forwarded to the Depository Bank or Banks and that such books shall be available for inspection by the County at reasonable hours and under reasonable conditions.

(3) The City Authority covenants that it will operate or cause to be operated the said Facilities as long as the County Bonds are outstanding.

The Authority further covenants that it will maintain, charge and collect a schedule of rates, fees and charges for the use of the Facilities such as will provide in any year sufficient Revenues to effect the payment of debt service requirements on indebtedness incurred by the Authority and any other obligations of the City Authority plus Secured Indebtedness as hereinbefore set out, and to pay Operation and Maintenance Expenses of the Facilities.

Revenues arising from the rents, rates, fees and charges so established and fixed are hereby pledged for the purpose of meeting annual sums and debt service requirements on indebtedness incurred by the City Authority and Secured Indebtedness, and Operation and Maintenance Expenses; provided, however, that the City Authority reserves the right to alter said rents, rates, fees and charges in order that the Revenues derived from such fees and charges shall always be at least sufficient in amount to comply with the provisions of this Covenant (3). As provided in the Agreement, the City Authority shall adjust such rates at the request of the City, provided that such adjustments do not in any way impair the City Authority's ability to comply fully with the covenants in the Agreement and this Contract.

(4) Unless default shall be made by the City Authority in the payment of annual sums or principal of or interest on indebtedness incurred by the City Authority or Secured Indebtedness,

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or until an Event of Default shall have occurred as hereinafter provided, the City Authority shall be entitled to possess, operate and enjoy the Mortgaged Property and installations and property constituting the Mortgaged Property, and to receive, take and use the Revenues therefrom for the purposes and uses provided in this Contract.

(5) The City Authority covenants to maintain and operate in first class condition and keep in good repair said Facilities and installations and all buildings, facilities and equipment now or hereafter constituting a part of the Mortgaged Property, and not to commit or allow any waste with respect to any of said Mortgaged Property; provided, however, in its sole discretion, the Authority may remove, sell or exchange or otherwise dispose of any property included in the Facilities.

(6) The City Authority covenants to faithfully and fully comply with and abide by every statute, order, rule or regulation now in force or hereafter enacted by any competent governmental agency or authority with respect to or affecting the operation of the properties and business of the City Authority and the Mortgaged Property.

(7) Covenant to Pay Annual Sums and Secured Indebtedness. The City Authority will duly and punctually pay to the County the annual sums and the Secured Indebtedness secured hereby in accordance with the terms and tenor of this Contract and Agreement.

(8) Title to Mortgaged Property; Covenant with Respect to Liens and Encumbrances. The City Authority has a valid leasehold interest in the Facilities and a valid interest in the Revenue above described; the City Authority has good right, full power and lawful authority to grant, bargain, sell, convey and mortgage the same to the County in the manner and form herein done; and the Mortgaged Property is free and clear of all liens and encumbrances. The County will quietly enjoy and possess the same to the extent provided in this Contract and the City Authority will warrant and defend the right and title of the County to all Mortgaged Property against all lawful claims not herein specifically excepted.

The City Authority will do and cause to be done from time to time all things necessary to maintain and preserve its corporate existence, rights, franchises and privileges and will duly observe, conform to, obey and comply with or will cause due observation, conformity to, obedience and compliance with all requirements of any governmental authority relative to any part of the Mortgaged Property.

(9) Expenses and Attorney's Fees. The City Authority will, on demand, pay to the County the amount of any and all payments made or expenses or liabilities incurred by the County upon any default of the City Authority under the Agreement, with respect to any of the following:

- (a) To cure any title defect or remove any lien or encumbrance upon any of the Mortgaged Property (except such encumbrances as may be contemplated by this Contract and the Agreement).
- (b) To obtain or maintain any policy or policies of insurance upon any of the Mortgaged Property or eliminate waste with respect to the Mortgaged Property.

## Appendix 8 – Atoka Municipal Authority

- (c) To discharge the lien or burden of any tax, charge, encumbrance, security interest, lien, levy, assessment, impost or utility, government or other charge upon any of the Mortgaged Property.
- (d) To take any action to enforce the Agreement or any covenant therein or to collect any rental or other benefit accruing thereunder or to cure any default thereunder or hereunder.
- (e) To collect any of the Secured Indebtedness.
- (f) To keep and maintain the Mortgaged Property in good operating order, condition and repair as required under the Agreement and to make all necessary repairs, replacements, alterations, improvements and modifications necessary to insure that the security of the County shall not be impaired.

All payments made or expenses or liabilities incurred by the County shall be a part of the Secured Indebtedness secured by this Contract.

It is further agreed that if and as often as the leasehold mortgage contained in this Contract or payment of the annual sums hereby secured is placed in the hands of an attorney for collection, the City Authority shall pay to the County its reasonable attorney's fees, which shall be part of the Secured Indebtedness secured hereby.

(10) Amendment of Agreement. The City Authority further covenants and agrees that it will not amend, modify or change any term or provision of the Agreement except as provided in Section 5 thereof nor waive any default of the City thereunder or any right or remedy consequent therein without first obtaining the written consent of the County to each such amendment, modification, change or waiver.

(11) Security Agreement. This Contract shall constitute a security agreement upon all of the Mortgaged Property not constituting real property under the laws of the State of Oklahoma. Upon any default of the City Authority hereunder, the County shall be entitled to exercise, with respect to all such collateral (and with respect to the Agreement insofar as it covers any such collateral) all of the right and remedies accorded to a secured party on default under the terms of Article IX of the Oklahoma Uniform Commercial Code, any or all of which may be pursued and exercised concurrently, consecutively, alternatively or otherwise and whether or not the County may then be taking action to foreclose the lien of the Contract as a real estate mortgage. The City Authority will execute one or more supplemental security agreements as the County may from time to time require to more fully describe and identify the equipment and fixtures constituting the collateral securing the Secured Indebtedness and such financing statements and other and further assurances as the County may request to perfect or evidence the security interest herein created (which shall cover all proceeds and products of collateral) and to particularize and identify the collateral.

## Appendix 8 – Atoka Municipal Authority

(12) Events of Default, Remedies of County. The following occurrences are herein defined as “Events of Default”:

- (a) Failure of the City Authority to cure any title defect or remove any lien or encumbrance upon any of the Mortgaged Property (except such encumbrances as may be contemplated by this Contract and the Agreement).
- (b) Failure of the City Authority to obtain or maintain any policy or policies of insurance upon any of the Mortgaged Property or to eliminate waste with respect to the Mortgaged Property,
- (c) Failure of the City Authority to discharge the lien or burden of any tax, charge, encumbrance, security interest, lien, levy and assessment, impost or utility, government or other charge upon any Mortgaged property,
- (d) Failure of the City Authority to cure any default hereunder or observe and perform its covenants hereunder,
- (e) Failure of the City Authority to pay any of the Secured Indebtedness when due,
- (f) Failure of the City Authority to keep and maintain the Mortgaged Property in good operating order, condition and repair as required herein.

Upon the occurrence of any Event of Default, or in the event of the failure by the City Authority to pay any annual sum at or within the time required by the terms of this Contract or its failure to do any of the things herein agreed to be done or the breach of any terms of this Contract, then in any of such events, whether or not the County has advanced any sum or sums to cure any such default, the County, at its option, without notice to the City Authority (which notice the City Authority hereby waives) may declare all of the Secured Indebtedness to be immediately due and payable, without deduction, and upon the exercise of such option, all Secured Indebtedness, including but not limited to all annual sums due and payable to the County under this Contract and all accrued interest thereon shall become immediately due and payable.

As an alternative procedure, upon the occurrence of an Event of Default, the County may cause to be appointed a receiver or temporary Trustee or Trustees to take charge of the Mortgaged Property for the purpose of operating the same and collecting the income and profits therefrom and the proceeds thereof and complying with the requirements of this Indenture and the Agreement.

As an alternative procedure, upon the occurrence of an Event of Default, the County may, at any time (after exercising any option requisite to accelerating payment) proceed to foreclose the lien of this Contract as a real estate mortgage in any court of competent jurisdiction. Subject to the terms of the Agreement and except as otherwise provided therein, the County shall be entitled to the possession of the said Mortgaged Property without notice, which notice the City Authority hereby waives, notwithstanding anything contained in this Contract or any law



## Appendix 8 – Atoka Municipal Authority

heretofore or hereafter enacted. In any such proceeding or proceedings, the City Authority hereby waives, or does not waive, appraisal, at the option of the County, to be exercised by it at any time prior to judgment in such proceedings. With respect to any personal property or fixtures, the County may, at any time (notwithstanding the pendency of any proceedings to foreclose the lien of this Contract as a real estate mortgage) exercise from time to time any or all rights and remedies of a Secured Party on default under the provisions of Article IX of the Oklahoma Uniform Commercial Code and as provided in Covenant numbered 11 hereinabove.

If foreclosure proceedings are instituted upon this mortgage, or if the County shall be a party to, shall intervene in, or file any petition, answer, motion or other pleading in any suit or proceeding relating to the mortgage contained in this Contract or the indebtedness secured hereby or if the County shall incur or pay any expenses, costs, charges, or attorney's fees by reason of employment of counsel for counsel or advise with respect to the mortgage contained in this Contract or the indebtedness secured hereby, or to secure the possession of the Mortgaged Property, or the payment of any of the monies secured hereunder, whether such possession or payment shall be sought from the City Authority, or any assignee, custodian, receiver or trustee of the City Authority, or any court or public official, and whether in court proceedings or otherwise, such expenses and reasonable attorney's fees and any and all monies advanced in connection therewith shall be allowed and paid to the County, and the same shall be and are hereby made a further charge and lien upon the Mortgaged Property and shall constitute a part of the Secured Indebtedness. The City Authority waives demand for possession of the Mortgaged Property prior to the institution of replevin suit or other court action for the recovery of the Mortgaged Property and waives any surety or security required on any bond of the County relating to the Mortgaged Property or any proceedings with respect thereto and waives the right of trial by jury.

### (13) Application of Revenues and Other Monies After Default.

All monies received by the County pursuant to any right given or action taken under the provisions hereof shall, after payment of the costs and expenses of the liabilities or the proceedings resulting in the collection of such money and of expenses, liabilities and advances incurred or made by the County and of any other Secured Indebtedness (other than the annual sums) be applied in the following order of priority:

- (a) Unless all annual sums due or which will hereafter become due under this Contract have been declared due and payable, first to the payment of interest at the rate of six percent (6%) per annum on all annual sums in default and second, to the payment of the unpaid annual sums;
- (b) If all annual sums due and to become due under this Contract shall have become or have been declared due and payable and the payment accelerated, to the payment of such annual sums, the payment of which is accelerated.

### (14) No Waiver; Remedies Cumulative; Alternative Enforcement.

Appendix 8 – Atoka Municipal Authority

Except as the County may have hereafter entered into an enforceable written agreement providing otherwise, no waiver by the County of any default of the City Authority hereunder or of any right or remedy consequent thereon shall constitute a continuing waiver or a waiver of any other default or of any right or remedy consequent thereon. Each right and remedy afforded to the County hereunder shall be cumulative and in addition to any and all other rights and remedies available at law or in equity or otherwise and no exercise or attempt by the County to exercise any one or more rights or remedies shall preclude the concurrent or subsequent exercise by the County of any other right or remedy.

The granting of an extension or extensions of time by the County with respect to the performance of any provision of this Contract on the part of the City Authority to be performed, or the taking of any additional security, or the waiver by the County or failure by the County to enforce any provision of his Contract or to declare default with respect thereto shall not operate as a waiver of any subsequent default of defaults or affect the right of the County to exercise all rights or remedies stipulated herein or therein.

(15) Successors and Assigns.

The terms and provisions hereof shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

(16) Severability of Provisions.

Each term and provision hereof shall be deemed to be severable from and independent of all other terms and provisions and the invalidity or unenforceability of any term or provision hereof shall not affect any other term or provision hereof.

IN WITNESS WHEREOF, the City has caused this Contract to be executed by its Mayor and City Clerk and its seal affixed hereto, the City Authority and County Authority have caused this Contract to be executed by their respective Chairman and Secretaries, and their respective seal hereto affixed, and the County has caused this Contract to be executed by the Chairman of its Board of Commissioners and attested by its County Clerk, and its seal hereunto affixed, all as of the day and year first above written.

THE CITY OF ATOKA, OKLAHOMA

/s/ Walter Reed Mayor

(SEAL)

ATTEST: /s/ Peggy Garsdale  
City Clerk

ATOKA MUNICIPAL AUTHORITY

/s/ Walter Reed Chairman





Appendix 8 – Atoka Municipal Authority

**SCHEDULE A**

Annual Sum Due 6-30	Annual Sum	Monthly Deposit in Authority General Obligation Sinking Fund	Date of Monthly Deposits
1972	\$33,068.97		
1973	32,168.97	\$2,680.75	7-15-72 thru 6-15-73
1974	31,268.97	2,605.75	7-15-73 thru 6-15-74
1975	30,368.97	2,530.75	7-15-74 thru 6-15-75
1976	29,468.97	2,455.75	7-15-75 thru 6-15-76
1977	28,568.97	2,380.75	7-15-76 thru 6-15-77
1978	27,968.97	2,330.75	7-15-77 thru 6-15-78
1979	27,068.97	2,255.75	7-15-78 thru 6-15-79
1980	26,468.97	2,205.75	7-15-79 thru 6-15-80
1981	25,568.97	2,130.75	7-15-80 thru 6-15-81
1982	24,968.97	2,080.75	7-15-81 thru 6-15-82
1983	24,068.97	2,005.75	7-15-82 thru 6-15-83
1984	23,468.97	1,955.75	7-15-83 thru 6-15-84
1985	22,568.97	1,880.75	7-15-84 thru 6-15-85
1986	21,968.97	1,830.75	7-15-85 thru 6-15-86
1987	21,068.96	1,755.75	7-15-86 thru 6-15-87
1988	20,468.97	1,705.75	7-15-87 thru 6-15-88
1989	19,568.97	1,630.75	7-15-88 thru 6-15-89
1990	18,968.97	1,580.75	7-15-89 thru 6-15-90
1991	18,068.96	1,505.75	7-15-90 thru 6-15-91
1992	17,468.97	1,455.75	7-15-91 thru 6-15-92
1993	16,568.97	1,380.75	7-15-92 thru 6-15-93
1994	15,968.97	1,330.75	7-15-93 thru 6-15-94
1995	15,068.97	1,255.75	7-15-94 thru 6-15-95
1996	14,468.97	1,205.75	7-15-95 thru 6-15-96
1997	13,568.97	1,130.75	7-15-96 thru 6-15-97
1998	12,968.97	1,080.75	7-15-97 thru 6-15-98

**SCHEDULE A**

**ATOKA - ATOKA MUNICIPAL AUTHORITY**

**CONTRACT**

Appendix 9 – McGee Creek Authority

**APPENDIX 9**

**MCGEE CREEK AUTHORITY**

Trust indenture accepted August 17, 1977, established the McGee Creek Authority. A copy is on file in the office of the city clerk.

8/01/2020

**APPENDIX 10**

**STATE LAWS**

**PROVISIONS OF SELECTED STATE STATUTES APPLICABLE TO THE CITY  
FROM TITLE 11 OF THE OKLAHOMA STATUTES, CITIES AND TOWNS**

Article VIII	Officers - General Provisions
Article XIII	Municipal Charters
Article XIV	Municipal Ordinances
Article XVI	Municipal Elections
Article XVII	Municipal Finances
Article XXII	General Powers of Municipalities
Article XXVII	Courts

**ARTICLE VIII  
OFFICERS - GENERAL PROVISIONS**

§11-8-101. Qualifications for elected office.

A municipal elected official shall be a resident and a registered voter of the municipality in which he serves, and all councilmembers or trustees from wards shall be actual residents of their respective wards. If an elected official ceases to be a resident of the municipality, he shall thereupon cease to be an elected official of that municipality. Laws 1977, c. 256, § 8-101, eff. July 1, 1978.

§11-8-102. Term of office.

Unless otherwise provided for by law, the term of office of an elected municipal official shall be four (4) years. The term of office of an elected official shall begin at 12:00 noon on the second Monday following the general municipal election, and such official shall serve until his successor is elected and qualified. If a newly elected official does not qualify within thirty (30) days after his term of office begins, the office shall become vacant and shall be filled in the manner provided by law. In order to complete the unexpired term, the office of an official who is holding over shall be filled at the next general election in compliance with the provisions of Sections 16-101 through 16-213 of this title. Amended by Laws 1984, c. 126, § 4, eff. Nov. 1, 1984.

§11-8-103. Oath of office.

Any officer, elected or appointed, before entering upon the duties of his office, shall take and subscribe to the oath or affirmation of office prescribed by the Oklahoma Constitution. The oath or affirmation shall be filed in the office of the municipal clerk. Laws 1977, c. 256, § 8-103, eff. July 1, 1978.

§11-8-104. Who may administer oaths.

All officers authorized by state law, the mayor, the municipal clerk, the city manager, the municipal judge or judges and such other officers as the municipal governing body may

## Appendix 10 – State Laws

authorize, may administer oaths and affirmations in any matter pertaining to the affairs and government of the municipality. Laws 1977, c. 256, § 8-104, eff. July 1, 1978.

### §11-8-105. Certain officers to give bond.

The municipal governing body shall require the municipal treasurer, any officer or employee designated by ordinance to sign municipal warrants or municipal checks, and any other officers and employees as the governing body may designate by ordinance, to give bond for the faithful performance of his duties within ten (10) days after his election or appointment, in such amount and form as the governing body shall prescribe. The municipality shall pay the premiums on such bonds. Laws 1977, c. 256, § 8-105, eff. July 1, 1978; Laws 1992, c. 371, § 1, eff. July 1, 1992.

### §11-8-106. Nepotism - Dual office holding.

No elected or appointed official or other authority of the municipal government shall appoint or elect any person related by affinity or consanguinity within the third degree to any governing body member or to himself or, in the case of a plural authority, to any one of its members to any office or position of profit in the municipal government. The provisions of this section shall not prohibit an officer or employee already in the service of the municipality from continuing in such service or from promotion therein. A person may hold more than one office or position in a municipal government as the governing body may ordain. A member of the governing body shall not receive compensation for service in any municipal office or position other than his elected office. Amended by Laws 1984, c. 126, § 5, eff. Nov. 1, 1984.

### §11-8-107. Removal of officers.

A municipal elected official may be removed from office for any cause specified by applicable state law for the removal of officers, and by the method or methods prescribed thereby. Laws 1977, c. 256, § 8-107, eff. July 1, 1978.

### §11-8-108. Absence from governing body meetings.

Whenever a member of the municipal governing body is absent from more than one-half of all meetings of the governing body, regular and special, held within any period of four (4) consecutive months, he shall thereupon cease to hold office. Laws 1977, c. 256, § 8-108, eff. July 1, 1978.

### §11-8-109. Vacancies in office.

A. When a vacancy occurs in an office of an elected municipal official except the mayor, the governing body shall appoint, by a majority vote of the remaining members, a person to fill the vacancy until the next general municipal election, or the next biennial town meeting if the municipality is subject to the Oklahoma Town Meeting Act, Section 16-301 et seq. of this title, and to serve until a successor is elected and qualified. Any vacancy shall then be filled at the next general municipal election or biennial town meeting by election of a person to complete the balance of any unexpired term. If the vacancy has not been filled within sixty (60) days after it occurs, the governing body shall call for a special election or a special town meeting for the purpose of filling the vacancy for the duration of the unexpired term unless said vacancy occurs or said election would occur within one hundred twenty (120) days prior to the first day of the filing period for the next general municipal election or within one hundred twenty (120) days



## Appendix 10 – State Laws

prior to the next biennial town meeting. If a vacancy is not filled by the special election or at a special town meeting, it shall be filled by appointment as provided for in this subsection.

B. If a majority of the offices of a governing body become vacant more than sixty (60) days before the beginning of a regular filing period for general municipal elections or more than sixty (60) days before the biennial town meeting, the remaining members of the governing body shall call for a special election or a special town meeting, if the municipality is subject to the Oklahoma Town Meeting Act, to be held as soon as possible in the municipality for the purpose of filling all vacant offices for the remainder of their unexpired terms if the election or town meeting can be held more than sixty (60) days before the beginning of the filing period for the general election or more than sixty (60) days before the next biennial town meeting. The remaining members of the governing body may pay claims in accordance with Section 17-102 of this title and, when necessary to avoid financial loss or injury to a person or property, may take any action otherwise authorized for the governing body except the enactment of an ordinance.

C. If all the offices of the governing body become vacant, the municipal clerk or acting municipal clerk shall be the interim mayor until a member of the governing body is elected and qualified. If there is no municipal clerk or acting municipal clerk in office, the municipal treasurer shall serve as interim mayor and acting municipal clerk. If there is no municipal officer in office, the Governor may appoint a registered voter of the municipality as interim mayor and acting municipal clerk. The appointed interim mayor shall give bond for the faithful performance of his duties within ten (10) days after his appointment. The municipality shall pay the premium on the bond.

D. The interim mayor shall exercise the authority of the governing body for only those purposes set out in this section.

1. Within five (5) days of the occurrence of the last vacancy, the interim mayor shall call a special election or a special town meeting, if the municipality is subject to the provisions of the Oklahoma Town Meeting Act, for the purpose of filling the unexpired terms in accordance with subsection B of this section. If all of the offices of the governing body become vacant sixty (60) days or less before the beginning of a regular filing period for general elections or sixty (60) days or less before the next biennial town meeting, the interim mayor shall call the regular general election or the biennial town meeting, whichever is appropriate. If the interim mayor fails or refuses to call an election or town meeting, whichever is appropriate, the board of county commissioners of the county in which the municipality is located shall call the election or town meeting. The county sheriff, or his deputy, shall attend any town meeting called by the board of county commissioners and, if the interim mayor fails to conduct the meeting, shall moderate the meeting. The interim mayor or the sheriff or deputy who is moderating the meeting is authorized to appoint a registered voter of the municipality to take the minutes of the meeting. If the vacancies are not filled by the election or town meeting called for the purpose, the Governor may appoint registered voters of the municipality to fill the vacancies without regard to wards for the balance of the unexpired term.

2. The interim mayor may pay claims in accordance with subsection C of Section 17-102 of this title. The interim mayor shall submit a list of such payments to the governing body of the municipality no later than the second regular meeting after the vacancies are filled.

E. To be eligible for appointment to fill a vacancy in an elected municipal office a person must meet the same qualifications required for filing a declaration for candidacy for that office. Amended by Laws 1984, c. 126, § 6, eff. Nov. 1, 1984; Laws 1988, c. 105, § 16, eff. Nov. 1, 1988; Laws 1989, c. 255, § 1, emerg. eff. May 19, 1989.

## Appendix 10 – State Laws

### §11-8-110. Candidacy of municipal officer for county or state office - Resignation.

Any member of a municipal governing body, the city or town clerk, and the city marshal shall be eligible to become a candidate for a county or state office without resigning from the office held by the officer. Added by Laws 1977, c. 256, § 8-110, eff. July 1, 1978. Amended by Laws 2004, c. 47, § 1.

### §11-8-111. Abstention in voting in certain meetings.

If a member of the governing body of a municipality abstains from voting, he shall be deemed to have cast a negative vote, which shall be recorded in the minutes. Added by Laws 1984, c. 126, § 7, eff. Nov. 1, 1984.

### §11-8-112. Resignation of municipal officer.

A municipal officer may resign by submitting his written resignation to the governing body of the municipality, to the remaining members of the municipal governing body if some positions are vacant, to the interim mayor or, if all positions of the governing body will become vacant upon the resignation, to the board of county commissioners of the county in which the municipality is located. Delivery of the written resignation to the governing body during a public meeting of such body or to the municipal clerk by mail or personal delivery during regular office hours shall constitute submission of the resignation to the municipal governing body. Delivery of the written resignation to the board of county commissioners during a public meeting of the commissioners or to the county clerk by mail or hand delivery during regular office hours shall constitute submission of the resignation to the board of county commissioners. A resignation submitted by a municipal officer may be withdrawn in writing at any time prior to the effective date stated in the resignation. If no effective date is stated, the resignation shall be effective immediately. Acceptance by the governing body shall not be required for the resignation to be effective. Added by Laws 1984, c. 126, § 8, eff. Nov. 1, 1984. Amended by Laws 1988, c. 105, § 17, eff. Nov. 1, 1988.

### §11-8-113. Prohibited business activities with municipality - Exceptions - Definitions - Violations - Employees of financial institutions.

A. Except as otherwise provided by this section, no municipal 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 municipality;
2. Contracting with the municipality; 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 municipality.

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 (5,000) 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 Two Thousand Five Hundred Dollars (\$2,500.00) 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

## Appendix 10 – State Laws

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 the materials, supplies, or services to be procured by the municipality regardless of the population restrictions of subsection B of this section, provided the notice of bids was made public and open to all potential bidders.

D. All bids, both successful and unsuccessful, and all contracts and required bonds shall be placed on file and maintained in the main office of the awarding municipality for a period of five (5) years from the date of opening of bids or for a period of three (3) years from the date of completion of the contract, whichever is longer, shall be open to public inspection 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 for expenses, 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 a misdemeanor. 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. Added by Laws 1984, c. 126, § 9, eff. Nov. 1, 1984. Amended by Laws 1985, c. 5, § 1, emerg. eff. March 5, 1985; Laws 1995, c. 118, § 1, eff. Nov. 1, 1995; Laws 1996, c. 341, § 1, eff. Nov. 1, 1996; Laws 2004, c. 68, § 1, emerg. eff. April 7, 2004; Laws 2007, c. 66, § 1, eff. July 1, 2007; Laws 2012, c. 210, § 1, eff. Nov. 1, 2012.

§11-8-114. Institute - Statewide organization to conduct.

A. Each person elected or appointed for the first time as an officer of a municipality as defined by paragraph 6 of Section 1-102 of this title, shall be required within one (1) year after taking the oath of office to attend an institute for municipal officials. The Institute shall be conducted at all times, in cooperation with the Oklahoma Department of Career and Technology Education, by or under the supervision of a statewide organization that is exempt from taxation under federal law and designated pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 170(a). The statewide organization shall demonstrate to the Oklahoma

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Department of Career and Technology Education that it has represented municipalities, had statutory functions and conducted training programs for municipalities for at least fifteen (15) years prior to November 1, 2005. It shall further demonstrate that its continuous official purpose is to promote the general welfare of cities and towns, to foster or conduct schools, short courses and other training sessions, to provide technical assistance and consultive services and other aids for the improvement and increased efficiency of city and town government, and to serve as the representative of cities and towns in carrying out the duties and prerogatives conferred on it by state law.

B. The Institute shall consist of eight (8) hours of instruction. A certificate of completion shall be awarded to those persons who attend and successfully complete the Institute and a list of those persons shall be filed with the Oklahoma Department of Career and Technology Education.

C. The curriculum for the Institute shall include, but not be limited to: municipal budget requirements, the Oklahoma Open Meeting Act, the Oklahoma Open Records Act, ethics, procedures for conducting meetings, conflict of interest, and purchasing procedures.

D. The Institute shall be held at a minimum of six regional locations in the state. Every effort shall be made by the Institute to accommodate training through long-distance learning.

E. A person elected or appointed to a municipal office who fails to satisfy the education requirements of this section shall cease to hold the office commencing at the next scheduled meeting of the governing body following the first-year anniversary of the person's taking the oath of office.

F. At the time of filing, the designated statewide organization shall provide the necessary information to the candidate of the option for attendance at the Institute as provided for in this section. In the case of officials nominated and elected for municipal offices at town meetings, the presiding officer of the town meeting shall notify the candidate of the option. Added by Laws 2005, c. 147, § 1, eff. Nov. 1, 2005. Amended by Laws 2006, c. 301, § 2, eff. Nov. 1, 2006; Laws 2007, c. 60, § 1, eff. Nov. 1, 2007; Laws 2008, c. 23, § 1, emerg. eff. April 11, 2008.

### §11-8-115. Professional services - Independent contractor presumption.

A. It is the intention of the Legislature to encourage attorneys, engineers and members of other professions to perform their professional services for local and state governments.

B. An attorney, engineer or member of other profession who performs duties required or permitted by statute as attorney, prosecutor, judge, engineer or other professional for a local or state government in Oklahoma pursuant to a retainer or contract for professional services shall be presumed to be an independent contractor and not an employee for all purposes if the terms of the contract are consistent with established common law pertaining to independent contractors as reflected in 26 C.F.R., Section 31.312(d)-2. Added by Laws 2007, c. 193, § 2, eff. Nov. 1, 2007.

### §11-8-116. Part-time city manager or planner

Any municipality with a population of less than five thousand (5,000) according to the latest Federal Decennial Census may employ a part-time city manager or a part-time city planner. The duties of the part-time city manager shall be determined by the governing body of the municipality, or pursuant to Section 10-113 of this title for municipalities governed by the council-manager form of government. The duties of the part-time city planner shall be determined by the governing body of the municipality. Added by Laws 2008, c. 304, § 1, eff. Nov. 1, 2008. Amended by Laws 2009, c. 42, § 1, eff. Nov. 1, 2009; Laws 2016, c. 122, § 1.

ARTICLE XIII  
MUNICIPAL CHARTERS

§11-13-101. Municipalities may adopt charter.

Any city or town containing a population of two thousand (2,000) inhabitants or more, as shown by the latest federal census or other census recognized by the laws of Oklahoma, may frame a charter for its own government. Laws 1977, c. 256, § 12-101, eff. July 1, 1978.

§11-13-102. Procedure for adopting charters - Petition or governing body resolution.

The mayor of an incorporated municipality shall issue an order calling for an election on the question of whether or not the municipality shall frame a charter for its own government and elect a board of freeholders to prepare the charter when:

1. A petition signed by not less than twenty-five percent (25%) of the registered voters of the municipality, as shown by the preceding general election, is filed with the governing body; or
2. The governing body, by resolution, so directs.

The order calling for the election shall be issued within ten (10) days after a petition has been filed with the governing body or within ten (10) days after the date of the governing body resolution. Laws 1977, c. 256, § 13-102, eff. July 1, 1978.

§11-13-103. Election on question and board of freeholders.

The election on the question and board of freeholders shall be held at a general or special election to be held in the municipality within thirty (30) days after the order calling for the election. Notice of the election shall be given in the manner required for municipal elections. The question submitted to the registered voters of the municipality shall be substantially in the following form:

Shall the \_\_\_\_\_ (City or Town) of \_\_\_\_\_ frame a charter for its own government?

Yes.

No.

The board of freeholders, which is to be voted on in the same election, shall consist of two qualified electors from each ward in the municipality. The freeholders shall be elected by the registered voters of the respective wards. The two candidates receiving the highest number of votes in each ward shall be elected as members of the board of freeholders. The ballot shall be substantially in the following form:

For Freeholder from Ward One

(Vote for Two)

\_\_\_\_\_Name of candidate for freeholder

\_\_\_\_\_Name of candidate for freeholder.

Laws 1977, c. 256, § 13-103, eff. July 1, 1978.

§11-13-104. Canvassing returns - Certification of results.

The county election board shall canvass the returns and the secretary of the board shall, within five (5) days after the canvass of the returns of the election, certify the results to the municipal governing body. If a majority of the votes cast on the question are in favor of framing a charter for the municipality, the board shall tabulate the votes on the election of freeholders and declare the results in the certification to the governing body. Added by Laws 1977, c. 256, § 13-104, eff. July 1, 1978.

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### §11-13-105. Preparation of charter.

The board of freeholders shall prepare a charter for the municipality within ninety (90) days after their election. The charter shall be consistent with and subject to the Oklahoma Constitution and shall not be in conflict with the Constitution and laws relating to the exercise of initiative and referendum.

The proposed charter shall be signed in duplicate by at least a majority of the freeholders. One copy of the proposed charter shall be given to the mayor and the other shall be given to the county clerk of the county in which the situs of the municipality is located. Laws 1977, c. 256, § 13-105, eff. July 1, 1978.

### §11-13-106. Notice of charter election.

Within twenty (20) days after receipt of the proposed charter from the board of freeholders, the governing body shall publish the proposed charter and an announcement of the date for the charter election in a newspaper of general circulation within the municipality once per week for three (3) consecutive weeks. The date for the charter election shall not be less than twenty (20) days nor more than thirty (30) days after the last publication. Added by Laws 1977, c. 256, § 13-106, eff. July 1, 1978. Amended by Laws 1996, c. 16, § 1, eff. Nov. 1, 1996.

### §11-13-107. Charter election - Certification of results - Approval by Governor.

The question of whether or not the municipality shall adopt the proposed charter shall be submitted to the registered voters of the municipality at a general or special election. If a majority of the votes cast, as certified by the secretary of the county election board, are in favor of adopting the charter, the charter shall then be certified by the mayor of the municipality and authenticated by the seal of the municipality. The submission to and approval by the registered voters shall be set forth on the charter. The charter shall then be submitted to the Governor for his approval, and the Governor shall approve the charter if it is not in conflict with the Constitution and laws of Oklahoma. Upon his approval, the charter shall become the organic law of the municipality and supersede any existing charter and all ordinances in conflict with it. Laws 1977, c. 256, § 13-107, eff. July 1, 1978.

### §11-13-108. Deposit of copies for record - Judicial notice.

After the approval of the charter by the Governor, duplicate copies shall be made and one shall be deposited in the office of the Secretary of State, and the other, after being recorded in the office of the county clerk of the county in which the situs of the municipality is located, shall be deposited in the archives of the municipality. Thereafter the charter shall be judicially noticed in all court proceedings. Laws 1977, c. 256, § 13-108, eff. July 1, 1978.

### §11-13-109. Charter controls over conflicting laws.

Whenever a charter is in conflict with any law relating to municipalities in force at the time of the adoption and approval of the charter, the provisions of the charter shall prevail and shall operate as a repeal or suspension of the state law or laws to the extent of any conflict. Laws 1977, c. 256, § 13-109, eff. July 1, 1978.

### §11-13-110. Payment of expenses for framing and adopting charter.

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All charter election expenses shall be paid by the municipality. The municipality may provide for the payment of the expenses incurred by the board of freeholders in the framing of the charter. Amended by Laws 1984, c. 126, § 24, eff. Nov. 1, 1984. d

### §11-13-111. Charter amendments - Procedure.

Amendments to a municipal charter may be proposed by:

1. An initiative petition, signed by a number of the registered voters residing in the municipality equal to at least twenty-five percent (25%) of the total number of votes cast at the preceding general election. Charter amendments proposed by initiative petition shall be governed in all respects by the provisions of Sections 15-101 through 15-110 of this title; or

2. A resolution of the municipal governing body. Notice of charter amendments proposed by resolution and the election on them shall be in the same manner provided for adoption of municipal charters as set forth in Sections 13-106 and 13-107 of this title, except that only the article that contains the proposed charter amendments needs to be published and considered pursuant to those sections.

If a majority of the votes cast in the election on the charter amendments, as certified by the secretary of the county election board, are in favor of adopting the proposed amendments to the charter, the charter shall be so amended, certified and authenticated by the mayor, and submitted to the Governor for approval. The Governor shall approve the charter amendments if they are not in conflict with the Constitution and laws of Oklahoma. Upon approval, the charter as amended shall become the organic law of the municipality and supersede any existing charter and all ordinances in conflict with it. The charter amendments shall be filed and recorded in the same manner provided for filing of municipal charters. Added by Laws 1977, c. 256, § 13-111, eff. July 1, 1978. Amended by Laws 2006, c. 301, § 3, eff. Nov. 1, 2006.

### §11-13-112. Revocation or abolishment of charter - Adopting statutory form - Procedure.

A proposal to revoke or abolish the charter of a municipality shall be made in the same manner provided for charter amendments and shall include the proposed statutory form of municipal government to be adopted when the charter is revoked, unless the proposal includes the adoption of a new charter in lieu of the existing charter. The question to be submitted to the registered voters of the municipality shall be substantially in the following form:

Shall the (City or Town) of \_\_\_\_\_ revoke the charter under which it is now operating, and adopt and be governed under the statutory \_\_\_\_\_ (name of proposed statutory form) form of municipal government as provided by the laws of Oklahoma?

Yes.

No.

Laws 1977, c. 256, § 13-112, eff. July 1, 1978.

### §11-13-113. Charter revocation - Canvassing returns - Proclamation of Governor - Election of officers.

The secretary of the county election board shall, within five (5) days after the canvass of the returns of the election, certify to the Governor the results of the vote on the question. If a majority of the votes cast are in favor of revoking the charter, the Governor, within twenty (20) days after receiving the certification, shall issue a proclamation stating that the municipality has revoked its charter and adopted the statutory form of municipal government specified in the question. The proclamation of the Governor shall also direct the governing body of the

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municipality to divide the municipality into the number of wards required and to hold primary and general elections in the manner provided by the statutory form of government which has been adopted. From the date of the Governor’s proclamation, the charter of the municipality shall be revoked, and the municipality shall be governed under the laws relating to the statutory form of government which the municipality has adopted. Laws 1977, c. 256, § 13-113, eff. July 1, 1978.

§11-13-114. Special charter provisions relating to abandonment of municipal charters.

Where a municipality has adopted a charter containing a special provision to the effect that at the expiration of a specified period after the adoption of the charter the governing body may submit to the registered voters of the municipality the question of whether or not the charter shall be abandoned and the municipality governed under a statutory form of government, and the specified time has expired and the governing body has failed to submit the question, then the question shall be submitted to the registered voters at the next election which may be held in the municipality. The secretary of the county election board shall submit the question substantially in the language of the charter provision. If a majority of the votes cast, as certified by the secretary of the county election board, are in favor of abandoning the charter and adopting a statutory form, the results of the election shall be certified to the Governor in the manner provided for revocation of charters. Laws 1977, c. 256, § 13-114, eff. July 1, 1978.

§11-13-115. Compensation of elective city officers.

Where a municipality has adopted a charter and the charter does not address compensation of elective city officers, the compensation of such elective city officers may be fixed by ordinance. Added by Laws 1996, c. 79, § 4, eff. Nov. 1, 1996.

§11-13-116. Ordinances relating to elected law enforcement officers.

No municipality shall adopt an ordinance restricting or expanding the powers and duties, supervisory and management authority, or the regulation of day-to-day activities of a duly elected law enforcement officer unless such authority is specifically granted by the municipal charter of said municipality. Added by Laws 2015, c. 373, § 1, eff. Nov. 1, 2015.

### ARTICLE XIV MUNICIPAL ORDINANCES

§11-14-101.1. Rent control - Prohibition.

A. No municipal governing body may enact, maintain, or enforce any ordinance or resolution which regulates the amount of rent to be charged for privately owned, single-family or multiple unit residential or commercial rental property.

B. This section shall not be construed to prohibit any municipality or any authority created by a municipality for that purpose from:

1. regulating in any way property belonging to that municipality or authority;
2. entering into agreements with private persons which regulate the amount of rent charged for subsidized rental properties; or
3. enacting ordinances or resolutions restricting rent for properties assisted with federal Community Development Block Grant Funds. Added by Laws 1988, c. 38, § 1, emerg. eff. March 21, 1988.



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### §11-14-102. Ordinances - Procedure governing passage.

All proposed ordinances of a municipality shall be considered at a public meeting of the council or board of trustees. A vote of a majority of all the members of the council or board of trustees shall be required for the final passage of an ordinance.

Laws 1977, c. 256, § 14-102, eff. July 1, 1978.

### §11-14-103. Effective date of municipal ordinances - Emergency measures.

Every ordinance except an emergency ordinance shall go into effect thirty (30) days after its final passage unless it specifies a later date. An emergency measure necessary for the immediate preservation of peace, health, or safety shall go into effect upon its final passage unless it specifies a later date. Such an emergency measure must state in a separate section the reasons why it is necessary that the measure become effective immediately. The question of emergency must be ruled upon separately and approved by the affirmative vote of at least three-fourths (3/4) of all the members of the governing body of the municipality. Amended by Laws 1984, c. 126, § 26, eff. Nov. 1, 1984.

### §11-14-104. Style of ordinances - Title and subject - Enacting clause

An ordinance may contain only one subject and the subject shall be expressed in its title. The enacting clause of all ordinances passed by a municipal governing body shall be: 1. “Be it ordained by the Council of the City of \_\_\_\_\_”, for city ordinances; or 2. “Be it ordained by the Board of Trustees of the Town of \_\_\_\_\_”, for town ordinances. The enacting clause of ordinances proposed by the voters under their power of initiative shall be “Be it ordained by the People of the \_\_\_\_\_ (City of Town) of \_\_\_\_\_”. Laws 1977, c. 256, § 14-104, eff. July 1, 1978.

### §11-14-105. Ordinance book - Entries.

Every ordinance enacted by a municipal governing body shall be entered in an ordinance book immediately after its passage. The entry shall contain the text of the ordinance and shall state the date of its passage, the page of the journal containing the record of the final vote on its passage, the name of the newspaper in which the ordinance was published, and the date of the publication. Compilations or codes of municipal law or regulations need not be enrolled in full in the book of ordinances, but the ordinance adopting by reference or enacting such compilation or code shall be entered and a copy of the compilation or code shall be filed and kept in the office of the municipal clerk. Amended by Laws 1984, c. 126, § 27, eff. Nov. 1, 1984.

### §11-14-106. Publication of ordinances.

No ordinance having any subject other than the appropriation of monies shall be in force unless published or posted within fifteen (15) days after its passage. Every municipal ordinance shall be published at least once in full, except as provided for in Section 14-107 of this title. When publishing the ordinance, the publisher or managing officer of the newspaper shall prefix to the ordinance a line in brackets stating the date of publication as “Published \_\_\_\_\_”, giving the month, day, and year of publication. Amended by Laws 1984, c. 126, § 28, eff. Nov. 1, 1984.

### §11-14-107. Publication of certain codes and ordinances by title and summary of contents.

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A. If a municipal governing body enacts or adopts by reference ordinances which are compilations or codes of law or regulations relating to traffic, building, plumbing, electrical installations, fire prevention, inflammable liquids, milk and milk products, protection of the public health, or any other matters which the municipality has the power to regulate, such ordinances are not required to be published in full. Legal publication of such ordinances may be by publishing the title and a summary of their contents in the manner provided by Section 14-106 of this title. At least one copy of such ordinances shall be kept in the office of the municipal clerk for public use, inspection, and examination. The municipal clerk shall keep copies of the ordinances, codes, or compilations for distribution or sale at a reasonable price.

B. A municipality which adopts building standards shall adopt and enforce codes adopted by the Oklahoma Uniform Building Code Commission.

C. Nothing in this act shall prevent or take away from any city, town or county the authority to enact and enforce rules containing higher standards and requirements than the codes adopted by the Oklahoma Uniform Building Code Commission nor prevent or take away from any city, town or county the authority to amend such adopted codes to make changes necessary to accommodate local conditions except as provided in subsection D of this section.

D. A city, town or county may begin enforcing the higher standards and requirements allowed in subsection C of this section no less than thirty (30) days after submitting the higher standards and requirements to the Oklahoma Uniform Building Code Commission in such form as the Commission may prescribe.

E. Ordinances which are passed by the governing body with an emergency clause attached are not required to be published in full, but may be published by title only in the manner provided by Section 14-106 of this title. Added by Laws 1977, c. 256, § 14-107, eff. July 1, 1978. Amended by Laws 1979, c. 144, § 1, emerg. eff. May 8, 1979; Laws 1984, c. 126, § 29, eff. Nov. 1, 1984; Laws 2002, c. 407, § 1, eff. Nov. 1, 2002; Laws 2009, c. 80, § 1, eff. Nov. 1, 2009; Laws 2009, c. 439, § 1, emerg. eff. June 2, 2009.

### §11-14-108. Codification of municipal ordinances.

A. The governing body of a municipality may, from time to time, authorize a codification of its ordinances. Such a code may be kept up to date by use of a loose-leaf system and process of amendment. In a code of municipal ordinances, the title, enacting clauses and emergency sections may be omitted and temporary and special ordinances and parts of ordinances may also be omitted. Permanent and general ordinances and parts of ordinances which are to be repealed by the code shall be omitted from the code. The ordinances and parts of ordinances included in the code may be revised, rearranged, renumbered, and reorganized into some systematic arrangement. The governing body may publish in connection with the code new matter, provisions of state law relating to the municipality, a history of the municipality, the history of the municipal government, the names of officials and other informational matter as the governing body may decide. The book or pamphlet containing the code may also contain an index and forms and instructions as the governing body may decide.

B. At least three copies of the code shall be kept in the office of the municipal clerk for public use, inspection and examination. The municipal clerk shall keep copies of the code for distribution or sale at a reasonable price.

C. Notice of the publication of the code shall be in the manner provided for publication by title of certain codes and ordinances in subsection A of Section 14-107 of this title. Laws 1977, c. 256, § 14-108, eff. July 1, 1978.

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### §11-14-109. Mandatory compilation of penal ordinances.

The penal ordinances of every municipality shall be compiled and published in a permanent form, either printed or typed, periodically, but not less than once each ten (10) years. Each municipality shall also publish biennial supplements to the permanent volume of compiled penal ordinances. No municipal ordinance shall be enforced if it is not reflected in such a permanent volume or supplement if the ordinance was adopted before the latest compilation or supplement. A codification of municipal ordinances which includes all penal ordinances is sufficient for complying with this compilation requirement if the code is issued as a permanent volume with biennial supplements and if the procedures for filing and notice, as outlined in Section 14-110 of this title, have been complied with. Provided, further, the ten-year codification requirement shall be satisfied if the code complies with the compilation requirement and the biennial supplements are made a part of the permanent volume which are maintained in permanent form either bound or in a loose-leaf form. Laws 1977, c. 256, § 14-109, eff. July 1, 1978; Laws 1979, c. 44, § 3, emerg. eff. April 9, 1979.

### §11-14-110. Notice and filing of penal ordinance compilation - Judicial notice.

When a municipality has compiled and published its permanent volume or biennial supplement of penal ordinances, the governing body of the municipality shall adopt a resolution notifying the public of the publication. A copy of the resolution shall be filed in the office of the county clerk in each county in which the municipality is located. The county clerk shall assign the filed resolution a book and page number. At least one copy of the permanent volume and each biennial supplement shall be deposited free of cost by the municipality in the county law library of each county wherein the municipality is located, and receipt of same shall be duly noted in writing by the county law librarian. A copy of the receipt may be filed with the county clerk who shall then assign a book and page number. The permanent volume or biennial supplement of compiled penal ordinances shall be available for purchase by the public at a reasonable price. Ordinances which have been compiled and filed in accordance with this section shall be judicially noticed in all court proceedings. Provided, a court may consider a book and page reference of the county clerk's filings as satisfactory proof of compliance so that judicial notice may be taken of an ordinance. Amended by Laws 1985, c. 87, § 1, eff. Nov. 1, 1985; Laws 1989, c. 104, § 2, emerg. eff. April 25, 1989.

### §11-14-111. Enforcement and penalties for violation of municipal ordinances.

A. The governing body of a municipality may provide for enforcement of its ordinances and establish fines, penalties, or imprisonment, as authorized by subsections B through D of this section, for any offense in violation of its ordinances, which shall be recoverable together with costs of suit. The governing body may provide that 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 municipality, subject to the direction of the street commissioner or other proper officer, at a rate per day as the governing body may prescribe by ordinance, but not less than Fifty Dollars (\$50.00) per day for useful labor, until the fine or costs are satisfied.

B. 1. Except for municipal ordinances related to prostitution and as otherwise provided in this section, cities having a municipal criminal court of record may enact ordinances prescribing maximum fines of One Thousand Two Hundred Dollars (\$1,200.00) and costs or imprisonment

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not exceeding six (6) months or both the fine and imprisonment, but shall not have authority to enact any ordinance making unlawful an act or omission declared by state statute to be punishable as a felony. Cities having a municipal criminal court of record may enact ordinances prescribing maximum fines of One Thousand Dollars (\$1,000.00) and costs or imprisonment not exceeding six (6) months or both such fine and imprisonment for violations of municipal ordinances regulating the pretreatment of wastewater and regulating stormwater discharges. Cities having a municipal criminal court of record may enact ordinances prescribing maximum fines of One Thousand Two Hundred Fifty Dollars (\$1,250.00) and costs or imprisonment not exceeding six (6) months or both such fine and imprisonment for alcohol-related or drug-related traffic offenses. The court shall remit Fifty Dollars (\$50.00) of each alcohol fine or deferral fee to a fund of the municipality 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 sum of Fifteen Dollars (\$15.00) shall be assessed in every case for violations of municipal ordinances relating to the offense of driving under the influence of alcohol or other intoxicating substance and shall be remitted to the credit of the Oklahoma Impaired Driver Database Revolving Fund created pursuant to Section 8 of this act.

2. For violations of municipal ordinances relating to prostitution, including but not limited to engaging in prostitution or soliciting or procuring prostitution, a municipal criminal court of record may enact ordinances prescribing an imprisonment not to exceed six (6) months, and fines as follows: a fine not to exceed Two Thousand Five Hundred Dollars (\$2,500.00) upon the first conviction for violation of any such ordinances, a fine of not more than Five Thousand Dollars (\$5,000.00) upon the second conviction for violation of any of such ordinances, and a fine of not more than Seven Thousand Five Hundred Dollars (\$7,500.00) upon the third or subsequent convictions for violation of any of such ordinances, or both such fine and imprisonment as well as a term of community service of not less than forty (40) nor more than eighty (80) hours.

C. Municipalities having a municipal court not of record may enact ordinances prescribing maximum fines pursuant to the provisions of this subsection. A municipal ordinance may not 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 fund of the municipality 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 ordinances may prescribe costs pursuant to the provisions of Section 27-126 of this title or imprisonment not exceeding sixty (60) days or both the fine and imprisonment; provided, that municipalities having only a municipal court not of record shall not have authority to enact any ordinance making unlawful any act or omission declared by state statute to be punishable as a felony; provided further, that municipalities having a municipal court not of record may enact ordinances prescribing maximum fines of One Thousand Dollars (\$1,000.00) and costs or imprisonment not exceeding ninety (90) days or both such fine and imprisonment for violations of municipal ordinances regulating the pretreatment of wastewater and regulating stormwater discharges. If

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imprisonment is available for the offense, then that person charged shall have a right to a jury trial.

D. Municipalities having both municipal criminal courts of record and municipal courts not of record may enact ordinances, within the authority of this section, for each court.

E. No municipality may levy a fine or deferral fee in lieu of a fine of over Fifty Dollars (\$50.00) until it has compiled and published its penal ordinances as required in Sections 14-109 and 14-110 of this title.

F. No municipality may levy a fine of more than Ten Dollars (\$10.00) nor court costs of more than Fifteen Dollars (\$15.00) for exceeding the posted speed limit by no more than ten (10) miles per hour upon any portion of the National System of Interstate and Defense Highways, federal-aid primary highways, and the state highway system which are located on the outskirts of any municipality as determined in Section 2-117 of Title 47 of the Oklahoma Statutes. Added by Laws 1977, c. 256, § 14-111, eff. July 1, 1978. Amended by Laws 1980, c. 247, § 1, eff. Oct. 1, 1980; Laws 1982, c. 157, § 1; Laws 1983, c. 293, § 1, operative Oct. 1, 1983; Laws 1990, c. 141, § 1, eff. Sept. 1, 1990; Laws 1998, c. 322, § 3, eff. Nov. 1, 1998; Laws 1999, c. 412, § 1, eff. Nov. 1, 1999; Laws 2002, c. 120, § 5, emerg. eff. April 19, 2002; Laws 2004, c. 173, § 1, eff. Nov. 1, 2004; Laws 2006, c. 61, § 2, eff. July 1, 2006; Laws 2008, c. 413, § 1, eff. Nov. 1, 2008; Laws 2016, c. 172, § 2, eff. Nov. 1, 2016.

§11-14-111.1. Retention of penalty assessments or other state fees.

A. Notwithstanding any other provision of law, a municipal court which collects a penalty assessment or other state fee from a defendant pursuant to state law may retain eight cents (\$0.08) of such monies and may also retain all interest accrued thereon prior to the due date for deposits as provided in state law. The fee shall be deposited as determined by the municipal governing body.

B. A municipal court in a municipality having a basic law enforcement academy approved by the Council on Law Enforcement Education and Training pursuant to the criteria developed by the Council for training law enforcement officers may retain as an administrative fee two percent (2%) of any penalty assessment or other state fee imposed by state statute. The two percent (2%) administrative fee shall be deducted from the portion of the penalty assessment or other state fee retained by such municipality. Added by Laws 2001, c. 258, § 1, eff. July 1, 2001. Amended by Laws 2001, c. 404, § 1, eff. Nov. 1, 2001.

§11-14-112. Cancellation or denial of driving privileges for noncompliance with municipal court sentence.

A. As used in this section:

1. “Department” means the Department of Public Safety;
2. “Notification form” means a form prescribed by the Department which contains a statement from the court that the person has failed to satisfy the sentence of the court. It shall include the name, date of birth, physical description, and the driver license number, if any, of the person;
3. “Reinstatement form” means a form prescribed by the Department which contains a statement from the court that the person has satisfied the sentence of the court. It shall include sufficient information to identify the person to the Department;
4. “Sentence” means any order of the court to pay a fine, penalty assessment or costs or to carry out a term of community service or other remedial action.

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B. When any person under the age of eighteen (18) years fails or refuses to satisfy a sentence of a municipal court, the court shall notify the Department. Upon receipt of the notification form from the court, the Department shall cancel or deny all driving privileges of the person without a hearing until the person satisfies the sentence of the court.

C. When the person fulfills the sentence of the court, the court or court clerk shall provide a reinstatement form to such person either directly or by first class mail, postage prepaid, at the last address given by the person to the court. The driving privileges of a person who furnishes a reinstatement form to the Department shall be granted or reinstated, if the person is otherwise eligible, in accordance with law. Upon such granting or reinstatement of driving privileges, the Department may remove any record of the denial or cancellation of driving privileges as provided for in this section from the file of the person and maintain an internal record of the denial or cancellation for fiscal or other purposes.

D. At the time of sentencing the person, the court may take custody of the driver's license of the person until the terms of the sentence are fulfilled. In such case, the court shall issue to the person a receipt for the license. Additionally, the court may notify the parents or other custodian of the person of the terms of the sentence or any notice to the Department. Added by Laws 1990, c. 299, § 1, eff. Sept. 1, 1990. Amended by Laws 1999, c. 139, § 1, eff. Nov. 1, 1999.

### §11-14-113. Liability for cost of medical care to defendant in custody of municipal officer.

When a defendant is in the custody of a municipal jail, the custodial municipality shall only be liable for the cost of medical care for conditions that are not preexisting prior to arrest and that arise due to acts or omissions of the municipality. Preexisting conditions are defined as those illnesses beginning or injuries sustained before a person is in the peaceable custody of the municipality's officers.

An inmate receiving medical care for a preexisting condition or a condition not caused by the acts or omissions of the municipality shall be liable for payment of the cost of care, including but not limited to, medication, medical treatment, and transportation costs, for or relating to the condition requiring treatment. Added by Laws 1990, c. 299, § 2, eff. Sept. 1, 1990. Amended by Laws 1999, c. 217, § 1, eff. Nov. 1, 1999.

### §11-14-114. Municipal governing body - Rewards - Reward fund.

A. A municipal governing body is authorized to offer and pay a reward, from municipal funds, in an amount not to exceed One Thousand Dollars (\$1,000.00) for the arrest and conviction, or for evidence leading to the arrest and conviction of any person stealing or defacing municipal road signs or other municipal owned property.

B. The municipal governing body may create and maintain a reward fund from which to pay the rewards provided for in subsection A of this section. The municipal governing body shall determine the amount and source of funds necessary to pay the rewards authorized in subsection A of this section.

C. Any person convicted of theft or defacing municipal road signs or other municipal owned property may, in lieu of other fines and penalties, be required to deposit like amount into the reward fund established pursuant to this section.

D. A municipal governing body shall not be required to provide rewards or create a reward fund pursuant to the provisions of this section. Added by Laws 2009, c. 47, § 1, emerg. eff. April 14, 2009.

ARTICLE XVI  
MUNICIPAL ELECTIONS

§11-16-101. Notice of municipal elections.

The governing body of a municipality shall give notice of a general municipal election or a special election by publishing the resolution calling for the election. The resolution shall contain the facts described in Section 13-102 of Title 26 of the Oklahoma Statutes.

The resolution shall be published in a newspaper of general circulation in the municipality at least ten (10) days before the beginning of the filing period for a general municipal election, or at least ten (10) days before the date of a special election. If there is no newspaper of general circulation in the municipality, the notice shall be given by posting a copy of the resolution in at least five (5) public places in the municipality. Added by Laws 1977, c. 256, § 16-101, eff. July 1, 1978. Amended by Laws 2004, c. 545, § 24, eff. July 1, 2005.

§11-16-102. Provisions not applicable to municipalities governed by charter or subject to Oklahoma Town Meeting Act - Exception - Choice of election procedure - Residency requirements.

A. The provisions of Section 16-101 et seq. of this title shall not apply to any municipality which is governed by charter; provided, that elections for such municipalities which shall be conducted by the county election board shall be scheduled only on an election date identified by subsection B of Section 3-101 of Title 26 of the Oklahoma Statutes. However, such a municipality may, by indicating in its resolution calling an election, choose to follow any provision of state law governing elections conducted by a county election board when the municipality's charter or ordinances are silent on the matter addressed by such provision. In such instance, if the municipal election or any substantial portion thereof is not conducted by a county election board, the duties required of the county election board or its secretary shall be performed by the municipal authority designated by the municipal governing body and nothing herein shall be construed to require the county election board to perform any such duties. The residency requirements of Sections 16-109 and 16-110 of this title shall apply to all municipalities except to the extent that such residency requirements are governed by municipal charter.

B. The provisions of Sections 16-101 through 16-114 of this title shall not apply to any municipality subject to the provisions of the Oklahoma Town Meeting Act; provided, Section 16-103.1 of this title shall apply to such municipalities.

C. In the event that a municipality governed by charter schedules a regular or special election for a municipal office on the same date as an election involving state or federal offices, the provisions of subsection D of Section 3-101 of Title 26 of the Oklahoma Statutes shall apply.

D. After January 1, 2016, no county election board shall be required to conduct a regular or special election for any elective municipal office in any municipality governed by charter unless the resolution calling the election shall set a candidate filing period of three (3) days to begin not more than twenty (20) days from the date the resolution is required to be submitted to the county election board. In no case shall a resolution calling a regular or special election be submitted to the county election board less than sixty (60) days preceding the election date.

Added by Laws 1977, c. 256, § 16-102, eff. July 1, 1978. Amended by Laws 1987, c. 75, § 1, eff. July 1, 1987; Laws 1988, c. 105, § 21, eff. Nov. 1, 1988; Laws 2004, c. 545, § 25, eff. July 1, 2005; Laws 2011, c. 196, § 19, eff. Nov. 1, 2011; Laws 2015, c. 219, § 1, eff. Nov. 1, 2015.

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### §11-16-103. General municipal elections - When held.

General municipal elections shall be held in cities and towns on the first Tuesday in April in each odd-numbered year. Laws 1977, c. 256, § 16-103, eff. July 1, 1978.

### §11-16-103.1. Withholding certain monies from city or town that fails to hold municipal election or biennial town meeting.

No monies shall be distributed pursuant to Section 1104 of Title 47 and Section 504 of Title 68 of the Oklahoma Statutes to any incorporated city or town which has failed to hold a general or special municipal election to elect officers as provided in Section 16-101 et seq. of this title or a biennial town meeting as provided by the Oklahoma Town Meeting Act, on the dates required by law for four (4) or more years, if a general or special municipal election, or for two consecutive biennial town meetings. Such monies shall be remitted to the county in which the incorporated city or town is located and deposited to the county highway fund of that county to be used as otherwise provided by law. An incorporated city or town shall henceforth send the county treasurer of the county in which it is located a copy of the municipality's notice of a biennial town meeting or resolution calling for its regular municipal elections, whichever is appropriate. The copy of the resolution shall include a notation by the county election board showing that the resolution was received and the date it was received. Added by Laws 1984, c. 126, § 30, eff. Nov. 1, 1984. Amended by Laws 1987, c. 75, § 2, eff. July 1, 1987; Laws 1988, c. 105, § 22, eff. Nov. 1, 1988; Laws 1988, c. 152, § 3, eff. Nov. 1, 1988; Laws 2018, c. 66, § 1, eff. July 1, 2018.

### §11-16-104. Conduct of general municipal elections.

The laws applicable to general elections shall govern general municipal elections except as otherwise provided. Municipal elected officials, including those from wards as well as at large, shall be elected at large by the registered voters of the entire municipality. Laws 1977, c. 256, § 16-104, eff. July 1, 1978.

### §11-16-105. What candidate's name may be placed on general election ballot.

No candidate's name shall be printed upon the official ballot for a general municipal election unless such candidate shall have been nominated by some political party at the primary election or unless his name is presented as an independent candidate as provided in Section 16-110 of this title. Laws 1977, c. 256, § 16-105, eff. July 1, 1978.

### §11-16-105.1. Elections to be nonpartisan - Primary elections in nonpartisan elections abolished.

Municipal elections shall be nonpartisan and all candidates shall file as independent candidates unless, prior to the date for notifying the county election board of the call for the election, the municipality has in effect an ordinance providing for a partisan primary election consistent with Section 16-101 et seq. of Title 11 of the Oklahoma Statutes. No primary elections shall be held in a nonpartisan election. Any election proclamation or notice of election providing for a primary election shall be deemed to be amended by operation of this act to delete the call for a primary election unless a copy of the ordinance authorizing the primary election is attached to the election resolution filed with the county election board. If such a copy is not attached, each candidate shall appear on the ballot as an independent candidate without party or other



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designation. Provided, any municipality which is governed by a charter may provide otherwise by charter or ordinance. Added by Laws 1987, c. 75, § 3, eff. July 1, 1987.

§11-16-106. Unopposed candidates in general election.

Any candidate who is unopposed for an office in a general municipal election shall be deemed elected and certified; and his name shall not appear on the general election ballot. If there is only one candidate for each of the offices which are to be filled at the election, and no questions are to be voted upon at the election, the general municipal election shall not be held. Laws 1977, c. 256, § 16-106, eff. July 1, 1978.

§11-16-107. Primary elections - When held.

A primary election shall be held in cities and towns on the second Tuesday of February in each odd-numbered year, at which time the several political parties shall nominate candidates for offices which are to be elected at the upcoming general municipal election. Added by Laws 1977, c. 256, § 16-107, eff. July 1, 1978. Amended by Laws 1981, c. 292, § 1; Laws 2004, c. 545, § 26, eff. July 1, 2005.

§11-16-108. Conduct of primary elections.

The general laws relating to primary elections shall govern partisan municipal primaries except as otherwise provided. Party candidates for municipal office, including those from wards as well as at large, shall be nominated at large by the registered voters of the respective parties of the entire municipality. Added by Laws 1977, c. 256, § 16-108, eff. July 1, 1978. Amended by Laws 2004, c. 545, § 27, eff. July 1, 2005.

§11-16-109. Eligibility and manner of becoming party candidate.

To be eligible to become a candidate for a political party nomination in a municipality's partisan primary election, or an independent candidate in such municipality's general election, a person must for at least six (6) months prior to filing a declaration of candidacy be a registered voter at an address within the municipality or in the ward if an office is from a ward. To become a candidate, a declaration of candidacy must be filed with the county election board no earlier than 8:00 a.m. on the first Monday in December and no later than 5:00 p.m. on the next succeeding Wednesday. Added by Laws 1977, c. 256, § 16-109, eff. July 1, 1978. Amended by Laws 1981, c. 292, § 2; Laws 1987, c. 75, § 4, eff. July 1, 1987; Laws 2004, c. 545, § 28, eff. July 1, 2005.

§11-16-110. Nonpartisan candidates.

A candidate may have his or her name printed upon the nonpartisan general municipal election ballot as candidate for any office to be filled at the election. To become a candidate, a declaration of candidacy must be filed with the county election board no earlier than 8:00 a.m. on the first Monday in February and no later than 5:00 p.m. on the next succeeding Wednesday. A candidate must also be a registered voter at an address within the municipality, or of the ward where the office is from a ward for at least six (6) months prior to filing a declaration of candidacy. Filing as a candidate in a nonpartisan municipal election or voting for such candidate shall not affect one's party affiliation or regularity. Added by Laws 1977, c. 256, § 16-110, eff. July 1, 1978. Amended by Laws 1981, c. 292, § 3; Laws 1987, c. 75, § 5, eff. July 1, 1987; Laws 2004, c. 545, § 29, eff. July 1, 2005.

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### §11-16-111. Unopposed candidates in primary election.

Any candidate who is unopposed for an office in a partisan primary election shall be deemed nominated and so certified; and his or her name shall not appear on the primary election ballot. If there are unopposed candidates for each of the offices which are up for election, no primary election shall be held. Added by Laws 1977, c. 256, § 16-111, eff. July 1, 1978. Amended by Laws 2004, c. 545, § 30, eff. July 1, 2005.

### §11-16-112. Special elections - Questions which may be submitted.

When the municipal governing body shall deem it advisable, it may, by resolution or ordinance, authorize the mayor to call a special election on a date established in Section 3-101 of Title 26 of the Oklahoma Statutes for the purpose of submitting to the registered voters of the municipality the question of issuing municipal bonds, of granting any franchise, or for any other purpose authorized by law. Added by Laws 1977, c. 256, § 16-112, eff. July 1, 1978. Amended by Laws 2015, c. 380, § 4, eff. Jan. 1, 2016.

### §11-16-113. Special election ballot - Preparation and arrangement.

The ballot for a special election shall be prepared by the secretary of the county election board and shall set forth the proposition or propositions to be voted upon, and if more than one proposition is submitted, they shall be arranged so that each proposition may be voted upon separately. Laws 1977, c. 256, § 16-113, eff. July 1, 1978.

### §11-16-114. Conduct of special elections held for electing officers.

A. When the office of a municipal elected official is to be filled at a special partisan election, the resolution or order of the governing body calling the election shall contain the following facts:

1. A filing period of three (3) days which shall begin not more than twenty (20) days from the date the resolution or order is required to be filed with the county election board;
2. The date of the special primary election, not less than forty-five (45) days after the close of the filing period; and
3. The date of the special general election, not less than forty-five (45) days after the date of the primary election. A copy of the resolution or order shall be filed with the secretary of the county election board not less than sixty (60) days preceding the date of the special primary election. The election shall be conducted under the laws applicable to general municipal elections.

B. When the office of a municipal elected official is to be filled at a special nonpartisan election, the resolution or order of the governing body calling the election shall contain the following facts:

1. A filing period of three (3) days which shall begin not more than twenty (20) days from the date the resolution or order is required to be filed with the county election board;
2. The date of the special general election, not less than forty-five (45) days after the close of the filing period. A copy of the resolution or order shall be filed with the secretary of the county election board not less than sixty (60) days preceding the date of the special general election.

C. Special municipal elections may be called only on dates established by subsection B of Section 3-101 of Title 26 of the Oklahoma Statutes. Added by Laws 1977, c. 256, § 16-114, eff.

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July 1, 1978. Amended by Laws 1981, c. 292, § 4; Laws 1987, c. 75, § 6, eff. July 1, 1987; Laws 2004, c. 545, § 31, eff. July 1, 2005; Laws 2015, c. 219, § 2, eff. Nov. 1, 2015.

§11-16-201. Aldermanic cities with one councilmember per ward - Officers to be elected - Terms.

In a statutory aldermanic city with one (1) councilmember per ward, the terms of the elected officers shall be staggered so that at any one general municipal election, the following officers are to be elected for four-year terms:

1. Councilmembers from odd-numbered wards;
2. The mayor;
3. The clerk;
4. The marshal; and
5. The street commissioner.

At the next general municipal election, the following officers are to be elected for four-year terms:

1. Councilmembers from even-numbered wards; and
2. The treasurer.

If the office of treasurer has been consolidated with any other office, elections for the office of treasurer and the office with which it has been consolidated shall be held at the time the election to fill the other office is held. The term of the consolidated office shall be concurrent with the term of the other office. Laws 1977, c. 256, § 16-201, eff. July 1, 1978.

§11-16-202. First election held in aldermanic cities with one councilmember per ward.

At the first general municipal election held in the odd-numbered year following adoption of the aldermanic form of government with one (1) councilmember per ward, the officers to be elected and their terms are as follows:

1. Four-year terms: Councilmembers from odd-numbered wards; the mayor; the clerk; the marshal; and the street commissioner.
2. Two-year terms: Councilmembers from even-numbered wards; and the treasurer.

At general municipal elections held thereafter, the successors of the officers whose terms are expiring shall be elected for four-year terms. Laws 1977, c. 256, § 16-202, eff. July 1, 1978.

§11-16-203. Aldermanic cities with two councilmembers per ward - Officers to be elected - Terms.

In a statutory aldermanic city with two councilmembers per ward, the terms of the elected officers shall be staggered so that at any one general municipal election, the following officers are to be elected for four-year terms:

1. One (1) councilmember from each ward of the city;
2. The mayor;
3. The clerk;
4. The marshal; and
5. The street commissioner.

At the next general municipal election, the following officers are to be elected for four-year terms:

1. One councilmember from each ward of the city; and
2. The treasurer.

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If the office of treasurer has been consolidated with any other office, elections for the office of treasurer and the office with which it has been consolidated shall be held at the time the election to fill the other office is held. The term of the consolidated office shall be concurrent with the term of the other office. Laws 1977, c. 256, § 16-203, eff. July 1, 1978.

§11-16-204. First election held in aldermanic cities with two councilmembers per ward – Terms of office.

A. At the first general municipal election held in the odd-numbered year following adoption of the aldermanic form of government with two councilmembers per ward, the officers to be elected and their terms are as follows:

1. Four-year terms: One councilmember from each ward of the city; the mayor; the clerk; the marshal; and the street commissioner.

2. Two-year terms: One councilmember from each ward of the city; and the treasurer.

At general municipal elections held thereafter, the successors of the officers whose terms are expiring shall be elected for four-year terms.

B. The governing body of a municipality with an aldermanic form of government shall provide that the office of the clerk, at the next election after the effective date of this act, be elected to one six-year term followed by four-year terms thereafter, if the clerk and the mayor are currently on the same election cycle. Added by Laws 1977, c. 256, § 16-204, eff. July 1, 1978. Amended by Laws 2005, c. 97, § 1, eff. Nov. 1, 2005.

§11-16-205. Towns - Officers to be elected - Terms.

In a statutory town, the terms of the elected officers shall be staggered so that at any one general municipal election, the following officers are to be elected for four-year terms:

1. Trustees from odd-numbered wards; and

2. The clerk.

At the next general municipal election, the following officers are to be elected for four-year terms:

1. Trustees from even-numbered wards; and

2. The treasurer.

If the office of treasurer has been consolidated with any other office, elections for the office of treasurer and the office with which it has been consolidated shall be held at the time the election to fill the other office is held. The term of the consolidated office shall be concurrent with the term of the other office. Laws 1977, c. 256, § 16-205, eff. July 1, 1978.

§11-16-206. First election held in town.

At the first general municipal election held in the odd-numbered year following adoption of the town board of trustees form of government, the officers to be elected and their terms are as follows:

1. Four-year terms: Trustees from odd-numbered wards; and the clerk.

2. Two-year terms: Trustees from even-numbered wards; and the treasurer.

At general municipal elections held thereafter, the successors of the officers whose terms are expiring shall be elected for four-year terms. Laws 1977, c. 256, § 16-206, eff. July 1, 1978.

§11-16-207. Aldermanic cities and towns - Appointment of certain officials after submission to vote.

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A. The city council of any city may provide by ordinance for the submission to a vote of the registered voters of the city the question of providing for the appointment by the mayor, with the approval of the council, of the city marshal, the street commissioner, the city clerk, the city treasurer, or the city clerk-treasurer.

B. The board of trustees of any town may provide by ordinance for the submission to a vote of the registered voters of the town the question of providing for the appointment by the board of trustees of the town clerk, the town treasurer or the town clerk-treasurer.

C. The question of appointing each official shall be submitted separately on the ballot. The question providing for the appointment of the clerk or the treasurer may be consolidated into one question provided the two offices are to be consolidated into the office of clerk-treasurer. The question providing for the appointment of any official shall read substantially as follows:

Shall the (Marshal, Street Commissioner, Clerk, Treasurer, Clerk-Treasurer) be appointed by the (mayor, with the approval of the council, board of trustees)?

Yes.

No.

If a majority of the votes cast are in favor of appointment to the office, the appointive position shall take effect at the end of the current term of the office. In cities, the appointive officer shall be appointed and may be removed by the mayor, with the approval of the council. In towns, the appointment and removal shall be by a majority vote of all the members of the board of trustees. Laws 1977, c. 256, § 16-207, eff. July 1, 1978.

### §11-16-208. Council-manager cities - Officers to be elected - Terms.

In a statutory council-manager city, the terms of the elected officers shall be staggered so that at any one general municipal election, the following officers are to be elected for four-year terms:

1. Councilmembers from Wards One, Two and Five (if one).

At the next general municipal election, the following officers are to be elected for four-year terms:

1. Councilmembers from Wards Three, Four and Six (if one); and
2. The councilmember at large. Laws 1977, c. 256, § 16-208, eff. July 1, 1978.

### §11-16-209. First election held in council-manager city.

At the first general municipal election held in the odd-numbered year following adoption of the statutory council-manager form of government, the officers to be elected and their terms are as follows:

1. Four-year terms: Councilmembers from Wards One, Two and Five (if one).
2. Two-year terms: Councilmembers from Wards Three, Four and Six (if one); and the councilmember at large.

At general municipal elections held thereafter, the successors of the officers whose terms are expiring shall be elected for four-year terms. Laws 1977, c. 256, § 16-209, eff. July 1, 1978.

### §11-16-210. Strong-mayor-council cities - Officers to be elected - Terms.

In a statutory strong-mayor-council city, the terms of the elected officers shall be staggered so that at any one general municipal election, the following officers are to be elected for four-year terms:

1. Councilmembers from Wards One, Two and Five (if one).

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At the next general municipal election, the following officers are to be elected for four-year terms:

1. Councilmembers from Wards Three, Four and Six (if one); and
2. The mayor. Laws 1977, c. 256, § 16-210, eff. July 1, 1978.

§11-16-211. First election held in strong-mayor-council city.

At the first general municipal election held in the odd-numbered year following adoption of the statutory strong-mayor-council form of government, the officers to be elected and their terms are as follows:

1. Four-year terms: Councilmembers from Wards One, Two and Five (if one).
2. Two-year terms: Councilmembers from Wards Three, Four and Six (if one); and the mayor.

At general municipal elections held thereafter, the successors of the officers whose terms are expiring shall be elected for four-year terms. Laws 1977, c. 256, § 16-211, eff. July 1, 1978.

§11-16-212. Council-manager and strong-mayor-council cities - Form of general municipal election ballot.

The ballots for the general election in a statutory council-manager or statutory strong-mayor-council city shall be of the office block type, listing the names of independent candidates and party nominees for each office under the respective office without party designation or emblems as follows:

For Councilmember from Ward One

(Vote for One)

\_\_\_\_\_ Name of independent candidate or party nominee

\_\_\_\_\_ Name of independent candidate or party nominee

For Councilmember from Ward Two

(Vote for One)

\_\_\_\_\_ Name of independent candidate or party nominee

\_\_\_\_\_ Name of independent candidate or party nominee Laws 1977, c. 256, § 16-212, eff. July 1, 1978.

§11-16-213. Transitional provisions for municipalities not in conformance with general election or town meeting procedure.

A. If the term of an elected officer as set forth in the notice of the last election for the office will expire in an even-numbered year, a regular municipal election or town meeting, if the municipality is subject to the Oklahoma Town Meeting Act, shall be held in order to elect a successor. The term of the successor shall be either three (3) or five (5) years as necessary in order to comply with the provisions of Section 16-101 et seq. of this title. Thereafter, the term of said office shall be four (4) years. Any such election or town meeting held in an even-numbered year shall be conducted in the manner provided by law applicable to municipal elections or town meetings, whichever is appropriate.

B. If the term of an elected officer as set forth in the notice of the last election for the office will expire in an odd-numbered year, but the term of office does not coincide with the offices named in Section 16-201 et seq. of this title, a regular municipal election or town meeting shall be held in order to elect a successor. The term of the successor shall be either two (2) or four (4) years as necessary in order to comply with the provisions of Section 16-101 et seq. of

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this title. Thereafter, the term of said office shall be four (4) years. Amended by Laws 1984, c. 126, § 31, eff. Nov. 1, 1984; Laws 1988, c. 105, § 23, eff. Nov. 1, 1988.

§11-16-301. Short title.

Sections 1 through 15 of this act shall be known and may be cited as the “Oklahoma Town Meeting Act”. Added by Laws 1988, c. 105, § 1, eff. Nov. 1, 1988.

§11-16-302. Municipalities required to hold town meetings - Election - Ordinance providing alternative procedure - Repeal of ordinance.

A. Except as otherwise provided in this act, Section 16-301 et seq. of this title, all municipalities with fewer than two thousand (2,000) residents, according to the latest Federal Decennial Census, that are not governed by charter, shall elect officers and consider questions raised by initiative or referendum, pursuant to Section 15-101 et seq. of this title, at biennial town meetings or special town meetings of the voters of each municipality as provided in this act. Provided, that a municipality of fewer than two thousand (2,000) residents may at any time adopt an ordinance requiring that its officers shall be elected and initiative and referendum questions shall be decided only through elections conducted by the county election board pursuant to Section 16-101 et seq. of this title. Any municipality that passes an ordinance pursuant to this section shall upon adoption of the ordinance provide a copy of the ordinance to the county election board of the county in which the municipality is located.

B. If the ordinance is repealed, elections of the municipality shall be at a town meeting. The municipality shall provide a copy of the repealer to the county election board of the county in which the municipality is located. If a municipality with fewer than two thousand (2,000) residents fails to hold its regular municipal elections as required by law, the municipality shall be subject to the provisions of the Oklahoma Town Meeting Act, Section 16-301 et seq. of this title; provided, further, that such municipality may adopt a resolution requiring that its elections be conducted by the county election board as provided in this section. Added by Laws 1988, c. 105, § 2, eff. Nov. 1, 1988. Amended by Laws 1989, c. 78, § 1, emerg. eff. April 17, 1989; Laws 2013, c. 25, § 1, eff. Nov. 1, 2013.

§11-16-303. Time for town meeting - Purpose - Special town meetings.

In municipalities subject to the provisions of Section 16-301 et seq. of this title, a biennial town meeting of the voters shall be held on the first Tuesday in April in each odd-numbered year for the purpose of electing municipal officers and considering questions raised by initiative or referendum pursuant to Section 15-101 et seq. of this title.

In addition to the election proceedings of said meeting the mayor or presiding officer may upon compliance with the Open Meeting Act, Section 301 et seq. of Title 25 of the Oklahoma Statutes and other provisions appropriate to the law, conduct regular business meetings or any other town business which would be in order and of interest to those citizens in attendance. Special town meetings for these purposes may be called at other times as provided in this act. Added by Laws 1988, c. 105, § 4, eff. Nov. 1, 1988; Amended by Laws 1990, c. 22, § 1, emerg. eff. March 29, 1990.

§11-16-304. Notice - Publication - Posting - Contents.

Notice of the biennial town meeting or special town meeting for the purposes of electing officers and considering initiative or referendum questions shall be given by the governing body

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of the municipality in accordance with the Oklahoma Open Meeting Act, Section 301 et seq. of Title 25 of the Oklahoma Statutes. The notice shall be signed by a majority of the members of the governing body.

In addition to the requirements of the Oklahoma Open Meeting Act, notice of the biennial town meeting and any special town meeting shall be given by publishing notice of the meeting stating the date, time, place and agenda in a newspaper of general circulation in the municipality at least ten (10) days before the date of the meeting. If there is no newspaper of general circulation in the municipality, the notice shall be given by posting a copy of the notice and agenda in at least five (5) public places in the municipality. The notice shall list the offices to be filled, including the number of officers to be elected for four-year terms and the number of officers to be elected to fill unexpired terms, and the questions to be voted on, if any. Added by Laws 1988, c. 105, § 4, eff. Nov. 1, 1988.

§11-16-305. Presiding officer - Minutes - Officers - Voting - Registration requirements - False affidavits.

A. When a municipality fails to hold a biennial meeting on the first Tuesday of April in an odd-numbered year, the governing body shall immediately schedule and give notice of a special town meeting for the purpose of electing officers. Such notice shall be in accordance with Section 4 of this act.

B. If the governing body fails or refuses to hold a biennial or special town meeting for the purpose of electing officers, the board of county commissioners of the county in which the municipality is located shall call a town meeting for the purpose of electing officers. The sheriff, or his deputy, of the county in which the municipality is located shall attend any town meeting called by the board of county commissioners, and if the municipal officers fail to conduct the meeting, shall moderate the meeting. Added by Laws 1988, c. 105, § 5, eff. Nov. 1, 1988.

§11-16-306. Presiding officer - Rules of order, conduct and decorum - Minutes - Ballots - Nomination and election of officials - False affidavits.

A. Except as otherwise provided in this act, Section 16-301 et seq. of this title, the mayor shall be the presiding officer of town meetings, shall decide questions of order and shall make public declaration of votes taken. Robert's Rules of Order shall govern all town meetings, except when such rules are inconsistent with Oklahoma law. The presiding officer may establish other rules of conduct and decorum for the meetings consistent with the Oklahoma Town Meeting Act, Section 16-301 et seq. of this title. When the office of mayor is vacant or if the mayor is unable to attend the town meeting, one of the members of the governing body shall be elected by the remaining members of the governing body to preside over the town meeting.

B. The municipal clerk shall keep the minutes of the meeting. The minutes shall separately record the number of votes for and against each candidate and each question and shall record the total number of votes cast for each position. Paper ballots shall be preserved in the municipal clerk's office for a period of six (6) months following the town meeting at which said ballots were cast.

C. Officials elected at town meetings shall be nominated and elected at large by the registered voters present from nominations taken from the floor. Prior to accepting any nominations the presiding officer shall state the number of governing body offices to be elected for four-year terms and the number of governing body offices to be elected to fill unexpired terms, if any. There shall be separate nominations and balloting for each designated term. The



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nominee who receives a plurality of the votes cast for the office of the designated term shall be elected for that designated term. If more than one office is to be filled for a designated term, the voters shall vote for the designated number of offices to be filled and, the nominees receiving the largest pluralities shall be elected to those offices. All votes shall be taken by secret ballot; provided that if there is only one candidate for an office, he or she may be elected by acclamation upon proper motion. In case of a tie vote, the municipal clerk shall immediately select the electee or electees by lot as follows: The clerk shall write or print the names of the tied nominees on similar pieces of paper and place the papers in a container in view of the persons attending the town meeting. The clerk shall designate a person, who shall not be one of the nominees, to draw one name for each office to be filled and the nominee or nominees whose names are so drawn shall be deemed elected. All other papers in the container shall then be exposed for examination. Only a registered voter who has been a registered voter at an address within the municipality for at least six (6) months prior to the date of the town meeting at which the elections are held shall be qualified for nomination for office. To be eligible for election, any person who is nominated for office must swear under oath that he or she has been a registered voter at an address within the municipality for the last six (6) months. Only qualified registered voters who are present at the town meeting at which the elections are held shall be eligible for nomination for municipal office, provided that a qualified registered voter who is not present may be nominated if he or she has agreed in writing to accept the office if elected and has sworn an affidavit that he or she has been a registered voter at an address within the municipality for the last six (6) months. Any person who falsely swears or signs a false affidavit that the person is qualified for municipal office shall be punished by a fine of not more than One Thousand Dollars (\$1,000.00). Added by Laws 1988, c. 105, § 6, eff. Nov. 1, 1988. Amended by Laws 1989, c. 78, § 2, emerg. eff. April 17, 1989; Laws 1997, c. 133, § 128, eff. July 1, 1999; Laws 2016, c. 41, § 2, eff. Nov. 1, 2016. NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 128 from July 1, 1998, to July 1, 1999.

§11-16-307. Voting eligibility - Town meeting pollbook - Illegal voting - Penalty.

A. The presiding officer at a town meeting shall follow reasonable and necessary procedures to ensure that persons who are not registered voters of the town do not vote. Registered voters shall be seated in a clearly marked area separate from persons not registered to vote.

B. To be eligible to vote at a town meeting, a person must be registered with the county election board at an address located within the municipality. Before being seated in the section reserved for registered voters, each voter shall sign his or her name in a town meeting pollbook, said signature to constitute a sworn affidavit on the part of the voter that he or she is eligible to vote at the election. The pollbook shall be prepared by the municipal clerk. For such purpose, the municipal clerk or designee of the municipal clerk shall be authorized to administer the oath or affirmation contained in the affidavit. The town meeting pollbook shall be on file in the office of the municipal clerk and shall be open to public inspection during reasonable office hours; provided, however, that such town meeting pollbooks may be digitized or electronically copied and stored by the municipal clerk at the end of six (6) months from the date of the election wherein such town meeting pollbook was used. Any person knowingly voting illegally or found guilty of casting more than one vote for any office or on any question considered at the meeting shall be punished by a fine of not more than One Thousand Dollars (\$1,000.00). Added by Laws

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1988, c. 105, § 7, eff. Nov. 1, 1988. Amended by Laws 2002, c. 447, § 1, emerg. eff. June 5, 2002; Laws 2016, c. 41, § 3, eff. Nov. 1, 2016.

### §11-16-308. Election of municipal officers.

A person present at the meeting electing him or her to municipal office shall be treated as accepting, unless he or she declines before the meeting is adjourned. When not present, he or she shall be served as soon as possible with a written notice of election, signed and mailed by the municipal clerk. No person elected shall assume the duties of the office until he or she has signed the oath of office as required by law. Added by Laws 1988, c. 105, § 8, eff. Nov. 1, 1988.

### §11-16-309. Filing of list of municipal officers elected - Notification of changes in list.

The municipal clerk shall file with the secretary of the county election board a list of the names and addresses of the municipal officers elected and shall notify the secretary of the county election board of any changes in the list as filed. Added by Laws 1988, c. 105, § 9, eff. Nov. 1, 1988.

### §11-16-310. Contest of election by nominee.

Any person nominated for municipal office may, at any time before 5:00 p.m. of the third business day following the town meeting in which he or she was nominated, contest the correctness of the announced results of said election by filing a written petition with the district court of any county in which the municipality is located. Added by Laws 1988, c. 105, § 10, eff. Nov. 1, 1988.

### §11-16-311. Petition alleging fraud - Bond - Hearing - Answer - Judgment - Ineligibility for office - Liability of contestant - Damages.

When a petition alleging fraud is filed, said petition must be accompanied by a cash bond of Five Thousand Dollars (\$5,000.00), running in favor of the contestee and conditioned upon payment of any and all liabilities or judgments arising from the contest so filed. In said petition, contestant must allege the specific act constituting such alleged fraud and the names of the alleged perpetrators of such fraud. If such petition is filed in the manner herein provided, the district judge of the county in which the alleged fraud occurred, or such other judge as may be assigned by the Supreme Court, shall hear and determine said issue without delay or continuance of more than one (1) day. On the day of such hearing, the contestee may file answer to such petition or may file cross petition, setting forth in detail, as required of a petitioner herein, such claim of fraud. An original petition or cross petition must be under oath and under penalty of perjury. The judge shall try and determine the issues formed by such pleadings and render such judgment as he or she may deem just and proper, according to the evidence submitted. The decision of said district judge shall be final as to any changes in the total votes, and a copy of such judgment and decision shall be furnished the officer who presided at the town meeting. In any case where fraud is proved on the part of a nominee, he or she shall be declared ineligible for the office for which he or she was nominated. In all cases where a petition is filed which alleges fraud, but after hearing said allegations are not reasonably sustained by competent evidence, the contestant shall be civilly liable in damages to the contestee for all damages sustained, including a reasonable attorney fee and all reasonable and proper costs of conducting such contest; and in the event it be alleged and found that such petition was frivolous in nature, the contestee may

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also be allowed punitive damages to be paid by said petitioner. Added by Laws 1988, c. 105, § 11, eff. Nov. 1, 1988.

§11-16-312. Petition alleging irregularities other than fraud - Sufficiency of allegations - Hearing.

When a petition alleging irregularities other than fraud is filed, the petition must allege a sufficient number of irregularities and of such nature as to:

1. Prove that the contestant is lawfully entitled to be announced the winner; or
2. Prove that it is impossible to determine with mathematical certainty which nominee is entitled to be announced the winner. Proof of failure of the presiding officer to take the vote by a paper ballot shall be sufficient proof of this requirement.

If such allegations are not made, the petition shall be deemed frivolous by the presiding judge and shall be dismissed. Said petition must set forth specific allegations of irregularities. If said petition is filed in the manner herein provided, the district judge of the county or such other judge as may be assigned by the Supreme Court shall hear and determine said issue in the same manner as provided for a petition alleging fraud. Added by Laws 1988, c. 105, § 12, eff. Nov. 1, 1988. Amended by Laws 1989, c. 78, § 3, emerg. eff. April 17, 1989

§11-16-313. Impossibility of determining winner - Special town meeting to fill contested office.

In the event, after a hearing is conducted pursuant to Section 11 or 12 of this act, it is deemed impossible to determine who should be announced the winner, the judge shall notify the presiding officer of the town meeting of the same. It shall then be the duty of the presiding officer to call a special town meeting for the purpose of filling the contested office, provided that any nominee upon whom fraud has been proved shall not be a nominee in the new election. Added by Laws 1988, c. 105, § 13, eff. Nov. 1, 1988.

§11-16-314. Omission of or noncompliance with notice requirements - Correction - Rectification of other errors and omissions - Validation of business of original action.

When any of the requirements of this act as to notice of a biennial or special town meeting have been omitted or not complied with, the omission or noncompliance, if the meeting and the business transacted at it is otherwise legal and within the scope of the municipal powers, may be corrected and legalized by a majority vote of the registered voters present at a regular town meeting or special town meeting of the municipality called for that purpose, with notice as required by Section 4 of this act. The question to be voted upon shall substantially be, "Shall the action taken at the meeting of this town held on (state date) in spite of the fact that (state error or omission), and any act or action of the municipal officers or agents pursuant thereto be readopted, ratified and confirmed?". Errors or omissions in the conduct of an original meeting which are not the result of an unlawful notice or noncompliance within the scope of the notice, may be rectified by a resolution of the governing body of the municipality passed by a majority of the members of the governing body at a regular meeting or a special meeting called for that purpose, stating that the defect was the result of oversight, inadvertence or mistake. When an error or omission of this nature has been thus corrected by resolution, all business within the terms of the action of the qualified voters shall be as valid as if the requirements had been initially complied with, on condition, however, that the original action thereby corrected by the governing body was in compliance with the legal exercise of its governing powers. Added by Laws 1988, c. 105, § 14, eff. Nov. 1, 1988.

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§11-16-315. Elections to be conducted by county election board - Option to be conducted at town meeting.

Whenever in Title 11 of the Oklahoma Statutes provisions are made for election of officers or consideration of questions at elections conducted by the county election board pursuant to Section 16-101 et seq. of Title 11 of the Oklahoma Statutes, such elections may be held or questions considered at biennial or special town meetings, if the municipality is subject to the provisions of this act. Added by Laws 1988, c. 105, § 15, eff. Nov. 1, 1988.

### ARTICLE XVII MUNICIPAL FINANCES

§11-17-101. Borrowing or appropriating monies - Investments - Deposit of monies.

A. Any act of a municipal governing body which provides for the borrowing of monies or for appropriating monies shall not be valid unless a majority of the governing body of the municipality votes in favor of the action. The municipal governing body may not appropriate or draw any order on the treasurer for monies unless the same has been appropriated in the manner provided by law or ordered in pursuance of some object provided for by law.

B. A municipality may invest its funds in any bond, note, or other evidence of indebtedness issued by those agencies, authorities, instrumentalities, or public entities whose governing boards are appointed by the municipality or issued by any public trust of which it is sole beneficiary, excluding obligations which are industrial development bonds as defined in the provisions of Section 103 of the Internal Revenue Code of 1953, as amended, and regulations promulgated thereto.

C. If a municipality has established a system for the separate accounting of monies by fund sources that has been certified by the auditor of the municipality, the treasurer of such municipality acting as an officer of the municipality or as agent of any instrumentality or public trust of the municipality may deposit into one or more accounts of an authorized depository all monies coming into his custody. Unless otherwise provided for by law, interest earnings shall be prorated according to fund source. Amended by Laws 1984, c. 126, § 32, eff. Nov. 1, 1984.

§11-17-102. Payment of invoice or account - Petty cash accounts.

A. Any invoice against a municipality must be presented in writing and examined in the manner provided by municipal ordinance or in absence of such ordinance by other applicable law. The municipal ordinance shall establish an internal control structure adequate to provide reasonable assurance against unauthorized or illegal payments of invoices. Except as otherwise provided for in this subsection, monies may be drawn from the municipal treasury only upon a proper warrant as provided by law. In lieu of issuing such warrant, a municipality may process payment by check, wire transfer, direct payroll deposit, or other instrument or method of disbursement through the Federal Reserve System.

B. The warrant, check, or other instrument shall be prepared and issued in accordance with procedures and requirements provided by municipal ordinance or in absence of such ordinance, by other applicable law. The municipal warrant or municipal check shall be signed by the officer designated in the ordinance or in the absence of such ordinance, by the municipal treasurer. The provisions of state law on uniform facsimile signatures of public officials, Sections 601 through

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606 of Title 62 of the Oklahoma Statutes, shall be applicable to instruments authorized by this section.

C. Unless alternate procedures have been enacted by municipal ordinance and a majority or all of governing body offices in a municipality become vacant, thereby preventing approval of amounts lawfully owing on invoices, the interim mayor or the remaining governing body members, as the case may be, may authorize emergency payments of amounts owing on invoices for a period not to exceed ninety (90) days after the date that a majority of the offices become vacant or, if an election cannot be held within the ninety (90) days in accordance with state law, until successors to at least a majority of the governing body offices have been elected and qualified. The interim mayor or the remaining governing body members may also authorize payment of payroll, utility bills, or other usual and regular obligations of the municipality. Any such authorization and payment shall not exceed the unencumbered and unexpended balance of the appropriation made for that purpose, nor may the total amount of such emergency authorizations and payments exceed fifteen percent (15%) of the total appropriations approved for the town government for the fiscal year. Any warrant, check or other instrument issued pursuant to this section shall state that it is being issued under emergency circumstances and by special authority of this section.

D. A municipality shall have the authority to establish petty cash accounts in amounts established by the governing body for use in making payments for costs incurred in operating the municipality. The petty cash accounts shall be reimbursed by utilizing properly itemized invoices or petty cash voucher slips and processing the reimbursement in accordance with the provisions of subsection A of this section. Added by Laws 1977, c. 256, §17-102, eff. July 1, 1978. Amended by Laws 1980, c. 226, § 1, emerg. eff. May 27, 1980; Laws 1985, c. 82, § 1, eff. Nov. 1, 1985; Laws 1988, c. 105, § 24, eff. Nov. 1, 1988; Laws 1991, c. 124, § 1, eff. July 1, 1991; Laws 1996, c. 52, § 1, emerg. eff. April 8, 1996.

### §11-17-103. Actions against municipality.

No costs may be recovered against a municipality, in any action brought against it, for any unliquidated claim which has not been presented to the governing body for auditing, nor for claims allowed in part unless the recovery shall be for a greater sum than the amount allowed with the interest due. No action may be maintained against a municipality in exercising or failing to exercise any corporate power or authority where such action would not lie against a private individual under like circumstances. Laws 1977, c. 256, § 17-103, eff. July 1, 1978.

### §11-17-104. Liability for voting unlawful claims.

Any governing body member who intentionally votes to appropriate money or to allow any bill or claim which is not authorized by law shall be personally liable to the municipality for the amount of such money appropriated, or bills or claims allowed, with costs of suit, in an action before any court of competent jurisdiction. Laws 1977, c. 256, § 17-104, eff. July 1, 1978.

### §11-17-105. Annual financial statement audit or agreed-upon-procedures engagement.

A. The governing body of each municipality with an income of Twenty-five Thousand Dollars (\$25,000.00) or more to its general fund during a fiscal year shall cause to be prepared, by an independent licensed public accountant or a certified public accountant, an annual financial statement audit to be conducted in accordance with auditing standards generally accepted in the United States of America and “Government Auditing Standards” as issued by the Comptroller

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General of the United States. Such audit shall be ordered within thirty (30) days of the close of each fiscal year. Copies shall be filed with the State Auditor and Inspector within six (6) months after the close of the fiscal year in accordance with the provisions of Sections 3022 and 3023 of Title 68 of the Oklahoma Statutes and with the governing body of the municipality.

B. The governing body of each municipality with an income of Twenty-five Thousand Dollars (\$25,000.00) or more to its general fund during a fiscal year and with a population of less than two thousand five hundred (2,500) as of the most recent Federal Decennial Census, and for whom an annual financial statement audit is not required by another law, regulation or contract, shall cause to be prepared, by an independent licensed public accountant or a certified public accountant, an annual financial statement audit in accordance with auditing standards generally accepted in the United States and Government Auditing Standards as issued by the Comptroller General of the United States, or an agreed-upon-procedures engagement over certain financial information and compliance requirements to be performed in accordance with the applicable attestation standards of The American Institute of Certified Public Accountants. The specific procedures to be performed are as follows for the fiscal year:

1. Prepare a schedule of changes in fund balances for each fund and determine compliance with the statutory prohibition of creating fund balance deficits;
2. Prepare a budget and actual financial schedule for the General Fund and any other significant funds listing separately each federal fund and determine compliance with the legal level of appropriations by comparing expenditures and encumbrances to authorized appropriations;
3. Agree material bank account balances to bank statements, and trace significant reconciling items to subsequent clearance;
4. Compare uninsured deposits to fair value of pledged collateral;
5. Compare use of material-restricted revenues and resources to their restrictions;
6. Determine compliance with requirements for separate funds; and
7. Determine compliance with reserve account and debt service coverage requirements of bond indentures.

Such audit or agreed-upon-procedures engagement shall be ordered within thirty (30) days of the close of each fiscal year. Copies shall be filed with the State Auditor and Inspector within six (6) months after the close of the fiscal year in accordance with the provisions of Sections 3022 and 3023 of Title 68 of the Oklahoma Statutes and with the governing body of the municipality.

C. The municipal income requirements in subsections A and B of this section shall not include any grant monies provided to a municipality from any federal, state, or other governmental entity. Added by Laws 1977, c. 256, § 17-105, eff. July 1, 1978. Amended by Laws 1979, c. 30, § 1, emerg. eff. April 6, 1979; Laws 1984, c. 125, § 1, emerg. eff. April 10, 1984; Laws 1987, c. 110, § 1, eff. Nov. 1, 1987; Laws 1991, c. 124, § 2, eff. July 1, 1991; Laws 2005, c. 459, § 1, eff. July 1, 2005; Laws 2016, c. 211, § 1; Laws 2017, c. 82, § 1.

### §11-17-105.1. Filing of audit or agreed-upon-procedures report - Form.

An auditor shall file with the State Auditor and Inspector, at the same time a certified copy of an audit or agreed-upon-procedures report is filed as required in Section 17-105 of this title, two copies of a prescribed form setting forth for the fiscal year audited the funds available to the municipality and the use of those funds. The form shall also include information relating to the duly constituted authorities of the municipality and shall be on a form approved by the State

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Auditor and Inspector. Copies of said audit and the form shall be made available for public inspection by the municipality and the State Auditor and Inspector. The State Auditor and Inspector may contract for the preparation and reporting of the information submitted on the form. Added by Laws 1984, c. 125, § 2, emerg. eff. April 10, 1984. Amended by Laws 2005, c. 459, § 2, eff. July 1, 2005; Laws 2018, c. 45, § 1, eff. Nov. 1, 2018.

§11-17-106. Repealed by Laws 1991, c. 124, § 35, eff. July 1, 1991.

§11-17-106.1. Independent audit reports relating to federal awards compliance - Form required.

Independent auditor's reports relating to federal awards compliance will be in a form consistent with the auditors' reports in the most recent audit guide for state and local governments prepared by The American Institute of Certified Public Accountants. State agencies or other pass-through grantors of federal awards will not place auditing requirements on a municipality, in addition to the required reports and schedules of federal awards expended, without approval of the State Auditor and Inspector. Added by Laws 1991, c. 124, § 3, eff. July 1, 1991. Amended by Laws 2005, c. 459, § 3, eff. July 1, 2005.

§11-17-107. Failure to file audit or agreed-upon-procedures report.

If a municipality does not file a copy of its audit or agreed-upon-procedures report as provided in Section 17-105 of this title, the State Auditor and Inspector shall notify the Oklahoma Tax Commission which shall withhold from the municipality its monthly allocations of gasoline taxes until the audit report is filed. If a report is not filed within two (2) years after the close of the fiscal year, the funds being withheld shall be remitted by the Oklahoma Tax Commission to the county in which the incorporated city or town is located and deposited to the county highway fund of that county to be used as otherwise provided by law. Added by Laws 1977, c. 256, § 17-107, eff. July 1, 1978. Amended by Laws 1979, c. 30, § 2, emerg. eff. April 6, 1979; Laws 1993, c. 146, § 2; Laws 2005, c. 459, § 4, eff. July 1, 2005.

§11-17-108. Trusts exempt.

The requirements of Sections 17-105 through 17-107 of this title shall not apply to trusts of which a city or town is the beneficiary, the same being covered under Section 180.1 of Title 60 of the Oklahoma Statutes. Laws 1977, c. 256, § 17-108, eff. July 1, 1978.

§11-17-109. Capital improvement fund - Authority to create.

The municipal governing body may create a capital improvement fund and place in the fund any money available to the municipality. Money in the fund may be accumulated from year to year. The fund shall be nonfiscal and shall not be considered in computing any levy when the municipality makes its estimate to the excise board for needed appropriations. Money in the capital improvement fund may be expended for any capital improvement. Laws 1977, c. 256, § 17-109, eff. July 1, 1978; Laws 1991, c. 124, § 4, eff. July 1, 1991.

§11-17-110. Capital improvements - Definitions.

For the purpose of creating a capital improvement fund and expending money therefrom, capital improvement shall mean all items and articles, either new or replacements, not consumed with use but only diminished in value with prolonged use, including but not limited to roads and streets, drainage improvements, water and sewerage improvements, machinery, equipment,

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furniture and fixtures, all real property, all construction or reconstruction of buildings, appurtenances and improvements to real property, the cost and expenses related thereto of rights-of-way or other real property, engineering, architectural or legal fees, and payment for improvements for which subsequent reimbursement is made to the capital improvement fund. Laws 1977, c. 256, § 17-110, eff. July 1, 1978.

§11-17-111. Repealed by Laws 1991, c. 124, § 35, eff. July 1, 1991.

§11-17-112. Manufacturing establishments and public utilities - Exemption from municipal taxation.

Any municipality may, by a majority vote of the registered voters of the municipality voting on the question, exempt from municipal taxation for a period not to exceed five (5) years new manufacturing establishments and public utilities locating in the municipality. Laws 1977, c. 256, § 17-112, eff. July 1, 1978.

§11-17-113. Publication of city financial statements.

Any municipality subject to the annual audit requirements of Section 17-105 of this title shall cause to be published, within thirty (30) days of receipt of its annual audit report, a notice of availability of the annual audited financial statements for public inspection. All publications mentioned in this section shall be made in a newspaper of general circulation in the municipality. The provisions of this section shall not apply to any city governed by charter where the charter provides for the manner or procedure for publication of such financial information. Laws 1977, c. 256, § 17-113, eff. July 1, 1978; Laws 1991, c. 124, § 5, eff. July 1, 1991.

§11-17-114. Vendor invoices and contract estimates - Payment procedures - Uniform jackets.

To facilitate the payment of vendor invoices and contract estimates the municipal finance officer may design a uniform jacket to be used by all departments and divisions of the municipality whereon shall be provided summarized information relative to the enclosed invoices or contract estimates, together with a space for the approval of the head of the department or division approving said vendor invoices or contract estimates for payment. Vendor invoices and contract estimates may be accepted by the municipality in lieu of the claim form previously required in the same manner as commercial invoices are paid. If utilized, vendor invoices and contract estimates shall be filed with the department or division receiving the merchandise or services in the same manner as invoices are filed with commercial firms. Upon receipt of invoices or contract estimates the head of the department or division or his authorized agent, may approve said documents for payment by executing a certificate of delivery or acceptance of the goods or services. Whereupon, the authorized official of said agency may approve said invoices or contract estimates for payment by enclosing the invoice or contract estimate in a jacket provided for such purpose and affixing his or her approval in the space provided on the jacket. Added by Laws 1990, c. 177, § 1, eff. Sept. 1, 1990.

§11-17-115. Reverse auction bidding – Procedure – Public disclosure - Remedies.

A. A municipality or any public trust of which the municipality is beneficiary or any nonappropriated governmental agency or instrumentality of the state is authorized to use a reverse auction bidding procedure to obtain bids for the purchase of goods or services of any type of kind. The reverse auction shall be a real-time bidding process taking place at a previously



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scheduled time and Internet location and for a previously established duration, in which multiple suppliers, anonymous to each other, submit bids to provide the goods or services. The reverse auction procedure may be used as an alternative to any state law applicable to the purchase of the goods or services.

B. The procedure shall provide:

1. A bid opening and bid closure. At the opening date and time, the municipality or public trust shall begin accepting reverse auction electronic bids. Reverse auction bids shall be accepted until the bid closure, except as provided by paragraph 6 of this subsection, unless the municipality or public trust determines it is in the best interest of the municipality or public trust to extend the closing time and notifies the reverse auction bidders of the extended closing time by public announcement at the Internet location at least fifteen (15) minutes prior to the original closing time;

2. The posting of all reverse auction bids electronically and updating of bids on a real-time basis by the municipality or public trust;

3. The authorization for the municipality or public trust to require bidders to register before the opening date and time and, as part of that registration, require bidders to agree to any terms, conditions or other requirements of the solicitation or applicable acts;

4. The authorization for the municipality or public trust to also require potential bidders to prequalify as bidders and to restrict solicitations to prequalified online and reverse auction bidders;

5. The retention of the authority of the municipality or public trust to determine the criteria that will be used as the basis for making awards; and

6. The authorization for the municipality or public trust to determine it is in the best interest of the municipality or public trust to allow it to accept an electronic bid after the specified official closing date and time, in the event the municipality or public trust determines that a significant error or event occurred that affected the electronic receipt of any reverse auction bid by the municipality or public trust.

C. All bids submitted electronically through the reverse auction bidding process pursuant to this section are subject to the same public disclosure laws that govern bids received pursuant to any other law of this state governing procurement procedures for a municipality or public trust.

D. All remedies available to the municipality or public trust and suppliers through a bid process pursuant to any other law of this state are also available to the municipality or public trust reverse auction bidders in a reverse auction bidding process. Added by Laws 2004, c. 514, § 1, eff. Nov. 1, 2004. Amended by Laws 2005, c. 459, § 5, eff. July 1, 2005.

§11-17-115.1. Use of reverse auction bidding to obtain acquisitions or award contracts.

The procedures set out in Section 17-115 of Title 11 of the Oklahoma Statutes may be used to obtain acquisitions or award contracts for all needed operations or purchase orders. Added by Laws 2006, c. 301, § 4, eff. Nov. 1, 2006.

§11-17-201. Short title.

This act may be cited as the “Municipal Budget Act”. Laws 1979, c. 111, § 1. 0

§11-17-202. Purpose of act.

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The purpose of this act is to provide an alternate budget procedure for municipal governments which will:

1. Establish standard and sound fiscal procedures for the adoption and administration of budgets;
2. Make available to the public and investors sufficient information as to the financial conditions, requirements and expectations of the municipal government; and
3. Assist municipal governments to improve and implement generally accepted standards of finance management. Laws 1979, c. 111, § 2.

### §11-17-203. Application of act.

This act shall apply to any incorporated city or town which, by resolution of the governing body, opts to come under and comply with all its provisions and requirements. Once a municipality has selected the Municipal Budget Act to govern its budget procedures, the provisions of this act shall take precedence over any other state laws applicable to municipal budgets, except as may be provided otherwise in this act, and supersede any conflicting laws. Any action of a municipal governing body to implement, rescind or repeal the application of the Municipal Budget Act shall be effective as of the beginning or end of a budget year pursuant to this act. Laws 1979, c. 111, § 3.

### §11-17-203.1. Budget format.

A municipality that opts to prepare its budget pursuant to the Municipal Budget Act may select a budget format based on funds and departments or, in the alternative, it may select a format based on purpose. A purpose-based budget shall be subject to all other requirements of the Municipal Budget Act, except those requirements specifically related to budgeting by fund or as provided in Sections 4 and 5 of this act. Added by Laws 2006, c. 314, § 1, eff. July 1, 2006.

### §11-17-204. Definitions.

As used in this act, except as provided in Section 4 of this act:

1. “Account” means an entity for recording specific revenues or expenditures, or for grouping related or similar classes of revenues and expenditures and recording them within a fund or department;
2. “Appropriated fund balance” means any fund balance appropriated for a fund for the budget year;
3. “Appropriation” means an authorization to expend or encumber revenues and fund balance of a fund;
4. “Budget” means a plan of financial operations for a fiscal year, including an estimate of proposed expenditures for given purposes and the proposed means for financing them;
5. “Budget summary” means a tabular listing of revenues by source and expenditures by fund and by department within each fund for the budget year;
6. “Budget year” means the fiscal year for which a budget is prepared or being prepared;
7. “Chief executive officer” means the mayor of an aldermanic city or a strong-mayor-council city, the mayor of a town, or the city manager or chief administrative officer as it may be defined by applicable law, charter or ordinance;
8. “Current year” means the year in which the budget is prepared and adopted, or the fiscal year immediately preceding the budget year;

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9. “Deficit” means the excess of a fund’s current liabilities and encumbrances over its current financial assets as reflected by its books of account;

10. “Department” means a functional unit within a fund which carries on a specific activity, such as a fire department or a police department within a general fund;

11. “Estimated revenue” means the amount of revenues estimated to be received during the budget year in each fund for which a budget is prepared;

12. “Fiscal year” means the annual period for reporting fiscal operations which begins and ends on dates as the Legislature provides or as provided by law;

13. “Fund” means an independent fiscal and accounting entity with a self-balancing set of accounts to record cash and other financial resources, together with all liabilities, which are segregated for the purpose of carrying on specific activities or attaining certain objectives;

14. “Fund balance” means the excess of a fund’s current financial assets over its current liabilities and encumbrances, as reflected by its books of account;

15. “Governing body” means the city council of a city, the board of trustees of a town, or the legislative body of a municipality as it may be defined by applicable law or charter provision;

16. “Immediate prior fiscal year” means the year preceding the current year;

17. “Levy” means to impose ad valorem taxes or the total amount of ad valorem taxes for a purpose or entity;

18. “Operating reserve” means that portion of the fund balance which has not been appropriated in a budget year; and

19. “Municipality” means any incorporated city or town.

Added by Laws 1979, c. 111, § 4. Amended by Laws 1980, c. 226, § 2, emerg. eff. May 27, 1980; Laws 1995, c. 166, § 1, emerg. eff. May 4, 1995; Laws 2002, c. 98, § 1, eff. Nov. 1, 2002; Laws 2006, c. 314, § 2, eff. July 1, 2006.

§11-17-205. Annual budget - Preparation and submission - Assistance of officers, employees and departments.

At least thirty (30) days prior to the beginning of each fiscal year, a budget for the municipality shall be prepared by the chief executive officer and submitted to the governing body. The chief executive officer may require any other officer or employee who is charged with the management or control of any department or office of the municipality to furnish estimates for the fiscal year covering estimated revenues and expenditures of the department or office on or before a date set by the chief executive officer. Laws 1979, c. 111, § 5.

§11-17-206. Requirements and contents of budget.

A. The municipal budget shall present a complete financial plan for the municipality and shall present information necessary and proper to disclose the financial position and condition of the municipality and the revenues and expenditures thereof, both past and anticipated.

B. Unless the budget is prepared in accordance with Sections 4 and 5 of this act, the budget shall be prepared by fund and department and shall contain the following contents:

1. The budget shall contain a budget summary;

2. It shall also be accompanied by a budget message which shall explain the budget and describe its important features;

3. The budget format shall be as provided by the governing body in consultation with the chief executive officer; and

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4. It shall contain at least the following in tabular form for each fund, itemized by department and account within each fund:

- a. actual revenues and expenditures for the immediate prior fiscal year,
- b. revenues and expenditures for the current fiscal year as shown by the budget for the current year as adopted or amended, and
- c. estimates of revenues and expenditures for the budget year.

C. The estimate of revenues for any budget year shall include probable income by source which the municipality is legally empowered to collect or receive at the time the budget is adopted. The estimate shall be based on a review and analysis of past and anticipated revenues of the municipality. Any portion of the budget of revenues to be derived from ad valorem property taxation shall not exceed the amount of tax which is available for appropriation, as finally determined by the county excise board, or which can or must be raised as required by law. The budget of expenditures for each fund shall not exceed the estimated revenues for each fund. No more than ten percent (10%) of the total budget for any fund may be budgeted for miscellaneous purposes. Included in the budget of revenues or expenditures for any fund may be amounts transferred from or to another fund. Any such interfund transfer must be shown as a disbursement from the one fund and as a receipt to the other fund.

D. Encumbrances for funds whose sole purpose is to account for grants and capital projects and/or any unexpended appropriation balances may be considered nonfiscal and excluded from the budget by the governing body, but shall be reappropriated to the same funds, accounts and for the same purposes for the successive fiscal year, unless the grant, project or purpose is designated or declared closed or completed by the governing body. Added by Laws 1979, c. 111, § 6. Amended by Laws 2002, c. 98, § 2, eff. Nov. 1, 2002; Laws 2002, c. 440, § 1, eff. Nov. 1, 2002; Laws 2006, c. 314, § 3, eff. July 1, 2006.

§11-17-207. Monies received and expended must be accounted for by fund or account.

Any monies received or expended by a municipality must be accounted for by fund and account. Each municipality shall adopt an appropriation for the general fund and for all other funds established by the governing body pursuant to the provisions of Section 17-212 of this title. The municipal governing body shall determine the needs of the municipality for sinking fund purposes, pursuant to the provisions of Section 431 of Title 62 of the Oklahoma Statutes, Section 3017 of Title 68 of the Oklahoma Statutes, and Section 28 of Article 10 of the Oklahoma Constitution, and include these requirements in the debt service fund budget for the budget year. Added by Laws 1979, c. 111, § 7. Amended by Laws 1984, c. 146, § 1, operative July 1, 1984; Laws 1991, c. 124, § 6, eff. July 1, 1991; Laws 2002, c. 98, § 3, eff. Nov. 1, 2002.

§11-17-208. Public hearing on proposed budget - Notice - Copies of proposed budget.

The municipal governing body shall hold a public hearing on the proposed budget no later than fifteen (15) days prior to the beginning of the budget year. Notice of the date, time and place of the hearing, together with the proposed budget summary, shall be published on the municipality's website, if available, and in a newspaper of general circulation in the municipality not less than five (5) days before the date of the hearing. The municipal clerk shall make available a sufficient number of copies of the proposed budget as the governing body shall determine and have them available for review or for distribution or sale at the office of the municipal clerk. At the public hearing on the budget any person may present to the governing

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body comments, recommendations or information on any part of the proposed budget. Added by Laws 1979, c. 111, § 8. Amended by Laws 2018, c. 292, § 1, eff. Nov. 1, 2018.

§11-17-209. Adoption of budget - Filing - Effective period - Use of appropriated funds - Levying tax.

A. After the hearing and at least seven (7) days prior to the beginning of the budget year, the governing body shall adopt the budget by resolution, or as any charter may require, at the level of classification as defined in Section 17-213 of this title. The governing body may add or increase items or delete or decrease items in the budget. In all cases the proposed expenditures shall not exceed the estimated revenues and appropriated fund balance for any fund.

B. The adopted budget shall be transmitted to the State Auditor and Inspector within thirty (30) days after the beginning of the fiscal year of the municipality and one copy shall be kept on file in the office of the municipal clerk. A copy of the municipality's sinking fund requirements shall be filed with the excise board of the county or counties in which the municipality is located.

C. The adopted budget shall be in effect on and after the first day of the fiscal year to which it applies. The budget as adopted and filed with the State Auditor and Inspector shall constitute an appropriation for each fund, and the appropriation thus made shall not be used for any other purpose except as provided by law.

D. At the time required by law, the county excise board shall levy the taxes necessary for the municipality's sinking fund for the budget year pursuant to Section 431 of Title 62 of the Oklahoma Statutes. Added by Laws 1979, c. 111, § 9. Amended by Laws 1991, c. 124, § 7, eff. July 1, 1991; Laws 2002, c. 98, § 4, eff. Nov. 1, 2002.

§11-17-210. Protests - Failure to protest - Examination of filed budget.

Within fifteen (15) days after the filing of any municipal budget with the State Auditor and Inspector, any taxpayer may file protests against any levy of ad valorem taxes for creating sinking funds in the manner provided by this section and Sections 24104 through 24111 of Title 68 of the Oklahoma Statutes. The fifteen-day protest period begins upon the date the budget is received in the Office of the State Auditor and Inspector. After receipt of a taxpayer protest, the State Auditor and Inspector shall transmit by certified mail one copy of each protest to the municipal clerk, and one copy of each protest to the county treasurer and the excise board of each county in which the municipality is located. The taxpayer shall specify the grounds upon which the protest is based. Any protest filed by any taxpayer shall inure to the benefit of all taxpayers. Provided, the provisions of this section shall not delay any budget expenditures of a municipality if the amount of revenue from the ad valorem tax levy which is deposited in the municipal general fund is less than five percent (5%) of the total revenue accruing to the municipal general fund during the prior fiscal year. If no protest is filed by any taxpayer within the fifteen-day period, the budget and any appropriations thereof shall be deemed legal and final until amended by the governing body or the county excise board as authorized by law. Taxpayers shall have the right at all reasonable times to examine the budget on file with the municipal clerk or the State Auditor and Inspector for the purpose of filing protests in accordance with this section and Sections 24104 through 24111 of Title 68. Laws 1979, c. 111, § 10, eff. Oct. 1, 1979; Laws 1980, c. 226, § 3, emerg. eff. May 27, 1980; Laws 1991, c. 124, § 8, eff. July 1, 1991.

§11-17-211. Expenditure of funds - Balances to be carried forward - Unlawful acts and liability therefor.

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A. No expenditure may be incurred or made by any officer or employee which exceeds the fund balance for any fund. Any fund balance remaining in a fund at the end of the fiscal year shall be carried forward to the credit of the fund for the next fiscal year. No expenditure may be authorized or made by any officer or employee which exceeds the appropriation of any fund.

B. It shall be unlawful for any officer or employee of the municipality in any budget year:

1. To create or authorize creation of a deficit in any fund; or

2. To authorize, make or incur expenditures in excess of ninety percent (90%) of the appropriation for any fund of the budget as adopted or amended until revenues received, including the prior fiscal year's fund balance carried forward, totals an amount equal to at least ninety percent (90%) of the appropriation for the fund. Expenditures may then be made and authorized so long as any expenditure does not exceed any fund balance.

C. Any obligation that is contracted or authorized by any officer or employee in violation of this act shall become the obligation of the officer or employee himself and shall not be valid or enforceable against the municipality. Any officer or employee who violates this act shall forfeit his office or position and shall be subject to such civil and criminal punishments as are provided by law. Any obligation, authorization for expenditure or expenditure made in violation of this act shall be illegal and void. Added by Laws 1979, c. 111, § 11. Amended by Laws 1991, c. 124, § 9, eff. July 1, 1991; Laws 1992, c. 371, § 2, eff. July 1, 1992; Laws 2002, c. 98, § 5, eff. Nov. 1, 2002.

### §11-17-212. Funds - Establishment - Kinds.

A municipality shall establish funds consistent with legal and operating requirements. Each municipality shall maintain according to its own needs some or all of the following funds or ledgers in its system of accounts:

1. A general fund, to account for all monies received and disbursed for general municipal government purposes, including all assets, liabilities, reserves, fund balances, revenues and expenditures which are not accounted for in any other fund or special ledger account. All monies received by the municipality under the motor fuel tax or under the motor vehicle license and registration tax and earmarked for the street and alley fund may be deposited in the general fund and accounted for as a "street and alley account" within the general fund. Expenditures from this account shall be made as earmarked and provided by law. All references to the street and alley fund or to the special fund earmarked for state-shared gasoline and motor vehicle taxes may mean the street and alley account provided in this section;

2. Special revenue funds, as required, to account for the proceeds of specific revenue sources that are restricted by law to expenditures for specified purposes;

3. Debt service fund, which shall include the municipal sinking fund, established to account for the retirement of general obligation bonds or other long-term debt and payment of interest thereon and judgments as provided by law. Any monies pledged to service general obligation bonds or other long-term debt must be deposited in the debt service fund;

4. Capital project funds, to account for financial resources segregated for acquisition, construction or other improvement related to capital facilities other than those accounted for in enterprise funds and nonexpendable trust funds;

5. Enterprise funds, to account for each utility or enterprise or other service, other than those operated as a department of the general fund, where the costs are financed primarily through user charges or where there is a periodic need to determine revenues earned, expenses incurred or net income for a service or program;

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6. Trust and agency funds, to account for assets held by the municipality as trustee or agent for individuals, private organizations or other governmental units or purposes, such as a retirement fund or a cemetery perpetual care fund;

7. Internal service funds, to account for the financing of goods or services provided by one department or agency of the municipality to another department or agency, or to another government, on a cost reimbursement basis;

8. A ledger or group of accounts in which to record the details relating to the general fixed assets of the municipality;

9. A ledger or group of accounts in which to record the details relating to the general bonds or other long-term debt of the municipality; or

10. Such other funds or ledgers as may be established by the governing body. Laws 1979, c. 111, § 12; Laws 1991, c. 124, § 10, eff. July 1, 1991.

### §11-17-213. Funds - Classification of revenues and expenditures.

Each fund shall be made up of accounts for classifying revenues and expenditures. Revenues shall be classified separately by source. Expenditures shall be departmentalized within each fund and shall be classified into at least the following accounts:

1. Personal services, which may include expenses for salaries, wages, per diem or other compensation, fees, allowances or reimbursement for travel expenses, and related employee benefits, paid to any officer or employee for services rendered or for employment. Employee benefits may include employer contributions to a retirement system, insurance, sick leave, terminal pay or similar benefits;

2. Materials and supplies, which may include articles and commodities which are consumed or materially altered when used, such as office supplies, operating supplies and repair and maintenance supplies, and all items of expense to any person, firm or corporation rendering a service in connection with repair, sale or trade of such articles or commodities;

3. Other services and charges, which may include all current expenses other than those listed in paragraphs 1, 2, 4, 5 or 6 of this section, such as services or charges for communications, transportation, advertising, printing or binding, insurance, public utility services, repairs and maintenance, rentals, miscellaneous items and all items of expenses to any person, firm or corporation rendering such services;

4. Capital outlays, which may include outlays which result in acquisition of or additions to fixed assets which are purchased by the municipality, including machinery and equipment, furniture, land, buildings, improvements other than buildings, and all construction, reconstruction, appurtenances or improvements to real property accomplished according to the conditions of a contract;

5. Debt service, which may include outlays in the form of debt principal payments, periodic interest payments, or related service charges for benefits received in part in prior fiscal periods as well as in current and future fiscal periods; and

6. Fund transfers, which may include permanent transfers of resources from one fund to another. Added by Laws 1979, c. 111, § 13. Amended by Laws 1991, c. 124, § 11, eff. July 1, 1991; Laws 2002, c. 98, § 6, eff. Nov. 1, 2002.

### §11-17-214. Funds - Operating reserve.

A municipality may create an operating reserve for the purpose of providing a fund or reserve out of which to meet emergency expenditures. Laws 1979, c. 111, § 14.

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§11-17-215. Transfer of unexpended or unencumbered appropriation - Limitations on encumbrances or expenditures.

A. The chief executive officer, or designee, as authorized by the governing body, may transfer any unexpended and unencumbered appropriation or any portion thereof from one department to another within the same fund; except that no appropriation for debt service or other appropriation required by law or ordinance may be reduced below the minimums required.

B. Any fund balance in an enterprise fund of the municipality may be transferred to another fund of the municipality as authorized by the governing body. Other interfund transfers may be made only as adopted or amended according to Section 17-206 or 17-216 of this title.

C. Whenever the necessity for maintaining any fund of a municipality has ceased to exist and a balance remains in the fund, the governing body may authorize the transfer of the balance to the general fund or any other designated fund, unless otherwise provided by law.

D. No encumbrance or expenditure may be authorized or made by any officer or employee which exceeds the available appropriation for each department within a fund. Added by Laws 1979, c. 111, § 15. Amended by Laws 1980, c. 226, § 4, emerg. eff. May 27, 1980; Laws 1991, c. 124, § 12, eff. July 1, 1991; Laws 2002, c. 98, § 7, eff. Nov. 1, 2002.

§11-17-216. Supplemental appropriations to funds - Amendment of budget.

A. The governing body may amend the budget to make supplemental appropriations to any fund up to the amount of additional revenues which are available for current expenses for the fund due to:

1. Revenues received or to be received from sources not anticipated in the budget for that year;

2. Revenues received or to be received from anticipated sources but in excess of the budget estimates therefor; or

3. Unexpended and unencumbered fund balances on hand at the end of the preceding fiscal year which had not been anticipated or appropriated in the budget. Any appropriation authorizing the creating of an indebtedness shall be governed by the applicable provisions of Article 10 of the Oklahoma Constitution.

B. If at any time during the budget year it appears probable that revenues available will be insufficient to meet the amount appropriated, or that due to unforeseen emergencies there is temporarily insufficient money in a particular fund to meet the requirements of appropriation for the fund, the governing body shall take action as it deems necessary. For that purpose, it may amend the budget to reduce one or more appropriations or it may amend the budget to transfer money from one fund to another fund, but no appropriation for debt service may be reduced and no appropriation may be reduced by more than the amount of the unencumbered and unexpended balance thereof. No transfer shall be made from the debt service fund to any other fund except as may be permitted by the terms of the bond issue or applicable law.

C. A budget amendment as provided in this section authorizing supplemental appropriations or a decrease in the total appropriation of funds shall be adopted at a meeting of the governing body and filed with the municipal clerk and the State Auditor and Inspector. Added by Laws 1979, c. 111, § 16. Amended by Laws 1991, c. 124, § 13, eff. July 1, 1991; Laws 2002, c. 98, § 8, eff. Nov. 1, 2002.

§11-17-217. Purpose-based budget - Definitions.



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As used for a budget based on purpose:

1. “Appropriation” means an authorization to expend or encumber income and revenue provided for a purpose;
2. “Budget summary” means a tabular listing of revenues by source and expenditures by purpose for the budget year;
3. “Estimated revenue” means the amount of revenues estimated to be received during the budget year;
4. “Income and revenue provided” means the amount of estimated or actual income and revenue appropriated by the governing body of the municipality; and
5. “Purpose” means the specific program, project or activity for which the governing body provides an appropriation as listed in the budget. Added by Laws 2006, c. 314, § 4, eff. July 1, 2006.

### §11-17-218. Purpose-based budget - Procedures.

A municipality that selects a purpose-based budget format shall be subject to the following procedures in addition to other applicable provisions of the Municipal Budget Act:

1. Each municipality shall adopt an appropriation for each purpose as established by the governing body;
2. In all cases the appropriations shall not exceed the income and revenue provided by the governing body from estimated revenues and appropriated fund balance;
3. The adopted budget shall be in effect on and after the first day of the fiscal year to which it applies. The budget as adopted and filed with the State Auditor and Inspector shall constitute an appropriation for each purpose as defined by the governing body, and the appropriation thus made shall not be used for any other purpose except as provided by law;
4. The chief executive officer, or designee, as authorized by the governing body, may transfer any unexpended and unencumbered appropriation or any portion thereof from one purpose to another; except that no appropriation for debt service or other appropriation required by law or ordinance may be reduced below the minimums required;
5. No encumbrance or expenditure may be authorized or made by any officer or employee which exceeds the available appropriation for each purpose as defined by the governing body;
6. The governing body may amend the budget to make supplemental appropriations to any purpose up to the amount of additional unappropriated income and revenues which become available during the fiscal year;
7. If at any time during the budget year it appears probable that revenues available will be insufficient to meet the amount appropriated, or that due to unforeseen emergencies there is temporarily insufficient money to meet the requirements of appropriation, the governing body shall take action as it deems necessary. For that reason, it may amend the budget to reduce one or more appropriations or it may amend the budget to transfer money from one purpose to another purpose, but no appropriation for debt service may be reduced and no appropriation may be reduced by more than the amount of the unencumbered and unexpended balance thereof. No transfer shall be made from the debt service fund to any other fund except as may be permitted by the terms of the bond issue or applicable law; and
8. A budget amendment as provided in this section authorizing supplemental appropriations or a decrease in the total appropriation of funds shall be adopted at a meeting of the governing body and filed with the municipal clerk and the State Auditor and Inspector. Added by Laws 2006, c. 314, § 5, eff. July 1, 2006.

§11-17-301. Municipal Fiscal Impact Act - Fiscal impact statement.

A. This section shall be known and may be cited as the “Municipal Fiscal Impact Act”.

B. As used in this section, “direct adverse fiscal impact” means the cost in dollars to a municipality in this state of a statute which imposes a mandate for the new or additional application of municipal resources or reduces existing municipal resources without providing revenue which would fully fund the mandate. Municipal resources may include, but are not limited to: law enforcement, fire protection, health and medical services, power and water services, streets, bridges or highways and recreational services.

C. A fiscal impact statement shall be required for any bill or resolution which is determined by the chair of the legislative committee to which the bill or resolution is assigned to have a potential direct adverse fiscal impact on municipalities in this state. The impact statement shall identify the estimated amount of the fiscal impact and any source of federal, state or local revenue that will be used to fund the proposed mandate. If the chair of the committee to which the bill or resolution is assigned determines that the bill or resolution, or a proposed amendment, is subject to the provisions of this section, the chair shall:

1. Request the preparation of a fiscal impact statement prior to placing the bill, resolution or amendment on the agenda to be considered at a meeting of the committee;

2. Provide notice to the principal author of the bill, resolution or amendment regarding the determination; and

3. Make the fiscal impact statement available, on and after the date of the committee meeting during which the bill or resolution is considered, to the author, members of the committee considering the bill or resolution and any other party requesting information.

D. No bill, resolution or amendment determined to have a direct adverse fiscal impact on municipalities in excess of One Hundred Thousand Dollars (\$100,000.00) statewide shall be reported out of the committee to which it is assigned, or in the case of a floor amendment, shall be acted upon by the relevant house, unless a fiscal impact statement of the bill is made.

E. Any bill, resolution or amendment determined to have a direct adverse fiscal impact on municipalities in excess of One Hundred Thousand Dollars (\$100,000.00) statewide for which an emergency clause has not received required approval pursuant to Section 58 of Article V of the Oklahoma Constitution shall not go into effect until July 1 of the following calendar year. Added by Laws 2010, c. 372, § 1, eff. Nov. 1, 2010.

## ARTICLE XXII GENERAL POWERS OF MUNICIPALITIES

§11-22-101.1. Political activities by municipal employees - Restrictions.

Municipal employees may attend and express their views at city council meetings, or any other public meetings of municipal entities.

Any municipal employee may actively participate in partisan and nonpartisan political activities. Provided, the political activity in which the employee participates shall be exercised only during off-duty hours and while not in uniform. Any federal statutes restricting the political activities of certain municipal employees shall supersede the provisions of this section as to such employees. Municipal corporations may establish employment requirements requiring municipal employees to refrain from filing as a candidate for public office while employed by said municipality. Amended by Laws 1983, c. 276, § 1, emerg. eff. June 24, 1983.

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### §11-22-101.2. Employer coercion prohibited.

It shall be unlawful for the governing body or officer of any municipal corporation in this state to directly or indirectly coerce or attempt to coerce any municipal employee to participate or refrain from participation in municipal political activities or public meetings. Laws 1981, c. 311, § 2.

### §11-22-101.3. Violations.

Any person convicted of violating any of the provisions of this act shall be guilty of a misdemeanor. Laws 1981, c. 311, § 3.

### §11-22-102. Proof of legal organization or ordinances - Recovery of costs and attorney fees.

A. If a suit is instituted by a municipality, the municipality shall not be required to post bond or to show its compliance with any of the provisions of law as to its organization or publication of ordinances unless the same is controverted by affidavit.

B. A municipality shall be entitled to recover its costs and attorneys fees on the same terms and in the same manner as any other party. Amended by Laws 1984, c. 126, § 38, eff. Nov. 1, 1984.

### §11-22-103. Service of notice or process on municipality.

Any notice or process affecting a municipality shall be served upon the municipal clerk, or in his or her absence then upon a deputy municipal clerk and upon the mayor. Added by Laws 1977, c. 256, § 22-103, eff. July 1, 1978. Amended by Laws 1984, c. 126, § 39, eff. Nov. 1, 1984; Laws 2007, c. 362, § 3, eff. Nov. 1, 2007.

### §11-22-104. Right to engage in business - Public utilities and improvements - Eminent domain - Issuance of bonds - Lease of public utility.

Every municipality shall have the right to:

1. Engage in any business or enterprise which may be engaged in by a person, firm, or corporation by virtue of a franchise from the municipality and to do all things necessary and proper in the discretion of the governing body of the municipality pursuant to the authority granted to it by the Constitution and laws of this state to maintain said business or enterprise for the benefit of the municipality;

2. Acquire, own, and maintain, within or without its corporate limits, real estate for sites and rights-of-way for any municipal purpose including but not limited to public utility and public park purposes, and for the location thereon of waterworks, electric light and gas plants and other facilities for generating or distributing energy, ports, airports, hospitals, quarantine stations, garbage reduction plants, pipelines for the transmission and transportation of gas, water, stormwater, and sewerage, and for any plant for the manufacture of any material for public improvement purposes and public buildings;

3. Exercise the right of eminent domain for any municipal purpose, within or without its corporate limits, and to establish, lay, and operate any plant or pipeline upon any land or right-of-way taken pursuant to eminent domain. Any business or profession which is affected by the right of eminent domain as exercised pursuant to the provisions of this section shall be considered as a property right of the owner thereof and proper allowance therefor shall be made;

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4. Exercise the right to manufacture any material for public improvement purposes, and to barter or exchange the same for other material to be used in public improvements in the municipality, or to sell the same;

5. Issue and sell bonds subject to and by virtue of the provisions of the Constitution of this state and in the manner and form provided by law in order to raise the monies to establish and maintain public utilities, parks, and improvements;

6. Sell or lease to any consumer or corporation, within or without its boundaries, the commodities and services supplied by such municipally owned or controlled public utility, business enterprise, or improvement and to enter into such short- or long-term contracts, agreements, and stipulations and do all things necessary and proper to further the capability of the municipality pursuant to the authority granted to it by the Oklahoma Statutes and the Constitution of this state to provide said commodities and services as may be deemed appropriate by the governing body of the municipality;

7. Lease at a stipulated rental rate any public improvement or utility from any person, firm, or corporation which will contract to furnish the same. Any such rental contract shall reserve for the municipality the option to purchase the improvement or utility in the future; and

8. Exercise powers necessary to carry out the purpose of the Local Development Act as set forth in Section 854 of Title 62 of the Oklahoma Statutes. Added by Laws 1977, c. 256, § 22-104, eff. July 1, 1978. Amended by Laws 1984, c. 126, § 40, eff. Nov. 1, 1984; Laws 1987, c. 23, § 1, eff. Nov. 1, 1987; Laws 1998, c. 63, § 1, eff. Nov. 1, 1998.

### §11-22-105. Condemnation of private property.

Private property may be taken for public use, or for the purpose of giving a right-of-way or other privilege for any necessary purpose, in the manner provided by law; but in every case the municipality shall make adequate compensation to the person or persons whose property shall be taken or injured thereby as provided by law. Added by Laws 1977, c. 256, § 22-105, eff. July 1, 1978.

#### §11-22-105.1. Displacing private company providing solid waste collection service - Notice and hearing - Acquisition by purchase, donation, or condemnation - Judicial review of report of commissioners.

A. Pursuant to Section 2-10-102 of Title 27A of the Oklahoma Statutes, it is the policy of this state to regulate the management of solid waste in order to protect the public health, safety and welfare. For this purpose and for purposes of this section, the management of solid waste shall be a matter of statewide interest.

B. No municipality shall displace or pass an ordinance to displace a private company providing solid waste service without first:

1. Holding at least one public hearing seeking comment on the advisability of the municipality providing such service;

2. Providing at least forty-five (45) days written notice of the hearing, delivered by first-class mail to all private solid waste companies which provide service in the municipality; and

3. Providing public notice of the hearing.

Following the final public hearing held pursuant to this section, but in no event longer than one (1) year after the date of the hearing, if the municipality elects to provide such solid waste services and displace the private solid waste services company, the municipality shall purchase by condemnation the private solid waste services as set forth in this section.

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C. A municipality shall have the authority to acquire by purchase, donation, or condemnation such interests in any private company providing solid waste services operating within the limits of the municipality. The municipality shall give the owner of the displaced private solid waste company the opportunity to sell the displaced private solid waste services to the municipality at an agreed upon or negotiated price or the municipality may acquire the business by condemnation as provided in this section.

D. If the municipality seeks to condemn the displaced private solid waste services, the district judge of the county in which the displaced services are located, upon petition of either party, shall direct the sheriff of the county to summon three disinterested freeholders, to be selected by the judge as commissioners, and who shall not have a conflict of interest. The commissioners shall be sworn to perform their duties impartially and justly. The commissioners shall inspect the company and the displaced services and consider the injury which the owner may sustain by reason of the condemnation, and they shall assess the just compensation to which the owner is entitled. The commissioners shall make a report in writing to the clerk of the court, setting forth the quantity, boundaries, and just compensation for the property or services taken, and amount of injury done to the business, either directly or indirectly, which they assess to the owner. The report shall be filed and recorded by the clerk.

E. Immediately upon payment to the clerk of the court of the sum assessed by the commissioners, the municipality shall be authorized to provide solid waste services in the area serviced by the owner of the business. If the owner refuses to cease providing the solid waste services pursuant to this section, the court shall issue an order, upon proof, enjoining the owner from providing the solid waste services in the areas subject to such condemnation.

F. The report of the commissioners may be reviewed by the district court, on written exceptions filed by either party in the clerk's office within thirty (30) days after the filing of the report. The court, after a hearing, shall make such order as right and justice may require, either by confirmation, rejection, or by ordering a new appraisal on good cause shown. In the event a new appraisal is ordered, the municipality shall have the continuing right of possession obtained under the first appraisal, unless and until its right to condemn has finally been determined otherwise. Either party may, within sixty (60) days after the filing of such report, file with the clerk a written demand for a trial by jury, in which case the amount of damages shall be assessed by a jury, and the trial shall be conducted and judgment entered in the same manner as civil actions in the district court. If the party demanding the trial does not recover a verdict more favorable to such party than the assessment of the commissioners, all costs in the district court shall be taxed against such party. If, after the filing of exceptions to the report of commissioners as provided in this section, the municipality shall fail to establish its right to condemn such business, the owner shall be restored to possession of the business, or part thereof, and the municipality shall pay the owner for any damages sustained through the occupation by the municipality. If such damages cannot be determined by amicable settlement, the damages shall be determined by jury trial in the same proceedings.

G. Either party aggrieved may appeal to the Supreme Court from the decision of the district court on exceptions to the report of commissioners, or jury trial. The review or appeal shall not delay the work of the municipality in question if the award of commissioners, or jury, as the case may be, has been deposited with the clerk for such owner. In no case shall the municipality be liable for the costs on the review or appeal unless the owner of the business shall be adjudged entitled, upon either review or appeal, to a greater amount of damages than was awarded by the commissioners. The municipality shall in all cases pay the cost of the

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commissioners' fees and expenses, for their services, as determined and ordered paid by the judge of the district court in which such case is pending. However, poundage fees and condemnation fees shall only be paid by the municipality in the event of appeal resulting in a jury verdict in excess of the commissioners' award. Under no circumstances shall any poundage fees or condemnation fees be assessed against the recipient of the award. In case of review or appeal, a certified copy of the final order or judgment shall be transmitted by the clerk of the court to the county clerk and be filed.

H. As used in this section:

1. "Displace" or "displacement" means a municipality's provision of a service which prohibits a private company from providing the same service and which the company is providing at the time the decision to displace is made. Displace or displacement does not mean:

- a. competition between the municipality and private companies for individual contracts,
- b. situations where a municipality, at the end of a contract with a private company, does not renew the contract and either awards the contract to another private company, or, decides to provide for such services itself,
- c. situations where action is taken against the private company because the company has acted in a manner threatening to the public health, safety and welfare of the citizens of the municipality or resulting in a substantial public nuisance,
- d. situations where action is taken against the private company because the company has materially breached its contract with the municipality, or
- e. entering into a contract with a private company to provide solid waste collection so long as the contract is not entered into pursuant to an ordinance which displaces or authorizes the displacement of another private company providing solid waste collection;

2. "Just compensation" means the value of the business taken, and in addition, any injury to any part of the business not taken. Any special and direct benefits to the part of the business not taken may be offset only against any injury to the business not taken. If only a part of the business is taken, just compensation shall be ascertained by determining the difference between the fair market value of the whole business immediately before the taking and the fair market value of that portion left remaining immediately after the taking; and

3. "Solid waste" means all putrescible and nonputrescible refuse in solid, semisolid, or liquid form including, but not limited to, garbage, rubbish, ashes or incinerator residue, street refuse, dead animals, demolition wastes, construction wastes, roofing material, solid or semisolid commercial and industrial wastes including explosives, biomedical wastes, chemical wastes, herbicide and pesticide wastes, organics, scrap materials, and materials that are destined for recycling, reuse, conversion, or processing, whether source separated or not. Added by Laws 1998, c. 18, § 1, eff. Nov. 1, 1998. Amended by Laws 2013, c. 65, § 1, eff. Nov. 1, 2013.

§11-22-106. License tax on occupations - Authority to levy and collect - Penalties.

A. A municipal governing body may levy and collect a license tax on auctioneers, contractors, druggists, hawkers, peddlers, bankers, brokers, pawnbrokers, merchants of all kinds, grocers, confectioners, restaurants, butchers, taverns, public boarding houses, billiard tables, bowling alleys, and other amusement devices, drays, hacks, carriages, omnibuses, carts, wagons and other vehicles used in the municipality for pay, hay scales, lumber dealers, furniture dealers, saddle or harness dealers, stationers, jewelers, livery stable keepers, real estate agents, express

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companies or agencies, telegraph companies or agencies, shows, theatres, all kinds of exhibitions for pay, also photographers, photographers' agents, agents of all kinds and solicitors. The taxes so levied and collected shall be applied for the use and benefit of the municipality as the governing body may direct.

B. All scientific and literary lectures and entertainments shall be exempt from license taxation, and also all concerts and musical or other entertainments given exclusively by the citizens of the municipality.

C. The governing body may establish penalties for any failure to observe the license provisions or to pay the tax provided for by ordinance.

D. A municipal body which levies and collects a license tax on licensed plumbing, electrical and mechanical contractors pursuant to subsection A of this section, may only assess the tax on the licensed contractor and shall not levy or collect such tax on a licensed journeyman or apprentice. The amount of tax assessed shall be determined by the municipalities based on the number of licensed journeymen or apprentices under the supervision of the licensed contractor. Added by Laws 1977, c. 256, § 22-106, eff. July 1, 1978. Amended by Laws 2003, c. 318, § 1, eff. Nov. 1, 2003.

§11-22-107. Licenses and fees regulated by ordinance - Expiration - Issuance - Seal - Exchange of information for collecting of state and local taxes.

Municipal licenses and license fees shall be regulated by ordinance. A municipality may establish such license requirements as it deems appropriate in the exercise of its police power and may provide that each applicant supply his state sales tax identification number or proof of exemption pursuant to the provisions of Title 68 of the Oklahoma Statutes. Any license issued by the governing body shall expire no later than one (1) year after the date of its issuance or on June 30 of each year. No license may be issued until the amount prescribed therefor is paid to the municipal treasurer. No license in any case may be assigned or transferred. Licenses shall be signed as provided for by ordinance. The clerk shall affix the corporate seal of the municipality to the license. A municipality and the Oklahoma Tax Commission may exchange information to further the collection or enforcement of state and local taxes. The municipality and the officers and employees of the municipality shall preserve the confidentiality of such information in the same manner and be subject to the same penalties as provided for by Section 205 of Title 68 of the Oklahoma Statutes, provided that the municipal prosecutor and other municipal enforcement personnel may receive all information necessary to enforce municipal sales tax ordinances or licensing ordinances. Laws 1977, c. 256, § 22-107, eff. July 1, 1978; Amended by Laws 1984, c. 126, § 41, eff. Nov. 1, 1984.

§11-22-107.1. Regulation of video services systems.

A. A municipality may by ordinance or otherwise grant a certificate, license, permit or franchise for the operation of a video services system, unless such authority is already provided for by law. Any certificate, license, permit or franchise granted pursuant to this section shall constitute a bargained contract between the municipality and the video services provider and shall provide for a consideration payment to the municipality as rental for the privileges granted to the provider to use the public ways and grounds within the municipality in furtherance of its video services business. The rental payment shall be set at the amount bargained between the municipality and the video services provider but shall not exceed five percent (5%) of the annual gross revenues derived by the video services provider from the provision of video services within

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the municipality. Any certificate, license, permit or franchise issued by the governing body shall be nonexclusive and shall not exceed a period of twenty-five (25) years and may be revocable by the governing body if said body determines that the holder of the certificate, license, permit or franchise has willfully failed or neglected to perform duties pursuant to the terms of the grant of the certificate, license, permit or franchise. Nothing herein shall limit the authority of a municipality to comply with state or federal law.

B. In the event a municipality grants an overlapping certificate, license, permit or franchise for video services within its jurisdiction on terms or conditions more favorable or less burdensome than those in any existing certificate, license, permit or franchise within the municipality the holder of the existing certificate, license, permit or franchise shall be entitled, upon written notice to the municipality, to adopt the terms in the overlapping certificate, license, permit or franchise that are more favorable or less burdensome than those in the existing certificate, license, permit or franchise and the adopted terms shall become enforceable by the municipality.

C. In addition to any other authority granted to municipalities by this section or other applicable law, a municipality may also adopt an ordinance regulating a video services system pursuant to its police power. No municipal provisions regulating a video services system may be adopted which are inconsistent with either state or federal law or with the terms and conditions of the certificate, license, permit or franchise bargained by the municipality and the video services provider.

D. In awarding or renewing a certificate, license, permit or franchise for video services, a municipality may require adequate assurance that the video services system provider will provide adequate public, educational, and governmental access channel capacity, facilities or financial support. A video services system provider may, at its sole option, provide a “family friendly” tier of video services in lieu of channel capacity, facilities, or financial support for public access as a condition of any certificate, license, permit or franchise for video services or renewal thereof. Nothing herein shall affect any channel capacity, facilities, or financial support for educational or governmental access contained in any certificate, license, permit or franchise for video services or renewal thereof.

E. A “family friendly” tier of services is a group of channels, offered to customers pursuant to Federal Communications Commission (FCC) regulations, that primarily contains programming with a television viewing rating of TV-Y, TV-Y7 or TV-G.

F. “Video services” means video programming, including cable services, provided through wireline facilities located at least in part in the public rights-of-way without regard to the delivery technology, including Internet protocol technology. “Video services” shall not include video programming provided by a commercial mobile service provider as defined in 47 U.S.C., Section 332(d) or provided solely as part of and via a service that enables users to access content, information, electronic mail, messaging and other services offered over the public Internet. Added by Laws 1985, c. 65, § 1, eff. Nov. 1, 1985. Amended by Laws 1988, c. 147, § 1, eff. Oct. 11, 1988; Laws 2006, c. 168, § 1, eff. Nov. 1, 2006; Laws 2016, c. 47, § 1, emerg. eff. April 12, 2016.

§11-22-107.2. Sellers of video services.

A. Unless otherwise specifically prohibited by law, a seller of video services may assess a late fee on delinquent accounts having an unpaid balance of Twelve Dollars (\$12.00) or more.



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B. The seller of video services shall conspicuously disclose, in the contract for service and on each statement or invoice, the terms on which a late fee may be assessed by the seller including the amount of the fee.

C. No late fee shall be assessed which exceeds Six Dollars (\$6.00) or five percent (5%) of the unpaid amount, whichever is greater.

D. Prior to collecting a late fee, the seller shall give notice to the customer by first class mail to the customer's last known billing address as shown on the records of the seller of the amount of the delinquency at least ten (10) days prior to the date the fee will be imposed. The notice shall conspicuously state the place and address for making payment, the date on which the late fee will be imposed, and the amount of the late fee. Added by Laws 1998, c. 352, § 1, eff. July 1, 1998. Amended by Laws 2016, c. 47, § 2, emerg. eff. April 12, 2016.

### §11-22-108. Power to suppress gaming and gambling.

The municipal governing body may enact ordinances to restrain, prohibit, and suppress games and gambling houses, bowling alleys, pool and billiard tables, and other gambling tables. The powers granted to municipalities in this section shall not be construed to repeal any gambling law now on the statute books, but shall be cumulative only. Laws 1977, c. 256, § 22-108, eff. July 1, 1978.

### §11-22-109. Disorderly houses and public indecencies.

The municipal governing body may enact ordinances to restrain, prohibit, and suppress houses of prostitution and other disorderly houses and practices, and all kinds of public indecencies. No municipal officer shall accept or receive any hush money, or any money or valuable things, from any person or persons engaged in any such business or practice, or grant any immunity or protection against a rigid enforcement of the laws and ordinances enacted to restrain, prohibit and suppress any such business or practice. Laws 1977, c. 256, § 22-109, eff. July 1, 1978.

#### §11-22-109.1. Location of adult novelty shops.

A. As used in this act:

1. "Adult novelty shop" means a commercial establishment that displays, sells, or offers for sale instruments, devices, or paraphernalia designed or marketed primarily for use to stimulate human genital organs or for use in connection with sadomasochistic practices; and

2. "Sadomasochistic practices" means flagellation or torture by or upon a person clothed or naked, or the condition of being fettered, bound, or otherwise physically restrained on the part of one so clothed or naked.

B. The location of an adult novelty shop shall be subject to the nondiscriminatory zoning ordinances of the town or city in which located, and the location of such entities is specifically prohibited within one thousand (1,000) feet of:

1. Any building primarily and regularly used for worship services and religious activities;
2. Any public or private school;
3. Any public park or playground;
4. Any public library; or
5. Any land zoned or used for residential purposes.

Provided, that if any such building used for worship and religious activities, any public or private school, any public park or playground, any public library or any land zoned or used for

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residential purposes shall be established within one thousand (1,000) feet of any such premises after the premises have been established, this shall not be a bar to the continuation of the business so long as it has been in continuous force and effect. The distance indicated in this subsection shall be measured from the nearest property line of such church or school to the nearest public entrance door of the premises of the adult novelty shop along the street right-of-way line providing the nearest direct route usually traveled by pedestrians between such points. For purposes of determining measured distance, property situated on the opposite side of the street from such church or school shall be considered as if it were located on the same side of the street with such church or school. Added by Laws 1997, c. 225, § 1, eff. Nov. 1, 1997.

§11-22-110. Riots, assaults and disturbances, etc. - Firearms and fireworks.

A. The municipal governing body may regulate or prohibit riots, assaults, batteries, petty larceny, disturbances or disorderly assemblies, and immoral or indecent shows, exhibitions or concerts, in any street, house or place in the municipality; and may regulate, punish, and prevent the discharge of firearms, rockets, powder, fireworks, or other dangerously combustible material in the streets, lots, grounds, alleys or about, or in the vicinity of any buildings. The governing body may also regulate the carrying of firearms or other deadly weapons, concealed or otherwise, as provided for in Section 1289.24 of Title 21 of the Oklahoma Statutes.

B. No municipality shall regulate by order, resolution, ordinance, regulation, or other legislation prohibiting the transport of fireworks, in their unopened original packaging in a motor vehicle within the municipal limits. No municipality shall adopt or continue in effect resolutions, ordinances, or regulations prohibiting the transport of fireworks in their unopened original packaging by a motor vehicle. Local orders, resolutions, ordinances, regulations, or legislation in violation of this section are void and unenforceable. Added by Laws 1977, c. 256, § 22-110, eff. July 1, 1978. Amended by Laws 1985, c. 28, § 1, eff. Nov. 1, 1985; Laws 2006, c. 306, § 1, eff. July 1, 2006.

§11-22-110.1. Registration of real property prohibited.

A. For purposes of promoting commerce and the equitable treatment of the citizens of this state, the registration of any real property by any municipality is declared to be a statewide concern and shall be prohibited pursuant to subsection B of this section.

B. No municipality shall enact or attempt to enforce through fees, civil fines or criminal penalties any ordinance, rule or regulation to require the registration of real property. Any ordinance, rule or regulation contrary to the provisions of this section, whether enacted prior to or after the effective date of this act, is declared null and void and unenforceable against every owner, purchaser, assignee, lessee, mortgagee or beneficiary of any interest in the real property.

C. Nothing in this section shall prohibit a municipality from creating a list of the property owners or the designees of property owners of residential, commercial or leased real property to ensure the public safety and welfare of its citizens.

D. Nothing in this section shall prohibit a municipality from enacting and enforcing rules and regulations to require real property owners to comply with established occupancy standards as set forth by ordinance and state law.

E. Nothing in this section shall prohibit a municipality from requiring the owner of property that is the subject of any abatement process provided in this title to provide the name, physical address and telephone number of an individual to receive and respond to communications concerning the property subject to the abatement process. No future action

taken by the municipality shall be rendered ineffective due to the failure of the property owner to provide the information pursuant to this subsection. The municipality shall not assess any additional charge when requiring the information. Added by Laws 2014, c. 326, § 2. Amended by Laws 2017, c. 52, § 1, eff. Nov. 1, 2017.

§11-22-111. Cleaning and mowing of property - Summary abatement - Ordinances – Definitions - Application.

A. A municipal governing body may cause property within the municipal 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 governing body holds a hearing or takes action. The notice shall order the property owner to clean the property of trash, or to cut or mow the weeds or grass on the property, as appropriate, and the notice shall further state that unless such work is performed within ten (10) days of the date of the notice the work shall be done by the municipality and a notice of lien shall be filed with the county clerk against the property for the costs due and owing the municipality. At the time of mailing of notice to the property owner, the municipality shall obtain a receipt of mailing from the postal service, which receipt shall indicate the date of mailing and the name and address of the mailee. However, if the property owner cannot be located within ten (10) days from the date of mailing by the municipal governing body, notice may be given by posting a copy of the notice on the property or by publication, as defined in Section 1-102 of this title, one time not less than ten (10) days prior to any hearing or action by the municipality. If a municipal governing body anticipates summary abatement of a nuisance in accordance with the provisions of subsection B of this section, the notice, whether by mail, posting or publication, shall state: that any accumulations of trash or excessive weed or grass growth on the owner's property occurring within six (6) months from and after the date of this notice may be summarily abated by the municipal governing body; that the costs of such abatement shall be assessed against the owner; and that a lien may be imposed on the property to secure such payment, all without further prior notice to the property owner;

2. The owner of the property may give written consent to the municipality authorizing the removal of the trash or the mowing of the weeds or grass. By giving written consent, the owner waives the owner's right to a hearing by the municipality;

3. A hearing may be held by the municipal governing body to determine whether the accumulation of trash or the growth of weeds or grass has caused the property to become detrimental to the health, benefit, and welfare of the public and the community or a hazard to traffic, or creates a fire hazard to the danger of property;

4. Upon a finding that the condition of the property constitutes a detriment or hazard, and that the property would be benefited by the removal of such conditions, the agents of the municipality 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 municipality. Immediately following the cleaning or mowing of the property, the municipal clerk shall file a notice of lien with the county clerk describing the property and the work performed by the municipality, and stating that the municipality claims a lien on the property for the cleaning or mowing costs;

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5. The governing body shall determine the actual cost of such cleaning and mowing and any other expenses as may be necessary in connection therewith, including the cost of notice and mailing. The municipal clerk shall forward by mail to the property owner specified in paragraph 1 of this subsection a statement of such actual cost and demanding payment. If the cleaning and mowing are done by the municipality, 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;

6. If payment is not made within thirty (30) days from the date of the mailing of the statement, then within the next thirty (30) days, the municipal 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 on the property and collected by the county treasurer as other taxes authorized by law. Once certified by the county treasurer, payment may only be made to the county treasurer except as otherwise provided for in this section. In addition the cost and the interest thereon shall be a lien against the property from the date the cost is certified to the county treasurer, coequal with the lien of ad valorem taxes and all other taxes and special assessments and prior and superior to all other titles and liens against the property, and the lien shall continue until the cost shall be fully paid. At the time of collection the county treasurer shall collect a fee of Five Dollars (\$5.00) for each parcel of property. The fee shall be deposited to the credit of the general fund of the county. If the county treasurer and the municipality agree that the county treasurer is unable to collect the assessment, the municipality may pursue a civil remedy for collection of the amount owing and interest thereon by an action in person 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 municipal clerk shall forward to the county treasurer a notice of such payment and directing discharge of the lien; and

7. The municipality may designate by ordinance an administrative officer or administrative body to carry out the duties of the governing body in subsection A of this section. The property owner shall have a right of appeal to the municipal governing body from any order of the administrative officer or administrative body. Such appeal shall be taken by filing written notice of appeal with the municipal clerk within ten (10) days after the administrative order is rendered.

B. If a notice is given by a municipal governing body to a property owner ordering the property within the municipal limits to be cleaned of trash and weeds or grass to be cut or mowed in accordance with the procedures provided for in subsection A of this section, any subsequent accumulations of trash or excessive weed or grass growth on the property occurring within a six-month period may be declared to be a nuisance and may be summarily abated without further prior notice to the property owner. At the time of each such summary abatement the municipality shall notify the property owner of the abatement and the costs thereof. The notice shall state that the property owner may request a hearing within ten (10) days after the date of mailing the notice. The notice and hearing shall be as provided for in subsection A of this section. Unless otherwise determined at the hearing the cost of such abatement shall be determined and collected as provided for in paragraphs 5 and 6 of subsection A of this section. This subsection shall not apply if the records of the county clerk show that the property was transferred after notice was given pursuant to subsection A of this section.

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C. The municipal governing body may enact ordinances to prohibit owners of property or persons otherwise in possession or control located within the municipal limits from allowing trash to accumulate, or weeds to grow or stand upon the premises and may impose penalties for violation of said ordinances.

D. As used in this section:

1. “Weed” includes but is not limited to poison ivy, poison oak, or poison sumac and all vegetation at any state of maturity which:

- a. exceeds twelve (12) inches in height, except healthy trees, shrubs, or produce for human consumption grown in a tended and cultivated garden unless such trees and shrubbery by their density or location constitute a detriment to the health, benefit and welfare of the public and community or a hazard to traffic or create a fire hazard to the property or otherwise interfere with the mowing of said weeds,
- b. regardless of height, harbors, conceals, or invites deposits or accumulation of refuse or trash,
- c. harbors rodents or vermin,
- d. gives off unpleasant or noxious odors,
- e. constitutes a fire or traffic hazard, or
- f. is dead or diseased.

The term “weed” shall not include tended crops on land zoned for agricultural use which are planted more than one hundred fifty (150) feet from a parcel zoned for other than agricultural use;

2. “Trash” means any refuse, litter, ashes, leaves, debris, paper, combustible materials, rubbish, offal, or waste, or matter of any kind or form which is uncared for, discarded, or abandoned;

3. “Owner” means the owner of record as shown by the most current tax rolls of the county treasurer; and

4. “Cleaning” means the removal of trash from property.

E. The provisions of this section shall not apply to any property zoned and used for agricultural purposes or to railroad property under the jurisdiction of the 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 section but only if such weeds or trash pose a hazard to traffic and are located in, or within ten (10) yards of, the public right-of-way at intersections. Added by Laws 1977, c. 256, § 22-111, eff. July 1, 1978. Amended by Laws 1983, c. 48, § 1, emerg. eff. April 26, 1983; Laws 1986, c. 28, § 1, eff. Nov. 1, 1986; Laws 1988, c. 99, § 1, emerg. eff. April 1, 1988; Laws 1989, c. 5, § 1, emerg. eff. March 22, 1989; Laws 1990, c. 253, § 1, emerg. eff. May 22, 1990; Laws 1994, c. 206, § 1, emerg. eff. May 20, 1994; Laws 1998, c. 146, § 1, eff. Nov. 1, 1998; Laws 2000, c. 82, § 1, eff. Nov. 1, 2000; Laws 2006, c. 77, § 1, eff. July 1, 2006; Laws 2012, c. 136, § 1, eff. Nov. 1, 2012.

§11-22-111.1. Certification for employees enforcing cleaning and mowing provisions.

Employees of a municipality employed or otherwise assigned to enforce provisions of Section 22-111 of Title 11 of the Oklahoma Statutes shall complete certification training specifically applicable to such section as adopted and administered by the Oklahoma Code Enforcement Association, an internationally recognized model code organization, career technical education program, or an institution of higher education. The certification training shall be completed within one (1) year of employment or assignment for such enforcement. Added by

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Laws 2008, c. 24, § 1, eff. Nov. 1, 2008. NOTE: Editorially renumbered from § 111.1 of this title to provide consistency in numbering.

§11-22-112. Condemnation – Procedures – Administrative officer or body – Definitions - Nuisance – Damages or loss of property – Agricultural property.

A. A municipal governing body may cause dilapidated buildings within the municipal limits to be torn down and removed in accordance with the following procedures:

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 governing body holds a hearing. A copy of the notice shall be posted on the property to be affected. In addition, a copy of the notice shall be sent by mail to the property owner at the address shown by the current year's tax rolls in the office of the county treasurer. Written notice shall also be mailed to any mortgage holder as shown by the records in the office of the county clerk to the last-known address of the mortgagee. At the time of mailing of notice to any property owner or mortgage holder, the municipality shall obtain a receipt of mailing from the postal service, which receipt shall indicate the date of mailing and the name and address of the mailee. However, if neither the property owner nor 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 this title. The notice may be published once not less than ten (10) days prior to any hearing or action by the municipality pursuant to the provisions of this section;

2. A hearing shall be held by the governing body to determine if the property is dilapidated and has become detrimental to the health, safety, or welfare of the general public and the community, or if the property creates a fire hazard which is dangerous to other property;

3. Pursuant to a finding that the condition of the property constitutes a detriment or a hazard and that the property would be benefited by the removal of such conditions, the governing body may cause the dilapidated building to be torn down and removed. The governing body shall fix reasonable dates for the commencement and completion of the work. The municipal clerk shall immediately file a notice of dilapidation and lien with the county clerk describing the property, the findings of the municipality at the hearing, and stating that the municipality claims a lien on the property for the destruction and removal costs and that such costs are the personal obligation of the property owner from and after the date of filing of the notice. The agents of the municipality 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 dates fixed by the governing body. Any action to challenge the order of the municipal governing body shall be filed within thirty (30) business days from the date of the order;

4. The governing body 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 municipal clerk shall forward a statement of the actual cost attributable to the dismantling and removal of the buildings and a demand for payment of such costs, by mail to the property owner. In addition, a copy of the statement shall be mailed to any mortgage holder at the address provided for in paragraph 1 of this subsection. At the time of mailing of the statement of costs to any property owner or mortgage holder, the municipality shall obtain a receipt of mailing from the postal service, which receipt shall indicate the date of mailing and the name and address of the mailee. If a municipality dismantles or removes any dilapidated buildings, the cost to the

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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; and

5. When payment is made to the municipality for costs incurred, the municipal 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 municipal 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. Once certified to the county treasurer, payment may only be made to the county treasurer except as otherwise provided for in this section. The costs shall be levied on the property and collected by the county treasurer as are other taxes authorized by law. Until finally paid, the costs and the interest thereon shall be the personal obligation of the property owner from and after the date of the notice of dilapidation and lien is filed with the county clerk. In addition the cost and the interest thereon shall be a lien against the property from the date the notice of the lien is filed with the county clerk. The lien shall be coequal with the lien of ad valorem taxes and all other taxes and special assessments and shall be prior and superior to all other titles and liens against the property. The lien shall continue until the cost is fully paid. At the time of collection, the county treasurer shall collect a fee of Five Dollars (\$5.00) for each parcel of property. The fee shall be deposited to the credit of the general fund of the county. If the county treasurer and the municipality agree that the county treasurer is unable to collect the assessment, the municipality may pursue a civil remedy for collection of the amount owing and interest thereon including an action in person 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 municipal clerk shall forward to the county treasurer a notice of such payment and shall direct discharge of the lien.

B. The municipality may designate, by ordinance, an administrative officer or administrative body to carry out the duties of the governing body specified in this section. The property owner shall have the right of appeal to the municipal governing body from any order of the administrative officer or administrative body. Such appeal shall be taken by filing written notice of appeal with the municipal clerk within ten (10) days after the administrative order is rendered.

C. For the purposes of this section:

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 municipal governing body or administrative officer of the municipal governing body to be an unsecured building, as defined by Section 22-112.1 of this title, more than three times within any twelve-month period,

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- d. a structure which has been boarded and secured, as defined by Section 22-112.1 of this title, for more than eighteen (18) consecutive months, or
- e. a structure declared by the municipal governing body to constitute a public nuisance; and

2. “Owner” means the owner of record as shown by the most current tax rolls of the county treasurer.

D. Nothing in the provisions of this section 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.

E. The officers, employees or agents of the municipality 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 section or as otherwise prescribed by law.

F. The provisions of this section shall not apply to any property zoned and used for agricultural purposes. Added by Laws 1977, c. 256, § 22-112, eff. July 1, 1978. Amended by Laws 1984, c. 126, § 42, eff. Nov. 1, 1984; Laws 1988, c. 152, § 1, eff. Nov. 1, 1988; Laws 1989, c. 5, § 2, emerg. eff. March 22, 1989; Laws 1990, c. 253, § 2, emerg. eff. May 22, 1990; Laws 1997, c. 83, § 1, eff. Nov. 1, 1997; Laws 1999, c. 343, § 2, eff. Nov. 1, 1999; Laws 2000, c. 82, § 2, eff. Nov. 1, 2000; Laws 2004, c. 314, § 1, eff. Nov. 1, 2004; Laws 2011, c. 52, § 1, eff. Nov. 1, 2011.

### §11-22-112.1. Boarding and securing dilapidated building - Definitions.

A. After a building has been declared dilapidated, as provided in Section 22-112 of this title, and before the commencement of the tearing and removal of a dilapidated building, the governing body of any municipality may authorize that such a building be boarded and secured. However, if the dilapidated building is vacant and unfit for human occupancy, the governing body of any municipality may authorize the structure to be demolished pursuant to Section 22-112 of this title.

B. A governing body of any municipality may cause the premises on which an unsecured building is located to be cleaned of trash and weeds in accordance with the provisions of Section 22-111 of this title.

C. A governing body of any municipality may cause an unsecured building to be boarded and secured in accordance with the following procedures:

1. Before the governing body 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 22-112 of this title. At the time of mailing of notice to any property owner or mortgage holder, the municipality shall obtain a receipt of mailing from the postal service, which receipt shall indicate the date of mailing and the name and address of the mailee. A copy of the notice shall also be posted on the property to be affected. However, if neither the property owner nor 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 this title. Such notice shall be published one time, not less than ten (10) days prior to any hearing or action by the municipality pursuant to the provisions of this section. If a municipal governing body anticipates summary abatement of a nuisance in accordance with the provisions of paragraph 9 of this subsection, 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



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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 written consent to the municipality authorizing the boarding and securing of such unsecured building and to the payment of any costs incurred thereby. By giving written consent, the owner waives any right the owner has to a hearing by the municipal governing body;

3. If the property owner does not give written consent to such actions, a hearing may be held by the municipal governing body to determine whether the boarding and securing of such unsecured building would promote and benefit the public health, safety or welfare. Such hearing may be held in conjunction with a hearing on the accumulation of trash or the growth of weeds or grass on the premises of such unsecured building held pursuant to the provisions of paragraph 3 of subsection A of Section 22-111 of this title. In making such determination, the governing body shall apply the following standard: the governing body 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 governing body orders the boarding and securing of such unsecured building, the municipal clerk shall immediately file a notice of unsecured building and lien with the county clerk describing the property, stating the findings of the municipality at the hearing at which such building was determined to be unsecured, and stating that the municipality claims a lien on the property for the costs of boarding and securing such building and that such costs are the personal obligation of the property owner from and after the date of filing the notice;

5. Pursuant to the order of the governing body, the agents of the municipality are granted the right of entry on the property for the performance of the boarding and securing of such building and for the performance of all necessary duties as a governmental function of the municipality;

6. After an unsecured building has been boarded and secured, the governing body shall determine the actual costs of such actions and any other expenses that may be necessary in conjunction therewith including the cost of the notice and mailing. The municipal clerk shall forward a statement of the actual costs attributable to the boarding and securing of the unsecured building and a demand for payment of such costs, by mail to any property owners and mortgage holders as provided in Section 22-112 of this title. At the time of mailing of the statement of costs to any property owner or mortgage holder, the municipality shall obtain a receipt of mailing from the postal service, which receipt shall indicate the date of mailing and the name and address of the mailee.

If a municipality boards and secures any unsecured building, the cost to the property owner shall not exceed the actual cost of the labor, materials and equipment required for the performance of such actions. If such actions are done on a private contract basis, the contract shall be awarded to the lowest and best bidder;

7. When payment is made to the municipality for costs incurred, the municipal clerk shall file a release of lien, but if payment attributable to the actual costs of the boarding and securing of the unsecured building is not made within thirty (30) days from the date of the mailing of the statement to the owner of such property, the municipal clerk shall forward a certified statement

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of the amount of the costs to the county treasurer of the county in which the property is located. Once certified to the county treasurer, payment may only be made to the county treasurer except as otherwise provided for in this section. At the time of collection the county treasurer shall collect a fee of Five Dollars (\$5.00) for each parcel of property and such fee shall be deposited to the general fund of the county. The costs shall be levied on the property and collected by the county treasurer as are other taxes authorized by law. Until fully paid, the costs and the interest thereon shall be the personal obligation of the property owner from and after the date the notice of unsecured building and lien is filed with the county clerk. In addition the costs and the interest thereon shall be a lien against the property from the date the notice of the lien is filed with the county clerk. The lien shall be coequal with the lien of ad valorem taxes and all other taxes and special assessments and shall be prior and superior to all other titles and liens against the property. The lien shall continue until the costs and interest are fully paid. If the county treasurer and the municipality agree that the county treasurer is unable to collect the assessment, the municipality may pursue a civil remedy for collection of the amount owing and interest thereon by an action in personam against the property owner and an action in rem to foreclose its lien against the property. A mineral interest if severed from the surface owner, shall not be subject to any tax or judgment lien created pursuant to this section. Upon receiving payment, the municipal clerk shall forward to the county treasurer a notice of such payment and shall direct discharge of the lien;

8. The municipality may designate by ordinance an administrative officer or administrative body to carry out the duties of the governing body specified in subsection C of this section. The property owner or mortgage holder shall have a right of appeal to the municipal governing body from any order of the administrative officer or administrative body. Such appeal shall be taken by filing written notice of appeal with the municipal clerk within ten (10) days after the administrative order is rendered;

9. If a municipal governing body causes a structure within the municipal 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 municipality 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 municipal clerk within ten (10) days after the mailing of the notice. The notice and hearing shall be as provided for in paragraph 1 of this subsection. Unless otherwise determined at the hearing the cost of such boarding and securing shall be determined and collected as provided for in paragraphs 6 and 7 of this subsection;

10. A governing body of any municipality may determine that a building is unsecured and order that such building be boarded and secured in the manner provided for in this subsection even though such building has not been declared, by the governing body, to be dilapidated; and

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

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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.

D. The provisions of this section shall not apply to any property zoned and used for agricultural purposes. Added by Laws 1984, c. 126, § 43, eff. Nov. 1, 1984. Amended by Laws 1986, c. 257, § 1, eff. Nov. 1, 1986; Laws 1988, c. 152, § 2, eff. Nov. 1, 1988; Laws 1990, c. 253, § 3, emerg. eff. May 22, 1990; Laws 1997, c. 83, § 2, eff. Nov. 1, 1997; Laws 2000, c. 82, § 3, eff. Nov. 1, 2000.

### §11-22-112.2. Removal of graffiti by municipalities.

A. A municipal governing body may cause graffiti to be removed from property within the municipal limits in accordance with the following procedures:

1. The property owner and the tenant, if any, may give their written consent to the municipality 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 municipality 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 municipality 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 municipality. At the time of mailing of notice to the property owner and the tenant, if any, the municipality shall obtain a receipt of mailing from the postal service, which receipt shall indicate the date of mailing and the name and address of the mailee(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 municipality. If a municipal governing body anticipates summary abatement of graffiti in accordance with the provisions of subsection B 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 municipality 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 municipal governing body 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 benefited by removal of such conditions, the agents of the municipality 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 municipality; and

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6. The municipality may designate by ordinance an administrative officer or administrative body 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 municipal governing body from any order of the administrative officer or administrative body. Such appeal shall be taken by filing written notice of appeal with the municipal clerk within ten (10) business days after the administrative order is rendered.

B. If a notice is given by a municipal governing body 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 municipality, 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 municipality pursuant to the provisions of this section shall be performed at the sole expense of the municipality. In removing the graffiti, the municipality 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 municipality 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 municipality 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. Nothing in this section shall prohibit the municipal governing body from enacting ordinances concerning the removal of graffiti that are more strict than this section.

G. 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 of, 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. Added by Laws 1997, c. 170, § 1, eff. Nov. 1, 1997.

§11-22-112.3. Certification of employees enforcing condemnation provisions.

Employees of a municipality assigned to enforce provisions of Sections 22-112 and 22-112.1 of Title 11 of the Oklahoma Statutes shall complete certification training specifically applicable to such section as adopted and administered by the Oklahoma Code Enforcement Association, an internationally recognized model code organization, career technical education program, or an institution of higher education. The certification training shall be completed within one (1) year of employment or assignment for such enforcement. Added by Laws 2008, c. 24, § 2, eff. Nov. 1, 2008. NOTE: Editorially renumbered from § 112.2 of this title to provide consistency in numbering.

§11-22-112.4. Abandoned building as public nuisance – Abatement – Petition for removal – Administrative officer or body – Definitions – Appeal – Damages or loss of property.

A. An abandoned building shall constitute a public nuisance because it:

1. Is detrimental to the public health, safety or welfare of the inhabitants of and visitors to the municipality;
2. Causes increased municipal regulatory costs and increased municipal police and fire protection costs; and
3. Devalues abutting and nearby real properties.

B. A municipal governing body may abate the public nuisance caused by an abandoned building within the municipal limits in accordance with the following procedures:

1. At least ten (10) days' notice that an abandoned building is to be abated pursuant to the procedures for abatement set forth in this section shall be given to the owner of the property before the governing body holds a hearing. 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 sent by mail to any mortgage holder as shown by the records in the office of the county clerk to the last-known address of the mortgage holder. At the time of mailing of notice to any property owner or mortgage holder, the municipality shall obtain a receipt of mailing from the postal service, the receipt of which shall indicate the date of mailing and the name and address of the mailee. 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 and by publication as defined in Section 1-102 of Title 11 of the Oklahoma Statutes. Such notice shall be published once not less than ten (10) days prior to any hearing or action by the municipality pursuant to the provisions of this section;

2. A hearing shall be held by the governing body to determine if the property is an abandoned building as defined by this section;

3. Pursuant to a determination that the building is an abandoned building, the governing body may order the agents of the municipality to pursue abatement of the public nuisance caused by the building and shall order the municipal clerk to place the building on an abandoned building list to be maintained by the clerk. At any time after such determination and order, the agents of the municipality may cause the public nuisance to be abated as authorized in this section, and such abatement may continue until such time as the building is removed from the abandoned building list in accordance with the procedures set forth in subsection C of this section;

4. Abatement of an abandoned building by the municipality may include any or all of the following:

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- a. any lawful municipal regulatory or municipal police and fire protection action in relation to the abandoned building or the owner of such building necessary or appropriate for the protection of inhabitants in and visitors to the municipality. Upon receipt of any necessary warrant to authorize such action, the agents of the municipality are granted the right of entry onto the property for the performance of any such action as a governmental function of the municipality,
- b. the quarterly assessment against the property on which the abandoned building is located and against the owner of the abandoned building of the actual costs of any municipal regulatory action taken in relation to the abandoned building or the owner of such building as authorized above,
- c. the assessment against the property on which the abandoned building is located and against the owner of the abandoned building of the actual costs of any municipal police or fire protection action taken in relation to the abandoned building or the owner of such building as authorized above, and
- d. an assessment for any other actual expenses incurred by the municipality in relation to the abandoned building, including, but not limited to, the costs of notices, mailings and publications;

5. After the determination that a building is an abandoned building, and before commencement of any of the abatement actions authorized by paragraphs 3 and 4 of this subsection, the municipal clerk shall file a notice of lien with the county clerk describing the property, the findings of the governing body at the hearing, and stating that the municipality claims a lien on the property for all abatement costs and that such costs shall also constitute the personal obligation of the property owner from and after the date of filing of the notice;

6. From and after the determination that a building is an abandoned building, and continuing until such time as the building is removed from the abandoned building list in accordance with the procedures set forth in subsection C of this section, the municipal clerk shall determine the actual quarterly abatement costs for the abatement procedures authorized by this section. After such determination, the municipal clerk shall mail a statement of the actual quarterly abatement costs for the abatement procedures authorized by this section to the property owner and demand the payment of such costs by the owner. In addition, a copy of the statement shall be mailed to any mortgage holder at the address provided for in paragraph 1 of this subsection. At the time of mailing of the statement of costs to any property owner or mortgage holder, the municipal clerk shall obtain a receipt of mailing from the postal service, the receipt of which shall indicate the date of mailing and the name and address of the mailee; and

7. When full payment is made to the municipal clerk for actual abatement costs incurred and billed in accordance with paragraph 6 of this subsection, the municipal clerk shall send the property owner and any mortgage holder by mail a receipt for such payment; but if payment attributable to the actual quarterly costs of such abatement is not made within six (6) months from the date of the mailing of the statement to the owner of such property, a lien in the actual amount of the abatement shall be filed against the abandoned building. Until finally paid, the costs and the interest thereon shall be the personal obligation of the property owner from and after the date the notice of lien was 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 lien was 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. A mineral interest, if severed from

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the surface interest and not owned by the surface owner, shall not be subject to any lien created pursuant to this section. Upon receiving full payment, the municipal clerk shall forward to the county clerk a notice of discharge of the lien.

C. Any owner or mortgage holder of any building determined by the governing body of the municipality to be an abandoned building pursuant to this section may petition the governing body in writing at any time after such determination for removal of such building from the abandoned building list maintained by the municipal clerk. Any such petition shall be filed with the municipal clerk. Within thirty (30) days after such petition is filed with the municipal clerk, the governing body shall hold a hearing to determine if the building is no longer an abandoned building. Upon such a determination, the governing body shall order the building removed from the abandoned building list. The municipal clerk shall comply with such order by removing the building from the abandoned building list; provided, the real property on which the abandoned building is located and the owner of such building shall remain liable for payment of any and all abatement costs incurred by the municipality prior to the determination and order by the governing body that the building should be removed from the abandoned building list. Upon full payment of any costs certified against the property, the municipal clerk shall file a release of the notice of the lien in the county clerk's office within ten (10) days after receiving such payment.

D. The governing body may designate, by ordinance, an administrative officer or administrative body of the municipality to carry out any or all of the duties of the governing body specified in this section. The property owner shall have the right of appeal to the governing body from any order of the administrative officer or administrative body. Such appeal shall be taken by filing a written notice of appeal with the municipal clerk within ten (10) days after the administrative order is delivered or mailed to the owner at the address shown in the county treasurer records.

E. For purposes of this section:

1. "Abandoned building" means any building located within the municipality that is not currently occupied and has been declared unsecured or dilapidated pursuant to Section 22-112 or 22-112.1 of Title 11 of the Oklahoma Statutes and remains in such condition; and

2. "Owner" means the owner of record as shown by the most current tax roles of the county treasurer.

F. The provisions of this section shall not apply to any property zoned and used for agricultural purposes.

G. The officers, employees or agents of the municipality shall not be liable for any damages or loss of property due to the abatement of the public nuisance caused by an abandoned building performed pursuant to the provisions of this section or as otherwise provided by law. Added by Laws 2014, c. 326, § 3.

§11-22-112.5. Termination of water service when sewer or waste water service is provided by a separate public entity

A. Where water service is provided to real property by one public entity but that property receives sewer or waste water service from another public entity, and where the sewer or waste water account for the property has been found to be delinquent as determined by the policies adopted by the public entity regarding nonpayment, the governing body of the public entity providing sewer or waste water service to that property may request that the public entity providing water service terminate water service. Until the delinquency has been resolved, the governing body of the public entity providing sewer or waste water service requesting the

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termination of water service shall provide a proposed date for termination and notice to the public entity providing water service, and to the account holder and property owner of the subject property at least thirty (30) days prior to the proposed date for termination. The public entity providing water service may terminate water service at the subject property on the proposed date for termination or within thirty (30) days thereafter. Should the sewer or waste water delinquency be resolved during the pendency of the termination of water service, or sometime thereafter, the public entity which requested termination of water service shall provide the public entity providing water service notice of the resolution of delinquency no later than the first business day following resolution. The public entity providing water service shall renew water service no later than the first business day following the notice. Should the sewer or waste water delinquency be resolved during the pendency of the termination of water service, or sometime thereafter, the public entity which requested termination of water service shall provide the account holder and the property owner notice of the resolution of the delinquency, upon request.

B. Each public entity desiring to utilize the termination provision authorized in subsection A of this section shall enact, in accordance to law and as required by this act, notice and hearing procedures to ensure account holders and property owners receive adequate notice and opportunity for hearing prior to commencement of the procedures authorized in subsection A of this section. Added by Laws 2016, c. 98, § 1, eff. Nov. 1, 2016.

### §11-22-113. Fire hazards and building location restrictions.

The municipal governing body may regulate the construction or suppression, and cleaning of any apparatus, fixtures, or equipment used in any building, manufactory, or business which may cause or promote fires, may prescribe limits within which dangerous or hazardous businesses may be carried on, and may adopt fire prevention codes and regulations. The governing body may impose penalties for the violation of such ordinances and may remove or abate any buildings constructed or located in violation of its ordinances. Amended by Laws 1984, c. 126, § 44, eff. Nov. 1, 1984.

### §11-22-114. Entry upon private property for making surveys, soundings, examination or terminating public utility services - Reimbursement for damages.

A. Municipalities through their authorized agents or employees may enter upon any lands, waters, or premises for the purpose of making surveys, soundings, or examinations as may be necessary for the purpose of establishing, locating, relocating, constructing, or maintaining any sewer, waterworks, drain, or public works or facilities. Entry may also be made for the purpose of terminating any public utility services if the municipality determines the existence of a hazard to the health, safety, or welfare of the general public in connection with said services. Said entry shall not be deemed a trespass, nor shall an entry pursuant to any condemnation proceedings which may be pending be deemed a trespass. If the municipality does not have written consent for entry from the owner and lessee, the municipality shall give notice to the owner and lessee of the property to be entered, by certified mail at least fourteen (14) days prior to any entry. If the owner and lessee are unable to be given notice by certified mail, notice shall be given by publication.

B. Municipalities shall make reimbursement for any actual damages to lands, water, or premises as a result of the entry onto property as authorized in this section. If there is a disagreement as to the amount of any damage, either the person incurring any damage to land,



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water, or premises or the municipality may file a petition with the district court in the county where the alleged damage occurred requesting the appointment of a commissioner to appraise the damage and proceed to have the damage determined as in condemnation proceedings. Amended by Laws 1984, c. 126, § 45, eff. Nov. 1, 1984.

### §11-22-115. Animals running at large - Regulation and taxation.

The municipal governing body may regulate or prohibit animals from running at large. Animals which are running at large may be impounded and sold to discharge any costs and penalties established by the governing body and the expense of impounding, keeping or sale of such animals. The governing body may also provide for the erection of pens, pounds, and buildings for the use of the municipality, within or without the municipal limits, and appoint and compensate keepers thereof, and establish and enforce rules governing the pens, pounds or buildings. The governing body may also regulate and provide for taxing the owners and harborers of dogs, and authorize the killing of dogs which are found at large in violation of any ordinance regulating the same. Laws 1977, c. 256, § 22-115, eff. July 1, 1978.

#### §11-22-115.1. Commercial pet breeder - Restriction of location near schools or day care facilities.

A. No commercial pet breeder shall be located within two thousand five hundred (2,500) feet of a public or private school or licensed day care facility in a municipality having a population of more than three hundred thousand (300,000). Provided, this prohibition shall not apply to a commercial pet breeder that was lawfully in operation and in full compliance with all licensing, permitting, and zoning requirements applicable to the commercial pet breeder prior to the effective date of this act.

B. No public officer or employee shall issue any type of license, permit, approval or consent for a commercial pet breeder to be located within two thousand five hundred (2,500) feet of a public or private school or licensed day care facility in a municipality having a population of more than three hundred thousand (300,000).

C. Applications for a commercial pet breeder license or for any governmental permit, approval or consent needed to authorize the lawful operation of a commercial pet breeder that are pending on the effective date of this act shall be subject to the prohibitions set forth in subsections A and B of this section.

D. The provisions of subsections A and B of this section may be enforced by any public officer within whose jurisdiction a noncompliant commercial pet breeder is located or by any other person aggrieved in any way by noncompliance with the provisions. Enforcement action may include a civil suit for an injunction filed in the district court in the county where a noncompliant commercial pet breeder is located.

E. Any municipality is hereby authorized to enact an ordinance consistent with the provisions of this section and to enforce the ordinance by prosecution of violations in the municipal court, as provided by law.

F. For the purposes of this section, the term “commercial pet breeder” shall have the same meaning as given in Section 30.2 of Title 4 of the Oklahoma Statutes. Added by Laws 2008, c. 433, § 1, emerg. eff. June 4, 2008. Amended by Laws 2015, c. 44, § 1, eff. Nov. 1, 2015.

### §11-22-116. Jurisdiction over real property and navigable streams.

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A. Except as provided for in subsection B of this section, the municipality shall have jurisdiction over any real property within or without its corporate limits belonging to the municipality.

B. A municipality with a population of more than three hundred fifty thousand (350,000) persons, according to the most recent Federal Decennial Census, shall have jurisdiction over any real property within its corporate limits belonging to the municipality. The municipality shall have the authority to enact ordinances regulating real property belonging to the municipality that is outside the corporate limits of the municipality. Municipal property outside the corporate limits of the municipality shall be subject to state or municipal law and any violation of state or municipal law shall be prosecuted in the district court of the county or the municipal court of the local city where the violation occurred. Unless otherwise provided for by law, the municipality may regulate the banks, shores, and wharves of navigable streams within the corporate limits. Added by Laws 1977, c. 256, § 22-116, eff. July 1, 1978. Amended by Laws 1984, c. 126, § 46, eff. Nov. 1, 1984; Laws 2003, c. 147, § 1, eff. Nov. 1, 2003.

§11-22-117. Traffic ordinances and regulations - Designation of school zone speed limits.

A. The municipal governing body may establish ordinances and regulations governing the operation of motor vehicles and traffic upon the roads and streets within the municipality in the manner provided by, and not inconsistent with, state law. An ordinance or regulation shall be consistent with state law if it is reasonably related to traffic safety or control or flow of traffic and does not contradict a specific provision of state law. The governing body may also regulate and prevent racing and fast driving, and all games, practices or amusements likely to result in damage to any person or property, in the streets, highways, alleys, bridges, sidewalks or other places in the municipality, and riding or driving over or upon the sidewalks of the municipality.

B. Any municipal governing body which establishes ordinances and regulations governing school zone speed limits, shall place school zone signs designating the beginning and end of the zone on the side or in the center of the roadway. Such end zone signing shall be as follows:

1. On roadways of two driving lanes, only the end zone signing may be on either side of the roadway or in the center of the roadway; and

2. On roadways in excess of two driving lanes, the end zone signing shall be on the right side of the roadway or in the center of the roadway if said roadway is divided by a median. Added by Laws 1977, c. 256, § 22-117, eff. July 1, 1978. Amended by Laws 1978, c. 90, § 1, eff. Oct. 1, 1978; Laws 2006, c. 132, § 1, eff. Nov. 1, 2006.

§11-22-117.1. Possession of security verification form may be required for certain vehicles.

Pursuant to Section 22-117 of this title, a municipality may by ordinance require the operator of any motor vehicle registered in this state to carry a current security verification form as defined in Article VI, Chapter 7 of Title 47 of the Oklahoma Statutes or equivalent form which has been issued by the Department.

Any person producing proof that a current security verification form or equivalent form which has been issued by the Department was in force for such person at the time of the alleged offense shall be entitled to dismissal of such charge upon payment of court costs; however, if proof of security verification is presented to the court within forty-eight (48) hours after the violation, the charge shall be dismissed without payment of court costs.

Upon conviction, bond forfeiture or deferral of sentence, the court shall forward an abstract to the Department of Public Safety within ten (10) days reflecting the action taken by the court.

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Added by Laws 1982, c. 355, § 10, operative July 1, 1983. Amended by Laws 1984, c. 181, § 1, eff. Nov. 1, 1984.

### §11-22-118. Regulation of taxicabs - Specific requirements.

The municipal governing body is vested with full police powers, for the purpose of preserving public health, safety and welfare, over the operation, regulation and control of taxicabs within the limits of the municipality. The municipal governing body may prescribe regulations for the operation of taxicabs, which regulations may include, and shall be limited to the following specific powers and subjects:

1. Requirement of minimum insurance, bond or other indemnity for public liability upon each taxicab; and if other than standard insurance be permitted, requirement and specifications of terms and conditions under which such other indemnity shall be accumulated, held, maintained, managed, and disposed of to secure persons in whose favor any liability shall arise out of the operation of taxicabs;

2. Requirement of minimum standards of mechanical condition and efficiency of any vehicle used as a taxicab, together with the power to require inspections to insure compliance therewith;

3. Restriction of the loading of taxicabs to specified zones or localities; including the power to prohibit and punish “cruising” and the making of such other rules governing the manner of operation of taxicabs as the public safety may require;

4. Determination, establishing, and enforcement of maximum and/or minimum rates and charges to be made by taxicabs for the transportation of passengers; including, but not requiring, the establishment of zones as the basis of such rates, or the requirement of taximeters as the basis of calculating such charges;

5. Requirement of municipal license for the operation of each taxicab; together with the right to levy and exact an annual fee therefor, and the right to revoke, cancel and thereafter refuse to reissue such license for failure to comply with or for infractions of regulations promulgated pursuant to this section. The granting of any license may be made dependent upon the holding of a certificate of convenience and necessity issued by the municipality, if such certificates are provided as authorized by paragraph 6 of this section; and

6. Requirement for the holding of a certificate of convenience and necessity as a condition precedent to the issuance and holding of a municipal license for the operation of a taxicab; including the power to issue, deny, suspend and revoke such certificates. Added by Laws 1977, c. 256, § 22-118, eff. July 1, 1978.

### §11-22-119. Regulation of railway and freight operations within municipal limits.

The municipal governing body may regulate levees, depots, depot grounds, and places of storing freight and goods, and provide for the passage of railways through the streets and public grounds of the municipality. The governing body may also regulate the crossing of railway tracks and the running of railway engines, cars and trucks within the limits of the municipality, and to govern the speed thereof, and to make provisions, rules and restrictions to prevent accidents at crossings and on the tracks of railways and to prevent fires from engines. Laws 1977, c. 256, § 22-119, eff. July 1, 1978.

### §11-22-120. Public health, hospitals, quarantine, and environmental hazards.

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A. The municipal governing body may enact and enforce such ordinances, rules and regulations as it deems necessary for the protection of the public health, not inconsistent with state law; and may establish and regulate hospitals, and provide for their operation and support. The governing body may make regulations to prevent the introduction of contagious diseases into the municipality and may enforce quarantine laws within five (5) miles of the municipal limits.

B. If the Department of Environmental Quality notifies a municipality in writing that certain vacant property presents an extraordinary environmental hazard to public health and safety, the municipal governing body is authorized to enact special ordinances restricting occupancy and use of the vacant buildings, vacant structures or land as necessary to protect against the extraordinary environmental hazard. This includes, but is not limited to, the authority to restrict occupancy or use by classes of persons who may be especially vulnerable to the environmental hazard. The municipal governing body is further authorized to restrict occupancy or use, by children or other especially vulnerable classes of persons, of property in areas or at locations with contamination by lead or other hazardous substances to such a degree that normal health and welfare of members of the class are at significant risk. Added by Laws 1977, c. 256, § 22-120, eff. July 1, 1978. Amended by Laws 2001, c. 352, § 1, emerg. eff. June 1, 2001.

### §11-22-121. Nuisances.

The municipal governing body may declare what shall constitute a nuisance, and provide for the prevention, removal and abatement of nuisances. Added by Laws 1977, c. 256, § 22-121, eff. July 1, 1978.

### §11-22-122. Trees.

The municipal governing body may enact ordinances for the purpose of regulating, planting and maintaining trees in the streets, avenues or public grounds of the municipality. Planting and maintaining trees may also be petitioned for in the manner provided for petitioning sidewalks; and the governing body may make assessments and collect taxes in order to pay for planting and maintaining trees in the manner provided for sidewalk assessments and taxes. Laws 1977, c. 256, § 22-122, eff. July 1, 1978.

### §11-22-123. Vagrancy.

The municipal governing body may provide by ordinance for the arrest, fine, and imprisonment of vagrants. Laws 1977, c. 256, § 22-123, eff. July 1, 1978.

### §11-22-124. Commercial development projects, market houses and marketplaces - Municipal buildings.

The municipal governing body may purchase ground for, erect, establish, operate, and regulate retail or commercial redevelopment projects, market houses, and marketplaces. The governing body may contract with any person, company, or corporation for the erection, operation, and maintenance of such redevelopment projects, market houses, and marketplaces on terms and conditions and in such manner as may be necessary and proper pursuant to the authority granted to it by the Constitution and laws of this state to protect and preserve such projects and markets for the benefit of the municipality and its citizens. The municipal governing body may raise all necessary revenue therefor. The governing body may also provide for the

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erection and operation of any and all necessary buildings for the municipality. Amended by Laws 1984, c. 126, § 47, eff. Nov. 1, 1984.

§11-22-125. Gifts to institutions in state system of higher education or to school districts.

The municipal governing body may make gifts of any real estate belonging to the municipality to any institution in The Oklahoma State System of Higher Education or to any school district, which is located in the municipality. The municipal governing body may purchase or otherwise acquire real estate for this purpose, execute any instruments necessary for the transfer of real estate, and may give buildings or monies for the construction of buildings to institutions in the state system of higher education or any school district in this state. The governing boards of such institutions or school districts are hereby authorized to accept these gifts. Laws 1977, c. 256, § 22-125, eff. July 1, 1978; Laws 1991, c. 313, § 3, eff. Sept. 1, 1991.

§11-22-126. Participation in federal programs.

The municipal governing body may receive funds for and participate in any federal program, and may cooperate with the United States Government and any agency or instrumentality thereof, in the manner authorized and provided by federal law and regulation. In doing so, a municipality may perform all necessary functions and take all necessary actions for accomplishing such federal purposes and programs, as agent of the federal government, notwithstanding any provisions of state law. Laws 1977, c. 256, § 22-126, eff. July 1, 1978.

§11-22-127. Establishing residency requirements.

The municipal governing body by ordinance may designate which appointed officers and employees shall reside within the municipality; but police officers, firefighters and other municipal employees need not be actual residents of the municipality where they are employed in municipalities of five thousand (5,000) population or more, according to the latest federal census. Laws 1977, c. 256, § 22-127, eff. July 1, 1978.

§11-22-128. Authority for public improvements - Borrowing money - Bond issues.

The governing body of any municipality may provide for making any and all improvements of a general nature in the municipality and may from time to time borrow money and issue bonds for the purpose of paying for such improvements. No such money shall be borrowed or bonds issued until the governing body is instructed to do so by a vote of at least three-fifths of the registered voters voting on the question at any election held in the municipality, unless otherwise provided by the Constitution and laws of Oklahoma. If the purpose of the bonds includes paying for conservation easements, the question voted on by the voters of the municipality issuing such bonds shall reflect such purpose, but need not specify the legal description or location of the property to be affected by such easements, unless such legal description or location is known prior to the election. Any conservation easements executed pursuant to this section shall not restrict or prohibit any existing recreational uses permitted by the landowner, including, but not limited to, hunting and fishing. A conservation easement shall not be executed in any location that will restrict or in any way modify an existing use, easement, or zoning ordinance that relates to military installations of this state and/or to any zoning ordinances adopted pursuant to Section 43-101.1 of this title. If a municipality fails to negotiate a purchase of a conservation easement from a landowner, the use of eminent domain by a municipality shall be prohibited to secure such easement. Bonds issued under this section shall

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be payable not more than twenty-five (25) years from the date of their issue, with interest thereon at a rate not exceeding a maximum rate established by law. The governing body shall provide for taxes to pay the bonds at their maturity, and their interest coupons as they respectively become due. Added by Laws 1977, c. 256, § 22-128, eff. July 1, 1978. Amended by Laws 1983, c. 170, § 13, eff. July 1, 1983; Laws 2006, c. 307, § 1, eff. Nov. 1, 2006.

§11-22-129. Tax warrants against lots for special assessments or for abatement of public nuisance.

A. Where municipal improvements of any character are made by special assessments upon the abutting lots, or upon blocks, or where a special assessment may be created by ordinance for the direct benefit of a limited locality in a municipality, the governing body may issue a tax warrant against each separate abutting lot, in the manner provided by law, which shall be a valid lien on the lot and shall be extended, collected and bear a like penalty with other taxes of the state, county or municipality.

B. Where a municipality has abated any public nuisance in accordance with state law or municipal ordinance, the governing body may issue a tax warrant against each separate lot that was actually abated, in the manner provided by law, which shall be a valid lien on the lot and shall be extended, collected and bear a like penalty with other taxes of the state, county or municipality. Added by Laws 1977, c. 256, § 22-129, eff. July 1, 1978. Amended by Laws 2003, c. 454, § 1, emerg. eff. June 6, 2003.

§11-22-130. Reassessments for void or illegal assessments.

When a municipal governing body has attempted to levy any assessment for improvements which may have been informal, illegal or void for want of sufficient authority or other cause, the governing body of the municipality shall reassess any such assessment in the manner provided by law. Laws 1977, c. 256, § 22-130, eff. July 1, 1978.

§11-22-131. Municipal records - Destruction, sale or disposition after certain time limitations.

A. A municipal governing body may 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 issuances;

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;

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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.

None of the above-mentioned records, papers or documents pertaining to pending litigation shall be disposed of until such litigation is finally terminated. This section shall not be construed to authorize or allow the destruction of any testing laboratory results or the inspection records of public improvements of a municipality.

B. Time limits for the destruction, sale, or other disposition of municipal papers, documents and records which are not mentioned in subsection A of this section may be determined and set by ordinance or resolution of the municipal governing body. Added by Laws 1977, c. 256, § 22-131, eff. July 1, 1978. Amended by Laws 1982, c. 166, § 1; Laws 1987, c. 173, § 3, eff. Nov. 1, 1987; Laws 1990, c. 83, § 1, eff. Sept. 1, 1990; Laws 1996, c. 83, § 1, eff. Nov. 1, 1996.

§11-22-132. Authority to have records photographed or reproduced on film or stored on optical disk - Original record - Storage.

A. The head of any municipal department, commission, bureau or board may have any or all records kept by the official, department, commission, bureau or board photographed, microphotographed, photostated, reproduced on film or stored on optical disk. Such film or reproducing material shall be of durable material and the device used to reproduce such records on film or other material shall be such as to accurately reproduce and perpetuate the original records in all details.

B. The photostatic copy, photograph, microphotograph, photographic film or optical disk of the original records shall be deemed to be an original record for all purposes, and shall be admissible in evidence in all courts or administrative agencies. A facsimile, exemplification or certified copy thereof shall, for all purposes recited herein, be deemed to be a transcript, exemplification or certified copy of the original.

C. Whenever photostatic copies, photographs, microphotographs, reproductions on films or optical disks shall be placed in conveniently accessible files and provisions made for preserving, examining and using same, the head of any municipal department, commission, bureau or board may certify those facts to the municipal governing body. Following such certification, the governing body may, by ordinance or resolution, authorize the disposal, archival storage or destruction of the original records and papers before the expiration of the retention period established pursuant to Section 22-131 of this title. Added by Laws 1977, c. 256, § 22-132, eff. July 1, 1978. Amended by Laws 1990, c. 50, § 1, eff. Sept. 1, 1990; Laws 1998, c. 234, § 1, eff. Nov. 1, 1998.

§11-22-132.1. Municipal Records - Maintenance and protection - Availability.

Any officer or employee of a municipality having custody of records or other documents of the municipality shall keep and maintain such records in a manner and at a location prescribed by the governing body. Such records shall be available for use by officers and employees of the municipality as the governing body shall direct. The governing body shall establish policies and procedures to preserve and protect the records of the municipality consistent with other

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provisions of law providing for the confidentiality of such records where appropriate and the accessibility of such records for inspection by the public. Added Laws 1989, c. 255, § 2, emerg. eff. May 19, 1989.

§11-22-133. Contesting reasonableness of oil and gas drilling fee.

Any person, firm or corporation may contest the reasonableness of any fee imposed pursuant to the provisions of Section 52 of Title 17 of the Oklahoma Statutes, for the issuance of a permit for the drilling and operation of an oil and gas well or the regulation thereof, by filing a petition in the district court of the county where the governing body of such incorporated city or town is located. The court, upon hearing all the facts and circumstances relating to the imposition of the fee, shall determine the reasonableness of such fee. The court may award attorneys' fees and costs to the prevailing party. Added by Laws 1986, c. 250, § 14, emerg. eff. June 13, 1986.

§11-22-134. Purchasing or accounts payable - Approval by electronic process.

Notwithstanding any other provisions of the Oklahoma Statutes, any municipal document, other than checks, drafts or warrants, relating to purchasing or accounts payable may be approved by the municipality by an electronic process in lieu of a manual process. Added by Laws 1990, c. 176, § 1, eff. Sept. 1, 1990.

§11-22-135. National disaster leave.

A. The governing body of a municipality may grant leave with pay not to exceed fifteen (15) working days to a municipal employee who is affected by a presidentially declared national disaster in Oklahoma after May 1, 1999, if:

1. The employee suffered a physical injury as a result of the disaster;
2. A relative or household member of the employee suffered a physical injury or died as a result of the disaster; or
3. The domicile of the employee or the domicile of a relative of the employee was damaged or destroyed as a result of the disaster.

B. As used in this section:

1. "Relative of the employee" shall be limited to the spouse, child, stepchild, grandchild, grandparent, stepparent, or parent of the employee; and
2. "Household members" means those persons who reside in the same home, who have reciprocal duties to and do provide financial support for one another. This term shall include foster children and legal wards even if they do not live in the household. The term does not include persons sharing the same general house, when the living style is primarily that of a dormitory or commune.

C. The authority to grant leave with pay pursuant to subsection A of this section shall extend for a period of not more than six (6) months after the date of a presidentially declared national disaster.

D. Annual leave, sick leave, or compensatory time which was charged to a municipal employee as a result of the presidentially declared national disaster resulting from the May 3, 1999, tornadoes that would have otherwise been eligible for the leave provision in subsection A of this section, may be reinstated by the governing body. A municipal employee entitled to leave with pay pursuant to this section who was charged leave without pay shall be compensated at the base rate of pay of the employee.



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E. A governing body of a municipality may amend an existing leave sharing program or establish a leave sharing program to allow municipal employees to share sick or annual leave with municipal employees who are eligible for leave pursuant to subsection A of this section. The disaster-related leave sharing plan shall be subject to the following conditions:

1. An employee eligible for disaster-related leave may receive up to fifteen (15) days donated leave;
2. The donated leave must be used for disaster-related injuries or matters;
3. The eligible employee shall not be required to take or exhaust any of the employee's regular sick, personal, or emergency leave in order to receive donated leave;
4. Donated leave may be used to reinstate regular emergency, sick, or personal leave an employee used after May 1, 1999, for disaster-related injuries or matters;
5. An eligible employee who was required to take leave without pay for disaster-related injuries or matters may be compensated for up to fifteen (15) days if leave is donated to cover the leave without pay; and
6. The municipality may require documentation to support a request to use donated leave pursuant to this section. Added by Laws 1999, c. 306, § 4, eff. July 1, 1999.

§11-22-136. Intangible property held for owner or apparent owner by municipality or municipal public trust - Abandonment - Notice - Definitions.

A. Except as provided by other provisions of Title 11 of the Oklahoma Statutes governing disposition of certain specific types of intangible property, any intangible property held for the owner or apparent owner by a municipality or a municipal public trust that remains unclaimed by the owner or apparent owner for one (1) year or more after becoming payable or distributable is presumed abandoned and shall be disposed of as provided by subsection B of this section.

B. Intangible property presumed abandoned pursuant to the provisions of subsection A of this section shall be disposed of by the municipality or municipal public trust as follows:

1. a. The municipality or municipal public trust shall mail written notice to the owner or apparent owner at his or her last-known address stating that the intangible property shall be paid over to the municipality or municipal public trust unless the owner or apparent owner files a claim therefor with the clerk of the municipality or with the secretary of the municipal public trust, as applicable, within two (2) years of the date of the notice.
- b. If the address of the owner or apparent owner is unknown, or the mailed notice required by subparagraph a of this paragraph is returned as undeliverable, the municipality or municipal public trust shall publish such notice two (2) times in a newspaper of general circulation within the county where the principal offices of the municipality or municipal public trust are located; and
2. If the intangible property is not claimed by the owner or apparent owner within two (2) years of the latest date of the mailed or published notice, as provided in paragraph 1 of this subsection, then the claim of such owner or apparent owner shall be extinguished and the property shall be disposed of as may be determined and directed by the municipal governing body or by the trustees of the public trust, as applicable.

C. As used in this section:

1. "Apparent owner" means the person whose name appears on the records of the municipality or municipal public trust as the person entitled to intangible property held, issued, or owning by the municipality or municipal public trust;

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2. “Intangible property” means money, warrants, checks, drafts, deposits, interest, dividends, income, credit balances, customer overpayments, security deposits, refunds, credit memos, unpaid wages, unused airline tickets, unidentified remittances and other similar personal property;

3. “Last-known address” means a description of the location of the owner or apparent owner sufficient for the purpose of the delivery of mail;

4. “Municipal public trust” means any public trust of which one or more municipalities are the sole beneficiary or beneficiaries; and

5. “Owner” means a depositor in the case of a deposit, a beneficiary in case of a trust other than a deposit in trust, a creditor, claimant, or payee in the case of other intangible property, or a person having a legal or equitable interest in property subject to this act, or his or her legal representative. When used in this section, the term “owner” shall encompass both a single owner or multiple owners. Added by Laws 2002, c. 119, § 1, eff. Nov. 1, 2002.

### §11-22-137. Denial of excess leave due to extraordinary circumstances - Compensation.

If a municipal employee whose job duties include providing fire protection services or law enforcement services is unable to use excess leave in the time frame allowed by the municipality because the employee’s request for leave is denied by the municipality and the denial of leave is due to extraordinary circumstances such that taking leave could pose a threat to public safety, health or welfare, the employee shall receive compensation at the employee’s regular rate of pay for the amount of excess leave the employee is unable to use. Such compensation shall be paid at the end of the time period during which the excess leave was required to have been used. Added by Laws 2006, c. 230, § 1, eff. July 1, 2006.

### §11-22-138. Municipal collection agency contracts.

A. The governing body of a municipality may enter into a contract with a collection agency for the provision of collection services for one or more of the following items:

1. Debts and accounts receivable including, but not limited to, unpaid fees, penalties, interest, and other sums due the municipality, as applicable; or

2. Court penalties, costs, fines and fees in cases in municipal court in which the accused has failed to appear or otherwise failed to satisfy a monetary obligation ordered by the court.

B. A governing body of a municipality that enters into a contract with a collection agency pursuant to this section may authorize the addition of a collection fee in an amount not to exceed thirty-five percent (35%) on each item described in subsection A of this section that has been referred by the municipality to the collection agency for collection. If a municipality enters into such contract with a collection agency and authorizes the collection fee, the court shall order defendants to reimburse the fee arising pursuant to paragraph 2 of subsection A of this section and such court-ordered fee may be collected as provided by law for the collection of any other civil debt or criminal action. Added by Laws 2009, c. 258, § 1, emerg. eff. May 22, 2009.

### §11-22-139. Designating personnel to attend armed security guard training program or reserve peace officer certification program.

A. The city council or board of trustees for a city or municipality may, through a majority vote of the council or board, designate city or municipality personnel who have been issued a handgun license pursuant to the Oklahoma Self-Defense Act to attend an armed security guard training program, as provided for in Section 1750.5 of Title 59 of the Oklahoma Statutes, or a

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reserve peace officer certification program, as provided for in Section 3311 of Title 70 of the Oklahoma Statutes, provided and developed by the Council on Law Enforcement Education and Training (CLEET). Nothing in this section shall be construed to prohibit or limit the city council or board of trustees of a city or municipality from requiring ongoing education and training.

B. Participation in either the armed security guard training program or the reserve peace officer certification program shall be voluntary and shall not in any way be considered a requirement for continued employment with the city or municipality. The city council or board of trustees of a city or municipality shall have the final authority to determine and designate personnel who will be authorized to obtain and use an armed security guard license or reserve peace officer certification in conjunction with their employment as city or municipality personnel.

C. The city council or board of trustees of a city or municipality that authorizes personnel to participate in either the armed security guard program or the reserve peace officer program may pay all necessary training, meal and lodging expenses associated with the training.

D. When carrying a firearm pursuant to this act, the person shall at all times carry the firearm on his or her person or the firearm shall be stored in a locked and secure location.

E. Any city or municipality personnel who have successfully completed either training and while acting in a reasonable and prudent manner shall be immune from civil and criminal liability for any injury resulting from the carrying of a handgun onto city or municipality property as provided in this act. Any municipality, city council, board of trustees or participating local law enforcement agency shall be immune from civil and criminal liability for any injury resulting from any act committed by the city or municipality personnel who are designated to carry a concealed handgun on public city or municipality property pursuant to the provisions of this act.

F. In order to carry out the provisions of this section, the city council or board of trustees of a city or municipality is authorized to enter into a memorandum of understanding with local law enforcement entities. Added by Laws 2019, c. 355, § 1, eff. Nov. 1, 2019.

### ARTICLE XXVII COURTS

§11-27-101. Creation of municipal court not of record.

A municipality may create a Municipal Court, as provided in this article, which shall be a court not of record. This court may be created in addition to a Municipal Criminal Court of Record. References in Sections 27-101 through 27-131 of this title to the municipal court shall mean the municipal court not of record established under the authority of the provisions of this article. Laws 1977, c. 256, § 27-101, eff. July 1, 1978.

§11-27-102. Resolution of governing body.

Before a municipal court not of record may be put into operation, the municipal governing body shall determine by resolution that the efficient disposition of cases involving the violation of municipal ordinances necessitates putting the court into operation. The governing body shall cause a certified copy of the resolution to be filed in the office of the county clerk of each county in which the municipality is located. The resolution and the filing thereof shall be judicially noticed in all courts of this state. Amended by Laws 1988, c. 21, § 1, eff. Nov. 1, 1988. d

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### §11-27-103. Jurisdiction.

The municipal court shall have original jurisdiction to hear and determine all prosecutions wherein a violation of any ordinance of the municipality where the court is established is charged. Laws 1977, c. 256, § 27-103, eff. July 1, 1978.

### §11-27-104. Judges.

A. The number of judges for each municipal court shall be determined by the governing body of the municipality where the court is established. The judge of each municipal court shall be appointed by the mayor of the municipality where the court is established, with the consent of the municipal governing body. The judge of any municipal court shall be licensed to practice law in Oklahoma, except as provided for in subsections B and C of this section. He shall serve for a term of two (2) years, said term expiring on a date fixed by ordinance, and until his 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. Except in cities with a population of more than two hundred thousand (200,000), nothing in the provisions of this section shall be construed to prevent the judge from engaging in the practice of law in any other court during his tenure of office. The judge shall be paid a salary to be fixed by the municipal governing body. He shall be paid in the same manner as other municipal officials.

B. In any municipality with a population of less than seven thousand five hundred (7,500), the mayor, with the consent of the governing body of the municipality, may appoint as judge:

1. An attorney licensed to practice law in Oklahoma, who resides in the county in which the municipality is located or in an adjacent county; or
2. An attorney licensed to practice law in Oklahoma who maintains a permanent office in the municipality; or
3. Any suitable person who resides in the county in which the municipality is located or in an adjacent county.

C. In any municipality with a population of seven thousand five hundred (7,500) or more, if no attorney licensed to practice law in Oklahoma resides in the county or in an adjacent county in which the municipality is located, who is at the time of appointment willing to accept the appointment as judge, the mayor, with the consent of the governing body of the municipality, may appoint any suitable and proper person as judge.

D. If the judge of the municipal court is not a licensed attorney and has not complied with the education requirements pursuant to subsection F of this section and the education requirements pursuant to Section 18-101 of Title 47 of the Oklahoma Statutes, the trial shall be to the court, and the court may not impose a fine of more than Fifty Dollars (\$50.00), and may not order the defendant imprisoned except for the nonpayment of fines or costs or both.

E. If the judge of the municipal court is not a licensed attorney but has complied with the education requirements of subsection F of this section and the education requirements pursuant to Section 18-101 of Title 47 of the Oklahoma Statutes, the maximum fine that may be imposed shall be Five Hundred Dollars (\$500.00).

F. In order to impose the fine authorized by subsection E of this section, a nonlawyer judge must, within a period not to exceed the preceding reporting period in this state for mandatory continuing legal education, complete courses held for municipal judges which have been approved by the Oklahoma Bar Association Mandatory Legal Education Commission for at least six (6) hours of continuing education credit. Verification may be made by a statement of

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attendance signed by the course registration personnel. Added by Laws 1977, c. 256, § 27-104, eff. July 1, 1978. Amended by Laws 1982, c. 157, § 2; Laws 1983, c. 293, § 2, operative Oct. 1, 1983; Laws 1984, c. 32, § 1, eff. Nov. 1, 1984; Laws 1996, c. 245, § 1, eff. Nov. 1, 1996; Laws 2004, c. 173, § 2, eff. Nov. 1, 2004; Laws 2005, c. 386, § 2, eff. Nov. 1, 2005.

§11-27-105. Prohibition on change of venue - Disqualification of judge.

A. No change of venue shall be allowed from any municipal court, but the judge of the municipal court may be disqualified under the same terms and conditions as are now provided by law for courts of record.

B. In the event of an ethical disqualification by a municipal judge, the senior municipal judge may appoint, on a case-by-case basis, a sitting municipal judge in another municipality within the same county or an adjacent county to act as a special judge for the purposes of hearing the case. Added by Laws 1977, c. 256, § 27-105, eff. July 1, 1978. Amended by Laws 2012, c. 54, § 1, emerg. eff. April 16, 2012.

§11-27-106. Acting judge - Alternate judge - Compensation.

In the event of disqualification of the judge in a particular case, or his absence or inability to act, the mayor of the municipality may appoint some person, qualified as provided in Section 27-104 of this title, as acting municipal judge of the court in the place of the judge during his absence or inability to act or in a case wherein the judge is disqualified; or, in its discretion, the municipal governing body may provide by ordinance for the appointment of an alternate judge of the court, in the same manner and for the same term as the judge and possessing the qualifications prescribed by Section 27-104 of this title, who shall sit as acting judge of the court in case of the absence, inability or disqualification of the judge. If both the judge and the alternate judge are unable to sit, the mayor may appoint an acting judge as provided in this section. The municipal governing body, by ordinance, shall provide for the compensation of an acting judge of the court. Laws 1977, c. 256, § 27-106, eff. July 1, 1978.

§11-27-107. Vacancies in office of judge.

Vacancies in the office of the judge of any municipal court shall be filled in the same manner as provided for the appointment of the judge in the first instance. Laws 1977, c. 256, § 27-107, eff. July 1, 1978.

§11-27-108. Municipal attorney as prosecutor.

The municipal attorney of each municipality where a municipal court is established 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. Amended by Laws 1984, c. 126, § 53, eff. Nov. 1, 1984.

§11-27-109. Clerk of court - Duties.

The municipal clerk of any municipality where a municipal court is established, or a designated deputy shall be the clerk of the municipal court unless the governing body establishes or authorizes a position of chief municipal court officer to serve as court clerk.

Appendix 10 – State Laws

The court clerk shall have authority to carry out the duties of the position as required by law; provided, that the person who serves as court clerk may separately perform other duties for the municipality. 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 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. Added by Laws 1977, c. 256, § 27-109, eff. July 1, 1978. Amended by Laws 1991, c. 124, § 15, eff. July 1, 1991; Laws 1995, c. 166, § 2, emerg. eff. May 4, 1995.

§11-27-110. Court marshal - Duties.

The municipal governing body, upon the recommendation of the judge of the municipal court, may designate any appropriate person who is a resident of the municipality to serve as marshal, and in the absence of such a designation, the chief of police or corresponding officer of the municipality shall be ex officio marshal of the court. The marshal shall execute any writs and other process directed to him, except as herein otherwise provided, and such duty may be performed by any deputy marshal or by any members of the police force of the municipality, as the case may be. Laws 1977, c. 256, § 27-110, eff. July 1, 1978.

§11-27-111. Bond of clerk and judge - Form.

A. The clerk of each municipal court shall give bond to the governing body of the municipality where the court is established. The bond shall be approved by the governing body and shall be in an amount to be fixed by the governing body. The bond shall be in substance as follows:

I, \_\_\_\_\_, clerk of the Municipal Court of \_\_\_\_\_, State of Oklahoma, and \_\_\_\_\_ and \_\_\_\_\_, his sureties, do jointly and severally agree to pay on demand each and every person who may be entitled thereto, all such sums of money as the said clerk may become liable to pay, on account of any moneys which may come into his hands, by virtue of his office.

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.

\_\_\_\_\_  
(Signed)

B. The municipal governing body may provide that the judge, the alternate judge, and an acting judge, or any of them, shall give a bond to the governing body of the municipality where the court is established. If a bond is required, it shall be in an amount to be fixed by the governing body. It shall be conditioned in the same manner as the bond that is required of the clerk of the court, and it shall be approved by the governing body. Laws 1977, c. 256, § 27-111, eff. July 1, 1978.

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§11-27-111.1. Repealed by Laws 2006, c. 255, § 4, eff. Nov. 1, 2006.

§11-27-112. Fees, fines and forfeitures - Dispositions.

All of the fees, fines and forfeitures which come into the municipal court shall be paid by the clerk of the court to the municipal treasurer. The treasurer shall credit such deposits to the fund designated by the municipal governing body. The court clerk shall make a receipt for the fees, fines and forfeitures collected which shall be retained by the municipality together with a detailed statement of all costs, the style of the case in which they were paid, and the name of the defendant. The receipt and detailed statement retained by the municipality may be saved and produced in an electronic format. Added by Laws 1977, c. 256, § 27-112, eff. July 1, 1978. Amended by Laws 1984, c. 126, § 54, eff. Nov. 1, 1984; Laws 2019, c. 104, § 1, eff. Nov. 1, 2019.

§11-27-113. Procedure - Judicial notice of statutes and ordinances - Writs and process - Service of arrest warrant.

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 municipality in which it is located. Writs and processes of the court may be issued by the judge or clerk thereof 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 municipality, a county sheriff, or to some other appropriate peace officer. A law enforcement officer of the municipality 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). Amended by Laws 1982, c. 133, § 2; Laws 1984, c. 126, § 55, eff. Nov. 1, 1984; Laws 1990, c. 259, § 1, eff. Sept. 1, 1990.

§11-27-114. Rules for conduct of court business.

The judge of each municipal court may prescribe rules, consistent with the provisions of this article, for the proper conduct of the business of the municipal court. Laws 1977, c. 256, § 27-114, eff. July 1, 1978.

§11-27-115. Prosecutions by verified complaint - Style.

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 or Town) of \_\_\_\_\_ (name the municipality) vs. \_\_\_\_\_ (naming the person or persons charged)". Amended by Laws 1984, c. 126, § 56, eff. Nov. 1, 1984.

§11-27-115.1. Prosecutions by verified complaint - Means of verification.

Notwithstanding other provisions of law, when a law enforcement officer issues a citation or ticket as the basis for a complaint or information, for an offense against a municipal ordinance which is declared to be a misdemeanor, the citation or ticket shall be properly verified if:

## Appendix 10 – State Laws

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

"I, the undersigned issuing officer, 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 state, county or municipality of the State of Oklahoma issuing the citation, ticket or complaint shall be authorized to administer the oath to the complainant. Added by Laws 1992, c. 68, § 2, eff. Sept. 1, 1992.

§11-27-116. Arraignment - Fines in lieu of appearance.

The arraignment shall be made by the court. The judge or the prosecuting attorney shall read the complaint to the defendant, inform him of his legal rights and of the consequences of conviction, and ask him whether he pleads guilty or not guilty. The municipal governing body by ordinance may prescribe a schedule of fines which the defendant may pay in lieu of his appearance before the municipal court and such payment shall constitute a final determination of the cause against the defendant. Laws 1977, c. 256, § 27-116, eff. July 1, 1978.

§11-27-117. Arrests - Release by signing citation - Bail - Amount and conditions - Temporary cash bond.

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 27-117.1 of this title does not apply, or is arrested for the violation of a nontraffic ordinance, the officer shall immediately release said person if the person acknowledges receipt of a citation by signing it. Provided, however, the arresting officer need not release said person if it reasonably appears to the officer that the person may cause injury to himself or others or damage to property if released, that the person will not appear in response to the citation, or the person is arrested for an offense against a person or property. If said 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 provided for in this subsection, he shall be admitted to bail either before or after arraignment, or shall be released on personal recognizance. A municipality may prescribe a fine for up to the maximum amount authorized by courts not of record for failure of a person to have a valid driver's license when charged with a traffic violation.

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 Section 27-117.1 of this title does not apply, the defendant shall be eligible to be admitted to bail either before or after arraignment.

C. The amount and conditions of bail granted pursuant to the provisions of subsections A and B of this section shall be determined by the judge who shall prescribe rules for the receipt of bail and for the release on personal recognizance. The amount of bail for each offense shall not



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exceed the maximum fine plus court costs, unless the defendant has a previous history of failing to appear according to the terms or conditions of a bond, in which case the amount of bail shall not exceed One Thousand Dollars (\$1,000.00). In the event of arrests at night, emergencies, or when the judge is not available, a court official, the chief of police or his designated representative may be authorized by the judge, subject to such conditions as shall be prescribed by the judge, to accept a temporary cash bond in a sufficient amount to secure the appearance of the accused. The cash bond shall not exceed the maximum fine provided for by ordinance for each offense charged, unless the defendant has a previous history of failing to appear according to the terms or conditions of a bond, in which case the amount of the cash bond shall not exceed One Thousand Dollars (\$1,000.00). The court official, chief of police or his designated representative is authorized, subject to such conditions as shall be prescribed by the judge, to release a resident of the municipality on personal recognizance. Added by Laws 1977, c. 256, § 27-117, eff. July 1, 1977. Amended by Laws 1978, c. 261, § 1, eff. July 1, 1978; Laws 1984, c. 126, § 57, eff. Nov. 1, 1984; Laws 1986, c. 250, § 7, operative July 1, 1987; Laws 1997, c. 251, § 6, eff. Nov. 1, 1997.

### §11-27-117.1. Arrest for misdemeanor traffic violation other than parking or standing - Bail.

If a resident or nonresident of a municipality having a municipal court is arrested by a law enforcement officer solely for a misdemeanor violation of a traffic ordinance, other than an ordinance pertaining to a parking or standing traffic violation, and the arrested person is eligible to sign a written promise to appear and be released upon personal recognizance as provided for in Section 1115.1 of Title 22 of the Oklahoma Statutes, then the procedures provided for in the State and Municipal Traffic Bail Bond Procedure Act as applied to municipalities, shall govern. A municipality, by ordinance, may prescribe a bail bond schedule for this purpose and may provide for bail to be used as payment of the fine and costs upon a plea of guilty or nolo contendere, as provided for in Section 1115.1 of Title 22 of the Oklahoma Statutes. Absent such ordinance, the municipal court may prescribe a bail bond schedule for traffic offenses. The amount of bail shall not exceed the maximum fine and costs provided by ordinance for each offense, unless the defendant has a previous history of failing to appear according to the terms or conditions of a bond, in which case the amount of bail shall not exceed One Thousand Dollars (\$1,000.00). Added by Laws 1986, c. 250, § 8, operative July 1, 1987. Amended by Laws 1993, c. 15, § 1, eff. Sept. 1, 1993; Laws 1997, c. 251, § 7, eff. Nov. 1, 1997.

### §11-27-118. Failure to appear according to terms of bond - Forfeiture.

A. If, without sufficient excuse, a defendant fails to appear according to the terms or conditions of a bond, given by a bail bondsman as defined in Section 1301 of Title 59 of the Oklahoma Statutes, either for hearing, arraignment, trial, or judgment, or upon any other occasion when the presence of the defendant in court or before the judge may be lawfully required:

1. The court shall perform the procedures set forth in Section 1332 of Title 59 of the Oklahoma Statutes whereby the municipal court clerk shall issue the required notices; or
2. a. The municipal judge shall issue an order declaring the bond to be forfeited on the day the defendant failed to appear and stating the reasons therefor, and
- b. Within five (5) days of the order of forfeiture, the municipal court clerk shall file a certified copy of the order with the district court in the county where the municipal government is located. The district court clerk shall treat the certified

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order of forfeiture as a foreign judgment and proceed in accordance with the provisions of Section 1332 of Title 59 of the Oklahoma Statutes. A surety shall have all remedies available under the provisions of Section 1108 of Title 22 and Sections 1301 through 1340 of Title 59 of the Oklahoma Statutes.

B. Court costs shall be collectible from the proceeds of a forfeited bond. Added by Laws 1977, c. 256, § 27-118, eff. July 1, 1978. Amended by Laws 1993, c. 265, § 1, eff. July 1, 1993; Laws 1994, c. 49, § 1, eff. Sept. 1, 1994; Laws 1995, c. 166, § 3, emerg. eff. May 4, 1995.

### §11-27-119. Jury trials - Qualifications of jurors.

In all prosecutions in the municipal court for any offense for which the municipality, with the concurrence of the court, seeks imposition of a fine of more than Five Hundred Dollars (\$500.00), excluding court costs, or imprisonment, or both such fine and imprisonment, a jury trial shall be had unless waived by the defendant and the municipality, provided that the municipality has compiled its penal ordinances in accordance with the provisions of Sections 14-109 and 14-110 of this title. If the municipality has not compiled its ordinances as provided by law, the fine shall not exceed Fifty Dollars (\$50.00). In prosecutions for all other offenses, or in cases wherein a jury trial is waived by the defendant and the municipality, trial shall be to the court. A jury in the municipal court shall consist of six (6) jurors, five of whom may return a verdict. Jurors shall be good and lawful men or women, citizens of the county in which the court sits, having the qualifications of jurors in the district court. Added by Laws 1977, c. 256, § 27-119, eff. July 1, 1978. Amended by Laws 1982, c. 157, § 3; Laws 1983, c. 293, § 3, operative Oct. 1, 1983; Laws 1995, c. 61, § 1, eff. Nov. 1, 1995; Laws 1997, c. 251, § 8, eff. Nov. 1, 1997; Laws 2006, c. 38, § 1, eff. Nov. 1, 2006.

### §11-27-120. Selection and summons of jurors.

Jurors in the municipal court shall be selected pursuant to this section under the same terms and conditions as are provided for by law for the district courts, or in the alternative, pursuant to Section 18.1 of Title 38 of the Oklahoma Statutes. Upon written request of the judge of the municipal court for a stated number of jurors to the chief judge of the appropriate district court, it shall be the duty of the clerk of the district court to draw from the jury wheel a requested number of jurors in the same manner as is provided by law for the district court until the number requested, who from their addresses appear to reside within the corporate limits of the municipality, is drawn, and to prepare a list of names drawn and certify such list to the judge of the municipal court. On completion of the draw, the clerk shall immediately return to the jury wheel all names drawn which are not placed on the certified list. The judge of the municipal court shall make written request to the chief judge of the district court for a stated number of additional jurors if, after allowance of claimed statutory exemptions, the listed number is found to be insufficient. Summons of the prospective jurors shall be issued as set out by ordinance, and may be served in person by the chief of police or any member of the police force of the municipality, or may be served by the clerk of the municipal court by mail. Added by Laws 1977, c. 256, § 27-120, eff. July 1, 1978. Amended by Laws 2003, c. 225, § 1, eff. Nov. 1, 2003.

### §11-27-121. Fees and mileage of jurors and witnesses.

The municipal governing body shall determine by ordinance the fees and mileage that shall be paid to jurors and witnesses in a municipal court. However, no witness fee shall be paid to any

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police or peace officer. The jury fee and mileage due jurors and witnesses shall be paid as provided by ordinance. Laws 1977, c. 256, § 27-121, eff. July 1, 1978.

§11-27-122. Enforcement of payment of fines or costs by imprisonment - Persons unable to pay.

A. If a defendant who is financially able refuses or neglects to pay a fine or costs or both, payment may be enforced:

1. By imprisonment until the same shall be satisfied at the rate of Twenty-five Dollars (\$25.00) per day; or

2. In the same manner as is prescribed in subsection B of this section for a defendant who is without means to make such payment.

B. If the defendant is without means to pay the fine or costs, the municipal judge may direct the total amount due to be entered upon the court minutes and to be certified to the district court in the county where the situs of the municipal government is located, where it shall be entered upon the district court judgment docket and shall have the full force and effect of a district court judgment. The same remedies shall be available for the enforcement of the judgment as are available to any other judgment creditor. Added by Laws 1977, c. 256, § 27-122, eff. July 1, 1978. Amended by Laws 1980, c. 247, § 2, eff. Oct. 1, 1980; Laws 1987, c. 173, § 4, eff. Nov. 1, 1987; Laws 2004, c. 173, § 3, eff. Nov. 1, 2004.

§11-27-122.1. Execution of sentences of municipal court.

A. All sentences of imprisonment shall be executed by the chief of police of the municipality, and any person convicted of a violation of any ordinance of the municipality and sentenced to imprisonment shall be confined in the jail, farm, or workhouse of the municipality, in the discretion of the court, for the time specified in the sentence; provided, however, the court may, in lieu of imprisonment, order the defendant to engage in a term of community service without compensation. If the defendant fails to perform the required community service or if the conditions of community service are violated, the judge may impose a sentence of imprisonment, not to exceed the maximum sentence allowable for the violation for which the defendant was convicted.

B. The judge of the municipal court imposing a judgment and sentence, at the judge's discretion, is empowered to modify, reduce, suspend, or defer the imposition of a sentence or any part thereof and to authorize probation for a period not to exceed six (6) months from the date of sentence under terms or conditions as the judge may specify. Procedures relating to suspension of the judgment or costs or both shall be as provided in Section 27-123 of Title 11 of the Oklahoma Statutes. Upon completion of the terms of probation, the defendant shall be discharged without a court judgment of guilt, and the verdict, judgment of guilty, or plea of guilty shall be expunged from the record and the charge dismissed with prejudice to any further action. Upon a finding of the court that the conditions of probation have been violated, the municipal judge may enter a judgment of guilty.

C. The judge of the municipal court may continue or delay imposing a judgment and sentence for a period of time not to exceed six (6) months from the date of sentence. At the expiration of this period of time the judge may allow the municipal attorney to amend the charge to a lesser offense.

D. If a deferred sentence is imposed, an administrative fee not to exceed Five Hundred Dollars (\$500.00) may be imposed as costs in the case, in addition to any deferral fee otherwise authorized by law. Added by Laws 1987, c. 173, § 1, eff. Nov. 1, 1987. Amended by Laws 1990,

## Appendix 10 – State Laws

c. 69, § 1, eff. Sept. 1, 1990; Laws 1999, c. 412, § 2, eff. Nov. 1, 1999; Laws 2004, c. 173, § 4, eff. Nov. 1, 2004.

§11-27-122.2. Community service in lieu of fine or in conjunction with imprisonment - Violation of community service conditions.

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. Added by Laws 1989, c. 255 § 3, emerg. eff. May 19, 1989. Amended by Laws 1990, c. 69, § 2, eff. Sept. 1, 1990.

§11-27-123. Suspension of judgment or costs - Reconfinement.

Whenever any person shall be convicted in the municipal court of violating a municipal ordinance, the judge trying the cause, after sentence, may suspend the judgment or costs or both and allow the person so convicted to be released upon his own recognizance. Any person so released shall be required to report at such times and to such person or officer as the judge shall direct. The judge may cause a warrant to be issued for any person so released if it shall be made to appear to the judge that such person:

1. Has been guilty of the violation of any law after his release;
2. Is habitually associating with lewd or vicious persons; or
3. Is indulging in vicious habits.

Upon the issuance of the warrant by the judge, the person shall be delivered forthwith to the place of confinement to which he was originally sentenced and shall serve out the full term for which he was originally sentenced. Laws 1977, c. 256, § 27-123, eff. July 1, 1978.

§11-27-124. Supervision of juveniles on parole or probation.

In addition to the duties otherwise provided by law, the judge of each municipal court, or some other person designated by the governing body of the municipality where the court is established, shall be required to supervise all juveniles who are either on parole or serving probation terms or suspended sentences pronounced and adjudged by the municipal court. Laws 1977, c. 256, § 27-124, eff. July 1, 1978.

§11-27-125. Contempt of court.

The judge of each municipal court shall have power to enforce due obedience to orders, rules and judgments made by him and may fine or imprison for contempt offered to the judge while holding his court or to process issued by him in the same manner and to the same extent as the district courts of Oklahoma. Laws 1977, c. 256, § 27-125, eff. July 1, 1978.

§11-27-126. Costs and fees.

Except as provided in Section 14-111 of this title and subject to other limitations or exceptions imposed by law, the municipal governing body shall determine by ordinance the court costs and fees that may be charged and collected by the clerk of the court. Court costs shall not exceed the sum of Thirty Dollars (\$30.00) plus the fees and mileage of jurors and witnesses. The clerk of the court is authorized to charge and collect the fees as determined by the municipal

## Appendix 10 – State Laws

body. Added by Laws 1977, c. 256, § 27-126, eff. July 1, 1978. Amended by Laws 1987, c. 173, § 2, eff. Nov. 1, 1987; Laws 1999, c. 412, § 3, eff. Nov. 1, 1999; Laws 2006, c. 61, § 3, eff. July 1, 2006; Laws 2009, c. 258, § 2, emerg. eff. May 22, 2009.

§11-27-127. Prosecution for same offense in another court prohibited.

When a defendant has been in jeopardy for the same or any lesser included offense in a municipal court or district court, he shall not be prosecuted in another court for the same or a lesser included offense. Laws 1977, c. 256, § 27-127, eff. July 1, 1978; Laws 1980, c. 247, § 3, eff. Oct. 1, 1980.

§11-27-128. Writs of mandamus, prohibition and certiorari.

The district court in each county wherein a municipal court is established shall have the same jurisdiction to issue to the municipal court writs of mandamus, prohibition and certiorari as the Supreme Court now has to issue such writs to courts of record. Laws 1977, c. 256, § 27-128, eff. July 1, 1978.

§11-27-129. Appeals.

A. An appeal may be taken from a final judgment of the municipal court by the defendant by filing in the district court in the county where the situs of the municipal government is located, within ten (10) days from the date of the final judgment, a notice of appeal and by filing a copy of the notice with the municipal court. In case of an appeal, a trial de novo shall be had, and there shall be a right to a jury trial if the sentence imposed for the offense was a fine of more than Five Hundred Dollars (\$500.00), plus costs, fees, and assessments.

B. Upon conviction, at the request of the defendant, or upon notice of appeal being filed, the judge of the municipal court shall enter an order on the docket fixing an amount in which bond may be given by the defendant, in cash or sureties for cash in an amount of not less than One Hundred Dollars (\$100.00) nor more than twice the amount of such fine. Bond shall be taken by the clerk of the court wherein judgment was rendered. Any pledge of sureties must be approved by a judge of the court.

C. Upon appeal being filed the judge shall within ten (10) days thereafter certify to the clerk of the appellate court the original papers in the case. If the papers have not been certified to the appellate court, the prosecuting attorney shall take the necessary steps to have the papers certified to the appellate court within twenty (20) days of the filing of the notice of appeal, and failure to do so, except for good cause shown, shall be grounds for dismissal of the charge by the appellate court, the cost to be taxed to the municipality. The certificate shall state whether or not the municipal judge hearing the case was a licensed attorney in Oklahoma.

D. All proceedings necessary to carry the judgment into effect shall be had in the appellate court. Added by Laws 1977, c. 256, § 27-129, eff. July 1, 1978. Amended by Laws 1980, c. 247, § 4, eff. Oct. 1, 1980; Laws 1982, c. 157, § 4; Laws 1983, c. 293, § 4, operative Oct. 1, 1983; Laws 1995, c. 61, § 2, eff. Nov. 1, 1995; Laws 1997, c. 251, § 9, eff. Nov. 1, 1997; Laws 2004, c. 363, § 1, eff. Nov. 1, 2004; Laws 2015, c. 2, § 1, eff. Nov. 1, 2015.

NOTE: Laws 2004, c. 173, § 5 repealed by Laws 2005, c. 386, § 5, eff. Nov. 1, 2005.

§11-27-130. District attorney to defend appeals in certain cases.

The district attorney, and his assistants, shall defend any appeal from a municipal court in his district that has no municipal attorney who is paid a salary in excess of a rate of Three

## Appendix 10 – State Laws

Thousand Six Hundred Dollars (\$3,600.00) per annum. Laws 1977, c. 256, § 27-130, eff. July 1, 1978. d

§11-27-131. Orders relative to procedures and practices by Supreme Court.

The Supreme Court is authorized to issue orders of statewide application relative to procedures in and practices before the municipal courts and appeals therefrom, subject to the provisions of this article, and under its general superintending control of all inferior courts, shall have the power and authority by and through the Chief Justice of the Supreme Court, to call annual conferences of the judges of the municipal courts of Oklahoma to consider matters calculated to bring about a speedier and more efficient administration of justice. Laws 1977, c. 256, § 27-131, eff. July 1, 1978.

§11-27-132. Appeal to Court of Criminal Appeals.

An appeal may be taken to the Court of Criminal Appeals from the final judgment or order of a district court in an appeal from a final judgment of a municipal court in the same manner and to the same extent that appeals are taken from a district court to the Court of Criminal Appeals. Added by Laws 1978, c. 248, § 1, eff. July 1, 1978.

**APPENDIX 11**

**ATOKA CITY INDUSTRIAL DEVELOPMENT AUTHORITY**

Article I	Creation, Name and Duration
Article II	Terms, Phrases and Definitions
Article III	Trust Uses and Purposes
Article IV	The Trustees
Article V	Additional Powers and Duties of the Trustees
Article VI	Termination of Trust
Article VII	Miscellaneous Trust Provisions
Article VIII	Acceptance

KNOW ALL MEN BY THESE PRESENTS:

THIS TRUST INDENTURE AND AGREEMENT created, made and entered into on and effective this 3rd day of October, 1994, by and between Martha Yates, Steven Smith, Charles McCall, J. R. Caton, Bill Miller and Richard E. Mayfield, hereinafter referred to as the Trustors, and Robert Cates, John T. Richard, Charles McCall, J. R. Caton and Bill Miller, and their respective successors in office, hereinafter referred to as the Trustees of this, the Atoka City Industrial Development Authority Trust;

FOR AND IN CONSIDERATION of the sum of ten dollars (\$10.00) and other property this day transferred or paid and delivered, in trust, by Trustors to Trustees, the receipt of which is hereby acknowledged by Trustees, and in consideration of the mutual covenants herein, the provisions hereof, such additional property as Trustees, as such Trustees, may hereafter from time to time acquire from Trustors or others, and other good and valuable lawful and sufficient consideration, the receipt of which is by Trustees hereby acknowledged conveyed, transferred and delivered;

TO HAVE AND TO HOLD such property and any and all income, increase, profits and/or proceeds thereof and the entirety of the Trust Estate unto Trustees, and their successors, but always and nevertheless in Trust for the use and benefit of the Beneficiary, the City of Atoka, Oklahoma, a municipal corporation, subject to and upon the uses, trusts, terms and conditions below provided;

WITNESSETH:

**ARTICLE I**  
**CREATION, NAME AND DURATION**

1.01 The Trustors hereby declare and establish this Trust, a public trust for the Beneficiary's use and benefit, and for the uses and purposes below set forth, under and pursuant to the Act and other laws of the state for such cases made and provided.

8/01/2020

## Appendix 11 – Atoka City Industrial Development Authority

1.02 The name of this Trust shall be “The Atoka City Industrial Development Authority Trust”, hereinbelow also referred to as “Trust” or “this Trust”.

1.03 Insofar as practical, unless prohibited by law, the Trustees shall carry out the uses and purposes of this Trust, exercise their powers and authorities, execute all instruments and paper, and otherwise conduct and perform their business, duties and functions required herein, in and/or under said Trust name and/or the name “Atoka City Industrial Development Authority” and/or its abbreviation, “ACIDA”.

1.04 This Trust’s duration shall be co-extensive with that of its Beneficiary and/or for so long as said Beneficiary or successor thereof remains in existence, and until such time as its purposes shall have been completely fulfilled, or until it shall be terminated as below provided in Article VI hereof.

### ARTICLE II TERMS, PHRASES AND DEFINITIONS

2.01 Unless the context clearly indicates otherwise, the following words and/or expressions herein shall have and be construed and interpreted as having the meanings ascribed thereto:

(a) “Acquire”: to, howsoever in any manner, acquire and/or use, enjoy, possess, have, hold, receive, accept, assume, reduce to possession, and/or obtain by way of contract, donation, gift, bequest, devise, grant, loan, purchase, lease, let, rent, foreclosure, transfer in lieu of foreclosure, conversion from another form of property, condemnation, conveyance and/or other transfer and/or otherwise obtain or acquire.

(b) “Act”: State Public Trust Act, 60 D.S.A. §§ 176 et seq.

(c) “Beneficiary”: The City, and its successors.

(d) “By-Laws”: The rules, regulations and other by-laws as duly, from time to time, adopted and/or amended by the Trustees.

(e) “Industrial Development”: to, howsoever in any manner, own, acquire, dispose of, finance, improve, operate, pledge, utilize, and/or otherwise deal in and/or with any and all lands, buildings, facilities, utilities, machinery, equipment and/or other property, or part thereof, intended and/or set aside and/or used for or in relation to, and/or otherwise associated with the use by anyone or more Governmental Units, Entities or other Persons for business, industry, business and/or industrial purposes, and the like, and/or the development thereof, located or situated, or principally located or situated, within the geographical boundaries of Atoka County, Oklahoma.

(f) “Industrial functions”: All property, facilities, appurtenances, utilities, services, events and/or functions relating, pertaining, ancillary and/or incidental to industrial development.

(g) “City”: City of Atoka Oklahoma, a Municipal Corporation.

(h) “City Council”: The governing board of the City.

(i) “Dispose of”: To, howsoever in any manner, donate and/or give, grant, abandon, forfeit, waive, bargain, convey, pledge, lease, let, rent, transfer, sell, and/or otherwise dispose of and/or cause or allow another person to acquire.

(j) “Entity”: Anyone or more, and/or any combination of, any form of venture, association, operation, sole proprietorship, partnership, co-adventure, private and/or business and/or public trust, syndicate, corporation or other similar entity.

(k) “Finance”: To acquire, operate, dispose of, furnish, arrange, contract respecting,

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and/or otherwise howsoever in any manner deal in and/or with funds, money, and/or things of value.

(l) “Governmental unit”: The state, The United States, and/or any political division and/or subdivision, unit, board, agency, department, facility, authority, trust, and/or instrumentality thereof and/or any association and/or combination thereof.

(m) “Howsoever in any manner”: In whole and/or in part, by action or inaction, directly or indirectly and/or by agent, publicly or privately and/or with or without bid and/or appraisal, and/or otherwise in any method and/or manner whatsoever.

(n) “Improve”: To, howsoever in any manner, propose and/or plan, design, develop, implement, plant, place, revise, change, alter, modify, enlarge, extend, scrape, dig, trench, excavate, bury, tunnel, affix, create, raise, construct, erect, build, install, equip, furnish, hold, store, maintain, raze, destroy, eliminate, remove, improve and/or similarly deal in and/or with.

(o) “Majority vote” of the Trustees (or similar expression): by the affirmative vote of (at least) three (3) Trustees.

(p) “Operate”: To, howsoever in any manner, acquire and/or dispose of, improve, utilize, invest (and/or reinvest, keep invested or not), hold, use, administer, administrate, supply, provide, arrange, manage, control, maintain, furnish, regulate and/or otherwise operate and/or similarly deal in and/or with.

(q) “Person”: Any entity, governmental unit, individual, other natural or legal person, and/or any combination thereof.

(r) “Pledge”: To, howsoever in any manner, finance, encumber, hypothecate, mortgage, pledge and/or otherwise make, create, cause, suffer and/or allow a lien or other security interest in.

(s) “Professional Services”: Any, all, and/or any combination of, services of a professional or quasi-professional type or nature whatsoever, including but not limited to banking, accounting, financial, securities, investments, bonding, debt service, management, improvement, operation, insurance, promotion, legal, advertisement, drafting, architectural, engineering, mechanical, utilities, acquisition and/or other similar services.

(t) “Property”: Any and all money and/or funds, negotiable and/or non-negotiable instruments and/or paper, accounts, stocks, bonds, investments, insurance policies, reckonings, chattels, real and/or personal, intellectual, tangible, intangible, mixed and/or other property, items, goods, documents, rights, titles, interests, claims, demands, choses in action, privileges, powers, leases, franchises, immunities, contracts, benefits or thing of value and/or any instruments, documents and/or evidences thereof.

(u) “State”: The State of Oklahoma.

(v) “Trust Estate”: Cash in the sum of \$10.00 from the Trustors, and all other property acquired by the Trustees as Trustees.

(w) “Trust Paper”: Any, all, and/or combination of, notes, bonds, debentures, finance documents and/or other item, document, thing and/or instrument of and/or evidencing or representing any debt, indebtedness and/or other similar obligation of the Trust.

(x) “Utilize”: To, howsoever in any manner, use, acquire, operate, improve, finance, arrange and/or contract, pay, compensate, have available and/or otherwise utilize.

2.02 Furthermore, unless the contrary clearly appears from accompanying text: the singular includes the plural, and the plural includes the singular; pronouns include the female, male or neuter; and, extensions and/or conjugations of a word shall carry the same general import and/or

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meaning as the base word.

ARTICLE III  
TRUST USES AND PURPOSES

The uses and purposes of this Trust are:

3.01 To acquire, finance, improve, operate, utilize, pledge, dispose of and/or otherwise deal in and/or with: the Trust Estate; Trust Paper; and/or one or more Industrial Developments and/or Industrial Functions.

3.02 To acquire, finance, improve, operate, utilize, pledge, dispose of and/or otherwise deal in and/or with any public works, improvements, facilities, activities, business, occupation and/or functions which is/are not now or hereafter prohibited by the Act.

3.03 To do and/or engage in any other use, action, activity, business, trade, occupation and/or function as any corporation and/or private trust organized and existing under the laws of the State which is/are not now or hereafter prohibited by the Act.

3.04 To utilize and dispose of all funds and other property acquired by the Trustees, principal and/or revenue and/or income and/or otherwise, for the payment and/or other satisfaction of any debt and/or obligation incurred and/or created by the Trustees for any of the purposes specified herein and/or otherwise properly chargeable against the Trust Estate, and to carry on any and all activities reasonably necessary and/or convenient to accomplish any or all of such uses or purposes.

3.05 To acquire or accept contributions, donations, gifts or other transferences of property, in trust, to the Trust, from any person; or to decline so to do, in the discretion of the Trustees.

3.06 To so acquire or accept contributions, donations, gifts or other transferences of property, in trust, to the Trust, or decline so to do, upon the condition and/or with the proviso and/or agreement that the same shall be “earmarked” or otherwise similarly designated as being utilized for, or primarily for, a (or more) specified Industrial Development and/or industrial Function, provided that the same shall not otherwise restrict the utilization thereof by the Trustees within such Industrial Development and/or Industrial Function; provided further, in such events such “earmarked” property shall only be utilized by the Trustees for, in and/or otherwise in respect to such specifically designated Industrial Development and/or Industrial Function.

ARTICLE IV  
THE TRUSTEES

4.01 The Trustees of this Trust shall be the hereinabove named and hereunto subscribing Trustees; and their respective successors, which successors shall, without further act, deed or conveyance, automatically become a Trustee hereof and fully vested with all the estate, properties, rights, powers, duties and obligations of his predecessor hereunder, as if originally named as a Trustee herein.

4.02 Except for the original (hereinabove named and hereunto subscribing) Trustees, the Trustees and successors shall be appointed by the affirmative vote of a majority of the City Council. Any Trustee, and/or all or any number of Trustees, may (but need not) be a member of the City Council, concurrently or otherwise.

4.03 Each Trustee, and all the Trustees (including said original, hereinabove named and

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hereunto subscribing, Trustees) shall so serve at the pleasure of the City Council; and, hence, shall not serve for any particular time designated period or term.

4.04 The City Council shall fill any vacancies in the number of Trustees occurring due to the death or resignation of a Trustee, and/or the removal or incapacity thereof, or otherwise occurring, by the affirmative vote of a majority of the City Council.

4.05 The trustees shall not receive any compensation for the performance of their duties as such, but may be reimbursed by the Trust for their actual expenses incurred in the course thereof.

4.06 The Trustees shall act only as a body at scheduled meetings, and only when a quorum (Three (3) or more) thereof shall be present; provided, however, a smaller number may adjourn from day to day or from time to time, should a quorum not be present. Furthermore, except as otherwise herein specifically provided, all matters coming before the Trustees at such meetings shall be acted upon and/or decided by the majority vote of the Trustees.

4.07 The Trustees shall hold at least one regular meeting quarter-annually. Special or emergency meetings may be called as set forth below. Such regular and other meetings shall be held at such time and place as the Trustees shall prescribe by its calling, by the By-Laws, or otherwise by their majority vote.

4.08 The Trustees may hold and/or conduct executive sessions during regular, special or emergency meetings, upon the majority vote thereof. Such executive sessions shall be limited to the purposes of: discussing the employment, hiring, appointment, promotion, demotion, disciplining, resignation and/or similar matter relating to personnel utilized by the Trust; and/or consulting with their attorney concerning a pending investigation, claim or action, where disclosure thereof could seriously impair the Trustees' ability to process the claim and/or conduct the investigation, litigation and/or proceeding in the interests of the Trust or Beneficiary; and/or relating to condemnations; and/or any other purposes not prohibited by the Open Meeting Act of the State.

4.09 Except for such executive sessions, all meetings of the Trustees shall be open to the public, and agendas and other notices thereof had and given, in and to the same manner and extent as any similar open public meeting of the City Council.

4.10 The minutes of such meetings, journals of proceedings, and other Trust books, documents, records and archives shall be open to public inspection, in and to the same manner and extent as any similar books, documents, records and/or archives of the Beneficiary are required by law to be open to public inspection.

4.11 The Trustees shall have a Chairperson and a Vice-Chairperson, a Secretary-Clerk, and a Treasurer, each selected and/or appointed by majority vote of the Trustees. The Secretary-Clerk and/or the Treasurer may be, but need not be, a Trustee. A Trustee may simultaneously, conjointly or concurrently serve as such Secretary-Clerk or as such Treasurer while serving as such Chairperson or Vice-Chairperson; but no person shall simultaneously, conjointly or concurrently serve as both said Secretary-Clerk and said Treasurer, whether or not also a Trustee. The Trustees may utilize a general manager and such additional positions and/or officers as the Trustees may, from time to time, designate. In addition to any matters below specified, said Chairperson, Vice-Chairperson, Secretary-Clerk, Treasurer, and potential others, shall have and perform such other and/or further duties and/or responsibilities as may be, from time to time, designated by the By-Laws and/or otherwise by majority vote of the Trustees.

4.12 The Trustees shall select one of their members to be Chairperson, and another of their members to be Vice-Chairperson; who shall, each respectively, serve in such capacity at the

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pleasure of a majority of the Trustees and/or until such time as he/she resigns such position and/or is no longer a Trustee.

4.13 The Chairperson shall preside at all meetings of the Trustees. The Vice-Chairperson shall act in the place of the Chairperson during the latter's absence or incapacity to act, during which time the Vice-Chairperson shall have all the duties, responsibilities and authority of the Chairperson.

4.14 The person who is, from time to time, the City Clerk may, but need not, be designated by the Trustees to act as Secretary-Clerk of the Trust and the Trustees. The Secretary-Clerk shall keep and maintain all minutes of meetings of the Trustees, all journals of their proceedings, and all other books, documents, records and archives of the Trust and/or Trustees. Further, the Secretary-Clerk shall be the custodian of and attest and/or affix the seal of the Trust to documents as shall be, from time to time, required by the By-Laws and/or other majority vote of the Trustees.

4.15 The person who is, from time to time, the City Treasurer may, but need not, be designated by the Trustees to act as Treasurer of the Trust and the Trustees. Subject to such regulations and/or directions as the Trustees may, from time to time, prescribe by the By-Laws or other majority vote of the Trustees, the Treasurer shall keep and maintain complete and accurate records of all financial transactions, and deposit funds received for the Trust in such depositories and/or accounts, as the Trustees may designate.

4.16 The Trustees shall set and determine the fiscal year of the Trust, which shall, absent subsequent action by the Trustees, be concurrent with that of the Beneficiary. The Trustee's quarter-annual, special or emergency meetings may be called by the Chairperson, or jointly by the Vice Chairperson and one other Trustee.

ARTICLE V  
ADDITIONAL POWERS AND DUTIES OF THE TRUSTEES

Subject to provisions or limitations otherwise herein provided, to accomplish the uses and/or purposes hereof, the Trustees shall have, in addition to the usual powers incident to such office and those elsewhere herein granted, the following rights, powers, duties, authority, discretion and/or privileges, all of which may be exercised without any order or authority from any court:

5.01 To take any action and/or allow or suffer any inaction which appears reasonable, necessary and/or convenient to acquire, finance, improve, operate, utilize, pledge, dispose of and/or otherwise deal in and/or with, accomplish and/or carry out one or more of the uses and/or purposes of this Trust.

5.02 To make and/or enter into, execute, modify, alter, amend, revoke, cancel, acquire, finance, dispose of, carry out, perform, operate, pledge, utilize and/or otherwise deal in and/or with any contract of any nature with any person which the Trustees consider as being reasonable, necessary and/or convenient with respect to said uses and/or purposes and/or upon relation to any other matters set forth in this Article V.

5.03 To acquire, finance, operate, dispose of and/or otherwise utilize professional services and such other clerical, technical and/or other assistance and/or services as may be deemed reasonable, convenient and/or necessary by the Trustees; and, to fix the duties, terms of employment, compensation and/or other related attributes of and/or pertaining thereto. Any

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individual covered hereby may also be a City officer or employee, in which case he/she/they may also receive compensation therefor from this Trust, additional to that, if any, received from the City.

5.04 To fix, demand and collect charges, rentals and/or other fees from any person for any services, functions, property and/or facilities of the Trust and/or discontinue the same for payment delinquency, to the same extent as any person might do.

5.05 To, without limit as to the amount thereof, draw and/or make, accept, endorse, assume, guarantee, account, execute and issue promissory notes, drafts, bills of exchange, acceptances, warranties, bonds, debentures and other negotiable or nonnegotiable instruments, obligations and evidences of secured and/or unsecured indebtedness and/or otherwise acquire, finance, improve, operate, utilize, pledge and/or dispose of the same in the same manner and to the same extent as any person might do.

5.06 To make, acquire, improve, finance, operate and/or utilize suitable and proper accounts, accounting processes and procedures, books and records, audits, financing statements, and other financial records, processes, items, documents and/or things which the Trustees consider necessary or convenient.

5.07 To at any time, and from time to time, “ earmark”, allocate and/or otherwise designate, declare, determine, divide, group, classify, specify, separate and/or treat separately all and/or any portion of the Trust estate as and/or into principal, income, revenue, reserves, surplus, depletion, amortization, depreciation and/or other accounts, distinctions, classifications, designations and/or uses, whether or not relating and/or pertaining to the matters set forth in Paragraph 5.06 hereof, as the Trustees may determine to be useful, reasonable, proper and/or convenient; and to otherwise, with respect thereto acquire, finance, improve, operate, utilize, pledge and/or dispose of the same and/or any portion thereof, in kind and/or partly in kind, or otherwise.

5.08 The Trustees may sue and be sued, in the name of the Trust, and/or may set-off and/or compromise any debts or claims of or against the Trust, and adjust any dispute in relation to such debts or claims by arbitration or otherwise, and/or pay any debts or claims against the Trust upon any evidence deemed by the Trustees to be sufficient. The Trustees may bring, intervene into and/or otherwise be involved with respect to any suit or action, which in their judgment is necessary or proper to protect any interest of the Trust and/or to acquire or enforce any claim, demand or contract for the Trust; and they shall defend, in their discretion, any suit and/or other action against the Trust, or the Trustees or employees, agents or servants thereof and/or waive, enforce, adjust, compromise, settle and/or otherwise dispose of any such claim, demand suit and/or action referenced herein, and/or discharge the same out of assets of the Trust Estate, together with court costs and attorney’s fees. Any such expenditures may be treated as expenses of executing this Trust.

5.09 To conduct their meetings in accordance with such rules of procedure as they may, from time to time, approve and adopt by majority vote; provided, however, that the vote on any item shall be by the voice vote of each Trustee there present by “Yes”, “No” and/or “Abstain” (or the equivalent thereof), and each such item, vote and the total vote shall be recorded in the minutes, and entered upon the journals, of such meetings.

5.10 To create, alter, amend and/or repeal By-Laws, rules, regulations and/or resolutions relating and/or pertaining to any of the matters referenced and/or included in this document.

5.11 To Sell and/or otherwise dispose of Trust paper and/or other bonds, notes or other evidences of indebtedness or obligations of the Trust in whole or in installments or series, by

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public and/or private and/or negotiated and/or other method or form, and on such terms and conditions and in such manner as the Trustees shall deem to be in the best interest of the Trust.

5.12 In connection with the pledging of all or any portion of the Trust estate and/or revenues, and/or otherwise with respect to incurring of any funded indebtedness secured, in whole or in part, by the Trust Estate or its revenues, or any part of either or both: To contract with a governmental unit that in the event of a default in the fulfillment of any contract obligation undertaken on behalf of the Trust and/or in the payment of any indebtedness incurred on behalf thereof, that one or more Temporary trustees or receivers may be appointed to succeed to the rights, powers and duties of the Trustees then in office. In any such event such contract shall specifically set out the terms and conditions under which such Temporary trustee(s) or receiver(s) may be appointed, the number thereof, the authority and compensation thereof, if any, and for the removal and/or vacation of any such appointment, and the automatic reinstatement of the Trustee(s) temporarily replaced thereby upon termination of all defaults by reason of which such appointment(s) was/were authorized. Furthermore, the Trustees may likewise contract that any such temporary trustee(s) or receiver(s) may employ special counsel to represent them and that such counsel's compensation may be paid from the revenues of the Trust Estate.

5.13 To acquire the assistance of, cooperate with, or otherwise utilize any governmental unit for the purposes of acquiring property by eminent domain, and participate in any proceedings, actions or other matters connected therewith.

5.14 The Trustees shall have and exercise exclusive and total operation, utilization, management and control of the Trust estate for the use and benefit of the Beneficiary; but may, in the exercise of their discretion, agree for approval of any or all of its actions and transactions by the Beneficiary.

5.15 To take all necessary steps to secure and/or attempt to secure a “tax exempt,” “charitable” or other similarly appropriate tax status or determination from the Internal Revenue Service, the State or other similar authority; and otherwise do, or refrain from doing, any and all other acts or things which, in their judgment, may be reasonable, convenient, necessary or desirable, for the proper and/or advantageous acquisition, financing, pledging, improvement, operation, disposition and/or utilization of the Trust Estate or to carry out and/or into effect the uses and/or purposes of the Trust, or anyone thereof, and/or the matters set forth in this Article V, or any part hereof: the above paragraphs of this Article V being by way of illustration rather than limitation.

5.16 Provided however, any provisions hereinabove set forth appearing otherwise notwithstanding, unless otherwise specifically determined and/or agreed upon by majority vote of the Trustees: it is required hereby that there shall be effective competition on contracts for all construction work and materials as is required by the applicable State laws. Contracts for the construction of all improvements as a whole, or in part, shall be entered into only after reasonable public advertisement for bids, and when and to the extent deemed advisable and practical by the Trustees, the Trust shall cause plans and specifications to be prepared in sufficient detail for contractors to submit bids on such construction works. Plans and specifications shall be made available to all bidders and, whenever practicable in the opinion of the Trustees, final detailed plans and specifications shall be prepared prior to advertisement for bids and shall be made available to all bidders.

## ARTICLE VI

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TERMINATION OF TRUST

6.01 This Trust shall terminate: when all of the purposes set out in Article III hereof shall have been fully executed; at the end of its duration; or at such time and in the manner as provided by the Act.

6.02 Provided further, however, that this Trust shall not be terminated by voluntary action if there then exists outstanding indebtedness or fixed term obligations of the Trust, unless all owners thereof shall have consented in writing thereto.

6.03 Upon termination of this Trust the Trustees shall: wind up its affairs; pay all its debts, expenses and obligations out of the Trust Estate, to the extent thereof; and, then distribute the residue of the Trust Estate, if any, to the Beneficiary.

6.04 Upon such final distribution, the liabilities, powers, duties and authority of the Trustees hereunder shall cease.

ARTICLE VII  
MISCELLANEOUS TRUST PROVISIONS

7.01 Except as otherwise provided in Paragraph 7.02 hereof, this Trust Indenture may be altered, amended, revised or modified, but only upon and by the affirmative vote of at least Four-Fifths (4/5), in number, of the members of the City Council and (plus) the affirmative vote of at least Four-Fifths (4/5), in number, of the Trustees. Any such alteration, amendment, revision or modification may originate from either the Trustees, or the City Council.

7.02 Provided, this Trust Indenture and agreement shall not be altered, amended, revised or modified if, at the time of the proposed effective date thereof, there exists outstanding indebtedness or fixed term obligations of the Trust, unless all owners thereof shall have consented in writing thereto.

7.03 The whole title, legal and equitable, to all and every part of Trust estate is and shall be vested in the Trustees.

7.04 No purchaser or lessee of any property disposed of by the Trustees shall be bound to inquire into the expediency, propriety, validity or necessity of such disposition or to see to or be liable for the application of any proceeds therefrom.

7.05 The Beneficiary shall have no legal right, title, claim or demand to the Trust Estate or any portion thereof, nor to demand or require any partition or distribution thereof. The Beneficiary shall not have any right, privilege, power or authority to do or transact any business for, on behalf of, or binding upon the Trustees or upon the Trust, nor to control or direct the Trustees, in any manner or extent. The Beneficiary may receive and enjoy any benefits as may, from time to time, inure thereto by the execution or carrying-out of this Trust and the terms and provisions hereof by the Trustees; but it shall be entitled, only, to receiving the distribution of the Trust estate residue upon, and only upon, termination of this Trust, as provided in Article VI hereof.

7.06 Trust Paper, bonds and/or evidences of indebtedness utilized by the Trustees shall not constitute an indebtedness of the State of Oklahoma, nor of the Beneficiary, nor the personal obligations of the Trustees of the Trust, but shall constitute obligations of the Trust payable solely from the Trust Estate.

7.07 Neither the Trustees, nor any Trustee, nor the Beneficiary, shall be charged personally with any liability whatsoever by reason of any act or omission committed or suffered by the

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Trustees in good faith or in the exercise of their honest discretion in the performance hereof; but rather, any such liability or obligation shall be that of the Trust and shall extend to so much of the Trust Estate as may be necessary to discharge the same.

7.08 Notwithstanding any provision(s) hereof which may appear to provide otherwise, no Trustee shall have the power or authority to bind or obligate any other Trustee or the Beneficiary, in his, her or its capacity, nor shall the Beneficiary have the power or authority bind or obligate the Trust, Trustees or any Trustee.

7.09 If the Trustees utilize a general manager for the Trust, then such general manager shall so administer the business of the Trust, and have such other duties, responsibilities and/or authority, as provided and/or directed, from time to time, by the By-Laws and/or other majority vote of the Trustees.

7.10 The situs of this Trust shall be the City of Atoka, Atoka County, Oklahoma; and, the offices of this Trust, until or unless changed by the Trustees by its By-Laws and/or other majority vote thereof, shall be located at the City hall of the City.

ARTICLE VIII  
ACCEPTANCE

IN WITNESS WHEREOF the undersigned Trustors execute, make and create this Trust, and the undersigned Trustees accept the Trust herein created and provided for, and agree to carry out the provisions of this Trust Indenture and Agreement on their part to be performed; and said Trustors and Trustees hereunto set their hands.

TRUSTORS

/s/ Steven Smith

/s/ Martha Yates

/s/ Charles McCall

/s/ J. R. Caton

/s/ Bill Miller

/s/ Richard E. Mayfield

TRUSTEES

/s/ Robert Cates

/s/ John T. Richard

/s/ Charles McCall

/s/ J. R. Caton

/s/ Bill Miller

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**APPENDIX 12**

**ATOKA INDUSTRIAL FACILITIES AUTHORITY**

Article I	Creation of Trust
Article II	Name and Effective Date of Trust
Article III	Definitions
Article IV	Purposes of Trust
Article V	Duration of Trust
Article VI	The Trust Estate
Article VII	The Trustees
Article VIII	Powers and Duties of the Trustees
Article IX	Supervisory Control
Article X	Beneficiary of Trust
Article XI	Adoption and Amendment of By-Laws; Amendment and Termination of Trust

KNOW ALL MEN BY THESE PRESENTS:

This Trust Indenture dated as of the 17th day of June, 1996, by Bill Miller, hereinafter referred to as the Trustor, and Bill Miller, John T. Richard, Robert Cates, Charles McCall and Frank Phillips, and their respective successors as provided herein, to be known as the Trustees of the Atoka Industrial Facilities Authority, who shall be and are hereinafter referred to as Trustees of said Authority, hereinafter referred to as “Authority” or “Trust”.

WITNESSETH:

NOW THEREFORE in consideration of the payment by the Trustor to the Trustees of the sum of One Dollar (\$1.00), receipt of which is hereby acknowledged, the mutual covenants herein set forth, and other valuable considerations, the said Trustees agree to hold, manage, invest, assign, convey and distribute as herein provided, authorized and directed, such property as Trustor, or others may from time to time assign, transfer, lease, convey, give, bequeath, devise or deliver unto this Trust or the Trustees hereof.

TO HAVE AND HOLD such property and the proceeds, rents, profits and increases thereon unto said Trustees and said Trustees’ successors and assigns, but nevertheless in trust, for the use and benefit of City of Atoka, Atoka County, State of Oklahoma, such City being hereby designated and hereinafter referred to as “Beneficiary”, and upon the following trust, terms and conditions here stated.

**ARTICLE I  
CREATION OF TRUST**

The undersigned Trustor creates and establishes a Trust for the use and benefit of the Beneficiary for the public purposes hereinafter set forth, under the provisions of Title 60, Oklahoma Statutes 1991, Sections 176 to 180.4, inclusive, as amended and supplemented, the Oklahoma Trust Act and other applicable statutes and laws of the State of Oklahoma.

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ARTICLE II  
NAME AND EFFECTIVE DATE OF TRUST

The Trustees of this Trust shall conduct all business and execute or authorize the execution of all instruments in the name of this Trust, which shall be the “Atoka Industrial Facilities Authority” and otherwise perform the duties and functions required in the execution of this Trust, and hereby authorize the Chairman or Vice Chairman, Secretary or Assistant Secretary of the Trust to execute- instruments on behalf of the Trust as directed by duly enacted resolutions of the Trust. This Trust Indenture shall be in full force and effect from and after the date of acceptance of beneficial interest herein by the Beneficiary.

ARTICLE III  
DEFINITIONS

- (a) “Act” shall mean the Oklahoma Public Trust Act, being Title 60, Oklahoma Statutes 1991, Sections 176 to 180.4, as amended and supplemented.
- (b) “Authority” shall mean the Atoka Industrial Facilities Authority created pursuant to this Indenture, and the Trustees thereof, acting on behalf of and in the name of said Authority.
- (c) “Trustees” shall mean the Trustees of the Authority.
- (d) “Bonds” or “Notes” or “Other Evidences of Indebtedness” shall mean, respectively, the bonds, notes and other evidences of indebtedness of the Authority authorized to be issued under this Indenture.
- (e) “Beneficiary” shall mean the City of Atoka, Atoka County, State of Oklahoma, acting by and through its City Council.
- (f) “Governmental Agency” shall mean the United States of America and the State or any department, division, public corporation, public agency, political subdivision or other public instrumentality of either.
- (g) “Lending Institution” shall mean any bank or trust company, Federal National Mortgage Association, mortgage banker, mortgage company, national banking association, savings bank, savings and loan association and any other financial institution or Governmental Agency or person.
- (h) “Indenture” shall mean this Trust Indenture establishing the Authority, as amended and supplemented from time to time.
- (i) “Mortgage” shall mean a mortgage, mortgage deed, deed of trust, security agreement or other instrument creating a lien on a fee interest in real and/or personal property located within the Beneficiary or a leasehold on such fee interest.
- (j) “Mortgage Loan” shall mean an interest bearing obligation secured by a Mortgage.
- (k) “State” shall mean the State of Oklahoma.
- (I) “By-Laws” shall mean any By-Laws duly adopted by the Authority as the same may be amended from time to time.

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ARTICLE IV  
PURPOSES OF TRUST

The purposes of this Trust are:

(1) To assist the Beneficiary, the State of Oklahoma, its Governmental Agencies, and private entities, agencies and citizens in making the most efficient use of all of their economic resources and powers in accord with the needs and benefit of the Beneficiary in order to lessen the burdens on government and to stimulate economic growth and development; to inventory the services, facilities and resources of the entire Beneficiary; to promote, stimulate, encourage and finance the growth and development of agriculture, commerce, and industry of the Beneficiary as a whole, all in order to achieve maximum utilization of the Beneficiary's human, economic and natural resources and tourist attractions; to foster and promote an industrial climate and the payroll of the Beneficiary and to otherwise promote its general economic welfare and prosperity and to finance any and all programs, facilities or resources promoting or intending to promote any of the foregoing and, without restriction, in furtherance of the foregoing general objectives, the following specific powers or purposes, to-wit:

(a) To promote and develop any and all public works projects or facilities of any type or description including but not limited to those for water, sewer, solid waste, recycling, recovery, materials reduction, communication, power, natural gas or other public utilities of any type or description.

(b) To promote, develop and finance projects or facilities relating to agriculture, farming, ranching and agri-business of any sort or description, including, but not limited to, any land or personal property related thereto, or projects relating to cattle, poultry, irrigation equipment and systems, or other agri-projects of any other sort or description.

(c) To promote, develop, own, lease and finance projects or facilities relating to correctional facilities, jails, or other facilities relating to the administration of justice and any programs related to the foregoing which will lessen the burdens of government.

(d) To promote, finance and develop commercial and industrial projects or facilities and to exercise all of the powers, privileges and prerogatives of industrial trusts within this State.

(e) To promote, finance and develop hospitals and other health care facilities and any other medically related facilities, including, but not limited to, medical and/or dental, optometric, osteopathic or chiropractic clinics, offices, laboratories, nursing homes, research facilities, geriatric facilities, retirement facilities, central service facilities and training facilities, extended care facilities, facilities for aged and/or disabled persons, day-care facilities for children and all other types of facilities for serving the medical and physical needs of people.

(f) To promote, finance and develop projects or facilities relating to the development of energy of any sort or description, including, but not limited to, those relating to the development of oil, gas, coal, gravel, lead, zinc or other minerals or hydro-carbons, the financing of oil and gas equipment, refineries, drilling and pumping rigs and equipment, or other energy development of any sort or description, including synthetic fuel facilities.

(g) To promote, finance and develop projects, facilities, services and industries pertaining to the development or improvement of: transportation generally; trucking; handling and shipping of goods; railroads; railroad rights-of-way; railroad equipment or rolling stock

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construction, repair or maintenance facilities; air transportation; public or mass transportation systems, facilities and equipment, and the financing of automobiles, trucks and vehicles of every sort and description; and other methods and modes of transporting people, goods and equipment of whatsoever kind or character, within the boundaries of the Beneficiary and to provide additional employment or increase transportation efficiency which will benefit and strengthen the economy of the Beneficiary.

(h) To promote, finance and develop any other projects or facilities which will provide public facilities and/or aid the Beneficiary county or any other level of government.

(i) To plan, establish, develop, construct, finance, enlarge, remodel, acquire, improve, make alterations, extend, maintain, equip, operate, lease, furnish and regulate any facilities related to any of the foregoing, and, if desired, to lease such facilities and to operate the same in connection therewith, and to do, perform, own, acquire, construct or engage in or finance any other enterprise or activity, project or facility to such extent and in such manner as now is or may be considered a proper and lawful function of public trust entities within the State of Oklahoma.

(2) To hold, maintain and administer any leasehold rights in and to physical properties demised to the Beneficiary and to comply with the terms and conditions of any such lease.

(3) To acquire by lease, purchase, production, reduction to possession or otherwise, and to plan, establish, develop, construct, enlarge, improve, extend, maintain, equip, operate, furnish, provide, supply, regulate, hold, store and administer any and all physical properties (real, personal or mixed), rights, privileges, immunities, benefits and any other thing of value, designated or needful for utilization in furnishing, providing or supplying the aforementioned services, utilities, buildings and facilities; to finance and refinance and to enter into contracts of purchase, lease-purchase or other interest in or operation and maintenance of said properties, and revenues thereof, and to comply with the terms and conditions of any such contracts, leases or other contracts made in connection with the acquisition, equipping, maintenance and disposal of any of said property; and to relinquish, dispose of, rent or otherwise make provisions for properties owned or controlled by the Trust but no longer needful for Trust purposes.

(4) To acquire, construct, reconstruct, extend, lease, purchase, install, equip, maintain, repair, enlarge, remodel and operate any property, improvements, buildings and other facilities of every nature for use by the State of Oklahoma, the United States of America, or the City of Atoka, Oklahoma or for the use of corporations, non-profit corporations, individuals, partnerships, associations or proprietary companies for industrial and economic development.

(5) To perform on behalf of the Beneficiary the functions and powers as authorized by industrial and economic development statutes.

(6) To provide funds for the cost of financing, refinancing, acquiring, constructing, purchasing, equipping, maintaining, leasing, repairing, improving, extending, enlarging, remodeling, holding, storing, operating and administering any or all aforesaid property, improvements, buildings, facilities and all properties (real, personal or mixed) needful for executing and fulfilling the Trust purposes, as set forth in this instrument, and all other charges, costs and expenses necessarily incurred in connections therewith and in so doing, to incur indebtedness, either unsecured or secured by all or any part of the Trust Estate and its revenues.

(7) To expend all funds coming into the hands of the Trustees as revenue or

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otherwise for the payment of any indebtedness incurred by the Trustees for the purposes specified herein, and in the payment of the aforesaid costs and expenses, and in payment of any other obligation properly chargeable against the Trust Estate, and to distribute the residue and remainder of such funds to the Beneficiary.

(8) To assist the Beneficiary, its Governmental Agencies, municipalities and private entities, agencies and citizens in making the most efficient use of their resources and powers in providing housing for Residential Use of every type and character above defined in accord with the needs and benefit of the Beneficiary, in order to lessen the burdens on government.

(9) To formulate, develop and administer or utilize new or short or long range studies, programs, plans or activities relating to the improvement of the housing for residential use or economic and environmental conditions of residents of the Beneficiary, in order to provide as appropriate, assistance, services, facilities and resources for the benefit of the people of the Beneficiary.

(10) To prepare and implement regulatory and administrative measures in support of the activities of the Trust such as by-laws, rules and regulations pertaining to the various Trust programs and to establish committees composed of members who may or may not be Trustees to make studies, administer programs, render reports and for any other purpose that the Trustees may from time to time determine.

(11) To promote the development of adequate Residential Use Housing within the territorial limits of the Beneficiary whether single family dwellings or multi-family dwellings: By making or committing to make or participating in the making of loans to non-profit sponsors of Residential Use Housing; By making or committing to make or participating in the making of loans to persons for Residential Uses upon terms and conditions requiring such owners to use the proceeds of such loans to construct, acquire, rehabilitate or improve Residential Use housing and such additional terms and conditions as may be set by the Authority; By participating in all Government Agency Programs relating to Residential Use housing and projects;

(12) To provide funds and assistance for the purposes set out in this Indenture which include, among others:

(i) The expansion of the supply of funds in the State available for new Mortgage Loans on Residential Use housing; and

(ii) The provision of the additional Residential Use Housing needed to remedy the shortage of such housing within the boundaries of the Beneficiary and to upgrade sub-standard housing within the boundaries of the Beneficiary so as to eliminate the existence of a large number of sub-standard dwellings.

#### ARTICLE V DURATION OF TRUST

This Trust shall have duration for the term of duration of the Beneficiary and until such time as its purposes shall have been fully fulfilled, or until it shall be terminated as hereinafter provided.

#### ARTICLE VI THE TRUST ESTATE

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The Trust Estate shall consist of:

(1) The funds and property presently in the bands of the Trustees or to be acquired or constructed by Trustees and dedicated by the Trustor, the Beneficiary and others to be used for trust purposes.

(2) Any and all fee simple, leasehold rights and any other interests in real property demised to the Trustees by the Beneficiary, and others as authorized and empowered by law.

(3) Any and all money, property (real, personal or mixed), rights, chooses in action, contracts, leases, privileges, immunities, licenses, franchises, benefits, Mortgages, Mortgage Loans, collateral and all other things of value coming into the hands of the Trustee under the Trust Indenture.

(4) Cash in the sum of \$1.00 paid to the Trustee, receipt of which is hereby acknowledged by the Trustee.

### ARTICLE VII THE TRUSTEES

(1) The Trustees of this Trust shall be citizens and residents of the Beneficiary, who are the persons presently constituting the members of the City Council of the Beneficiary, such City Council being the governing Board of said Beneficiary and hereafter called “Governing Board”, and the persons who shall be their successors as Chairman and members of said governing board of said Beneficiary, and each such successor in office shall without any further act, deed or conveyance, automatically become Trustees of this Trust and become fully vested with all the estate, properties, rights, powers, duties and obligations of his predecessor hereunder with like effect as if originally named as a Trustee herein.

(2) The person who shall be the Chairman of the Trustees shall preside at all meetings and perform other duties designated by the Trustees and shall serve until a successor be duly elected and qualified. The Trustees shall designate the time and place of all regular meetings. All actions by the Trustees pursuant to the provisions of this Trust Indenture shall be approved by the affirmative vote of at least a majority of the Trustees qualified to act as such under the provisions of this Trust Indenture; provided, if a greater affirmative percentage vote is required by law, such legally required greater affirmative percentage vote shall be required for vote on that particular matter in order that the laws of the State of Oklahoma may be fully complied with in all respects. The Trustees shall select one of their members who shall serve as the Vice Chairman, and who shall act in the place of the Chairman during the latter’s absence or incapacity to act and such person shall serve until the Chairman’s successor be duly elected and qualified.

(3) The Trustees shall elect the person who shall serve as Secretary of the Trustees and the Trustees may elect one or more Assistant Secretaries of the Trustees. The Secretary (and in his absence, an Assistant Secretary) shall keep minutes of all meetings of the Trustees and shall maintain complete and accurate records of all their financial transactions, all such minutes, books and records to be on file in the office of the Trust. All meetings of the Trustee shall be open to the public, and conducted in conformity with the provisions of Oklahoma law related to open meetings, and the books, records and minutes of the Trustees shall be considered as public records and available for inspection at all times by any interested party in conformity with

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applicable provisions of the Oklahoma Open Records Act.

(4) The Trustees shall elect the person who shall serve as Treasurer of the Trustees and the Trustees may elect one or more Assistant Treasurers of the Trustees.

(5) The Trustees may appoint a General Manager and/or Executive Director for the Trust Estate, and the Trustees may employ such other clerical, professional, legal and technical assistance as may be deemed necessary in the discretion of the Trustees to properly operate the business of the Trust Estate, and may fix their duties, terms of employment and compensation from the Trust Estate. All Trustees shall serve without compensation but shall be reimbursed for actual expenses incurred in the performance of their duties hereunder. In the event a General Manager and/or Executive Director for the Trust Estate is appointed by the Trustees, the said General Manager and/or Executive Director shall administer the business of the Trust Estate as directed from time to time by the Trustees.

(6) The Trustees are authorized to contract, in connection with the incurring of any funded indebtedness secured by the Trust Estate and/or its revenues, or any part of either or both, that in the event of a default in the fulfillment of any contract obligation undertaken on behalf of the Trust Estate or in the payment of any indebtedness incurred on behalf of the Trust Estate, that a Temporary Trustee or Trustees or Receiver shall be appointed to succeed to the rights, powers and duties of the Trustees then in office. Any such contract, if made, shall set out the terms and conditions under which such Temporary Trustee or Trustees or Receiver shall be appointed, and operate the Trust Estate and provide for compensation to be paid, and appointment to be vacated and permanent Trustees to be automatically reinstated upon termination of all defaults by which their appointment was authorized.

(7) Bonds or other evidence of indebtedness to be issued by the Trustees shall not constitute an indebtedness of the State or the Beneficiary or personal obligations of the Trustees of the Trust, but shall constitute obligations of the Trustees payable solely from the Trust Estate.

(8) The Trustees, the State, and the Beneficiary hereof shall not be charged personally with any liability whatsoever by reason of any act or omission committed or suffered in good faith or in the exercise of their honest discretion in the performance of such Trust or in the operations of the Trust Estate; but any act or liability for any omission or obligation of the Trustees in the execution of such Trust, or in the operation of the Trust Estate, shall extend to the whole of the Trust Estate or so much thereof as may be necessary to discharge such liability or obligation.

(9) Notwithstanding any other provision of this Indenture which shall appear to provide otherwise, no Trustee or Trustees shall have the power or authority to bind or obligate any other Trustee, or the Beneficiary, in his or its capacity, nor can the Beneficiary bind or obligate the Trust or any individual Trustee.

(10) The Trust shall cause to be prepared annually at the close of each fiscal year of the Trust, an audit of the funds, financial affairs and transactions of the Trust, including but not limited to all fees, salaries and expenditures in exact amounts and listing to whom paid. Such audit is to be certified with an unqualified opinion of an independent, certified public accountant. A copy of such annual audit shall be filed within the time period and in conformity with the provisions of Oklahoma law related thereto. Unless hereafter changed by resolution of the Trustees, the fiscal year of the Trust shall be identical with the fiscal year of the Beneficiary. The cost of the foregoing audits shall be paid from the Trust Estate.

(11) Every person becoming a Trustee first shall take the oath of office required of an

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elected public officer. The oath of office shall be administered by any person authorized to administer oaths in the State, and shall be filed with the proper authorities and in the manner prescribed by the Act (and/or as otherwise prescribed by the laws of the State of Oklahoma). Every non-Trustee officer and/or employee who handles funds of the Trust shall furnish a good and sufficient fidelity bond in an amount and with surety as may be specified by law and as specified and approved by the Trustees; the Trustees may, but shall not be obligated to, obtain bonds relating to the performance of their duties as Trustees. Such bonds shall be in a surety company authorized to transact surety business in the State of Oklahoma and the cost thereof shall be paid from funds of the Trust.

ARTICLE VIII  
POWERS AND DUTIES OF THE TRUSTEES

To accomplish the purposes of the Trust, the Trustees shall have, in addition to the usual powers incident to their office and the powers granted to them otherwise by law or in other parts of this Trust Indenture, the following rights, powers, duties, authority, discretion and privileges, all to be exercised on behalf of, and in the name of the Authority:

- (1) To sue and be sued;
- (2) To have a seal and alter same at pleasure;
- (3) To make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions hereunder;
- (4) To make and alter by-laws for its organization and internal management as provided herein;
- (5) To make and alter Rules and Regulations pertaining to any loan or other program developed by the Authority;
- (6) To acquire, lease, convey or otherwise hold and dispose of real and personal property for its Trust purposes; provided that, no purchaser at any sale or lessee under a lease made by the Trustees shall be bound to inquire into the expediency, propriety, validity or necessity of such sale or lease or to see or be liable for the application of the purchase or rental monies arising therefrom;
- (7) To enter into contracts for sale of Bonds, Notes or Other Evidences of Indebtedness, interim Notes or Bonds or other obligations of the Trust and to issue the same for any of the purposes of the Trust authorized hereby including but not limited to: the acquisition, construction, reconstruction, equipping or otherwise financing facilities discussed in Article IV hereof or for any other lawfully permitted facilities which may be secured with Mortgages, security interests or other collateral satisfactory to the Trustees; making Mortgage loans or purchasing Mortgage notes secured by Mortgages on dwellings; acquiring real or personal property or facilities at foreclosure of any loan or obligation authorized to be acquired pursuant to the terms of this Trust Indenture or other purposes authorized under any instrument securing any indebtedness of the Trust; refunding or advance refunding any outstanding indebtedness of the Trust; creating any reserves or replacement funds, loan funds or other funds or accounts deemed advisable by the Trustees in furtherance of the Trust purpose or in connection with the securing of any of the Trust's debts or the administration of Trust programs; and for any other purpose authorized by law and/or by Article IV hereof; and for those purposes the Trustees may:
  - (a) Sell all Bonds, Notes or Other Evidences of Indebtedness or obligations of the

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Trust at public or private sale in whole or in installments or series and on such terms and conditions and in such manner as is prescribed by law and as the Trustees shall deem to be in the best interest of the Trust Estate; and

(b) Appoint and compensate attorneys, paying agencies and corporate Trustees in connection with issuance of any such Bonds, Notes, Other Evidences of Indebtedness or other obligations of the Trust; and

(c) Pay all expenses incident to the creation of any indebtedness or the issuance of any Bonds or Notes including, but not limited to, printing expenses, feasibility studies, special consultants, travel expenses, reproduction expenses; and

(d) Create any reserve fund and other funds and accounts as the Authority shall deem necessary or desirable in connection with the issuance of any Bonds, Notes or the incurrence of any such indebtedness. Any such indebtedness, Bonds or Notes shall be deemed to be incurred or issued on behalf of the Beneficiary and may be general or special obligations of the Trust as the Trustees may from time to time determine;

(8) To purchase or redeem their Bonds, Notes or Other Evidences of Indebtedness in whole or in part prior to the stated maturity thereof as may be stated in any instrument authorizing the issuance or securing the payment of any such indebtedness;

(9) To pledge any or all of the Trust's revenues or assets to secure the payment of any of its indebtedness;

(10) To enter into any agreements with or participate in any programs of the Beneficiary, the State of Oklahoma, or other States or subdivisions thereof, or any agency or instrumentality thereof, the United States of America, or any agency or instrumentality thereof;

(11) To enter into and execute, purchase, lease or otherwise acquire property, real, personal or mixed, contracts, leases, rights, privileges, benefits, chooses in action or other things of value and to pay for the same in cash with bonds or Other Evidences of Indebtedness or otherwise;

(12) To fix, demand and collect charges, rentals and fees for the services and facilities of the Trust and to discontinue furnishing of services and facilities to, and foreclose on any collateral of, any person, firm, corporation, or public instrumentality, delinquent in the payment of any indebtedness to the Trust; to purchase and sell such supplies, goods and commodities as are incident to the operation of its properties;

(13) To make and perform contracts of every kind, including management contracts, with any person, firm, corporation, association, joint venture, trusteeship, municipality, government, sovereignty or other entity; and without limitation as to amount, to draw, make, accept, endorse, assume, guarantee, account, execute and issue promissory notes, drafts, bills of exchange, acceptances, warranties, bonds, debentures and other negotiable or non-negotiable instruments, obligations and evidences of unsecured indebtedness, or of indebtedness secured by mortgage, deed of trust or otherwise upon any or all income of the Trust, in the same manner and to the same extent as a natural person might or could do; to collect and receive any property, collateral, money, rents, or income of any sort and distribute the same or any portion thereof for the furtherance of the authorized Trust purposes set out herein;

(14) To exercise (to the extent permitted by law) or to request of, arrange or contract with the Beneficiary or any governmental unit, agency or political subdivision thereof for the exercise of eminent domain as necessary in establishing, operating, administering, and maintaining any Trust facilities, systems, projects or programs;

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(15) To expend all funds coming into the hands of the Trustees as revenue or otherwise for the payment of any indebtedness incurred by the Trustees for purposes specified herein, and in the payment of the aforesaid costs and expenses, and in payment of any other obligation properly chargeable against the Trust Estate, to from time to time transfer any surplus funds to the Beneficiary as the Authority in its sole discretion may determine, and to upon termination of the Trust, distribute the residue and remainder of such funds to the Beneficiary

(16) To contract for services with firms or persons or other units and entities of government or private entities or agencies to carry out the purposes of the Trust; to apply for, contract for, receive and expend for its purposes, funds or grants from any governmental or non-governmental agency or entity, the Beneficiary, other States, the Federal Government or any agency or department thereof, or from any other source;

(17) To receive funds, money, property, collateral, services, rights, and chooses in action from any source to finance the programs and operations of the Trust; to receive grants, gifts, contributions and donations to carry out the purposes for which the Trust is formed; to receive and accept from any Federal, State or private agencies or entities grants or loans for or in aid of the construction of any facility or system and to receive and accept aid or contributions of money, labor or any other valuable things from any source;

(18) To plan, coordinate, implement, administer or otherwise carry out public works or other projects or programs for public purposes for the benefit of the Beneficiary;

(19) To make, or commit to make, or participate in the making of Mortgage Loans whether for construction, for acquisition, financing, or purchasing of housing;

(20) To invest monies of the Authority not required for immediate use, including proceeds from the sale of any Bonds or Notes, in obligations of any Governmental Agency or obligations the principal and interest of which are guaranteed by such Governmental Agency or in certificates of deposit or time deposits secured in such manner as the Authority shall determine, or in obligations of any agency of the State or the United States of America which may from time to time be legally purchased by banks within the State as an investment of funds belonging to them or in their control;

(21) To sell any Mortgages or other personal property acquired by the Authority at public or private sale and at such price or prices as it shall determine;

(22) To renegotiate, refinance or foreclose, or contract for the foreclosure of, any Mortgage, security interest or other obligation in default; to waive any default or consent to the modification of the terms of any Mortgage; to commence any action to protect or enforce any right conferred upon it by any law, Mortgage, security interest, contract or other agreement, and to bid for and purchase such property at any foreclosure or at any other sale, or acquire or take possession of any such property; to operate, manage, rehabilitate, improve, lease, dispose of, and otherwise deal with such property, in such manner as may be necessary to protect the interests of the Trust and the holders of its Bonds, Notes or other obligations;

(23) To renegotiate or refinance any loan in default; waive any default or consent to the modification of the terms of any loan, and commence any action or proceedings to protect or enforce any right conferred upon it by law, loan agreement, contract or other agreement;

(24) To make and execute contracts and appoint agents for the administration or servicing of any loan made or acquired by the Trust and pay the reasonable value of services rendered to the Trust pursuant to such contracts;

(25) To sell any loans made or acquired by the Trust at public or private sale and at

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## Appendix 12 – Atoka Industrial Facilities Authority

such price or prices and on such terms as the Trust shall determine;

(26) To collect and pay reasonable fees and charges in connection with making, committing to make, purchasing or committing to purchase and servicing its Mortgage Loans, Notes, Bonds, commitments, and Other Evidences of Indebtedness;

(27) To procure insurance against any type of loss in such amounts, and from such insurers, as it may deem necessary or desirable;

(28) To consent, whenever it deems it necessary or desirable in the fulfillment of its Trust purposes, to the modification of the rate of interest, time of payment of any installment of principal or interest, or any other terms of any Mortgage Loan, Mortgage Loan Commitment, construction loan, temporary loan, contract or agreement of any kind to which the Trust is a party;

(29) To do any and all things necessary or convenient to carry out its purposes and exercise the powers given and granted herein, and to do all other acts in their judgment necessary or desirable, for the proper and advantageous management, investment and distribution of the Trust Estate and income therefrom;

(30) To exercise exclusive management and control of the properties of the Trust Estate;

(31) To contract for the furnishing of any services or the performance of any duties that they may deem necessary or proper, and pay for the same as they see fit;

(32) To select depositories for the funds and securities of this Trust; all Lending Institutions are eligible to participate in the programs of the Trust and act as such depositories with approval of the Trust;

(33) To compromise any debts or claims of or against the Trust Estate, and adjust any dispute in relation to such debts or claims against the Trust Estate upon any evidence deemed by the Trustees to be sufficient. The Trustees may bring any suit or action which in their judgment is necessary or proper to protect the interest of the Trust Estate, or to enforce any claim, demand or contract for the Trust; and they shall defend, in their discretion, any suit against the Trust, or the Trustees or employees, agents or servants thereof; they may compromise and settle any suit or action, and discharge the same out of assets of the Trust Estate, together with court costs and attorney's fees; all such expenditures shall be treated as expenses of executing this Trust; and

(34) To do each and all things necessary to implement the purposes of this Trust as set out herein, and to that end Article IV "Purposes of Trust" is incorporated in its entirety under this "Powers" Article for the purpose of insuring that all appropriate power is granted to the Trustees to accomplish the purposes hereof without inhibition.

### ARTICLE IX SUPERVISORY CONTROL

The Trust created hereby and the Trustees appointed hereunder are subject to such supervision and control as may be determined from time to time by the Legislature of the State or by regulations that may be issued by departments or agencies of the United States of America, to insure the legality of all debt issued by the Authority and to insure the tax exempt status of any tax exempt Bonds, Leases, Notes or Other Evidences of Indebtedness issued by the Authority.

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ARTICLE X  
BENEFICIARY OF TRUST

(1) The Beneficiary of this Trust shall be the City of Atoka, Oklahoma, Atoka County, State of Oklahoma, under and pursuant to Title 60, Oklahoma Statutes 1991, Sections 176 to 180.4, inclusive, as amended and supplemented, and other applicable statutes of the State presently in force and effect.

(2) The Beneficiary shall have no legal title, claim or right to the Trust Estate, its income, or to any part thereof or to demand or require any partition of distribution thereof. Neither shall the Beneficiary have any authority, power or right whatsoever, to do or transact any business for, or on behalf of or binding upon the Trustees or upon the Trust Estate, nor the right to control or direct the actions of the Trustees pertaining to the Trust Estate or any part thereof except as herein provided. The Beneficiary shall be entitled solely to the benefits of this Trust as administered by the Trustees hereunder, and at the termination of the Trust, as provided herein, and then only, the Beneficiary shall receive the residue of the Trust Estate.

ARTICLE XI  
ADOPTION AND AMENDMENT OF BY-LAWS;  
AMENDMENT AND TERMINATION OF TRUST

This Trust Indenture may be amended by an affirmative vote of at least two-thirds (2/3) of all Trustees and any such proposed amendment shall be further approved by the affirming vote of two-thirds (2/3) of the Board of Trustees of the Beneficiary before becoming effective.

The Trustees, by an affirmative vote of a majority of all Trustees, may adopt, alter and amend By-Laws of the Trust.

PROVIDED, HOWEVER, that this Trust Indenture shall not be subject to revocation, alteration, amendment, revision, modification or termination in any manner which would be adverse to the interest of the holders of any evidence of indebtedness of the Trust without the consent of holders of indebtedness who would be adversely affected, which consent may be given by less than all such holders, if so provided in any resolution, indenture or agreement relating to such indebtedness.

This Trust shall terminate

(1) When the purposes set out in Article IV of this instrument shall have been fully executed; or

(2) In the manner provided by Oklahoma law. Provided, however, that this Trust shall not be terminated by voluntary action while there be outstanding indebtedness or fixed term obligations of the Trustees, unless all owners of such indebtedness or obligations shall have consented in writing to such termination.

Upon the termination of this Trust, the Trustees shall proceed to wind up the affairs of this Trust, and after payments of all debts, expenses and obligations out of the monies and properties of the Trust Estate to the extent thereof, shall distribute the residue of the money and properties of the Trust Estate to the Beneficiary hereunder. Upon final distribution, the powers, duties and authority of the Trustees hereunder shall cease.

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ARTICLE XII

The Trustees accept the Trust herein created and provided for, and agree to carry out the provisions of this Trust Indenture on their part to be performed.

IN WITNESS WHEREOF, the Trustor and the Trustees have hereunto set their hands on the day and year indicated.

TRUSTOR

/s/ Bill Miller

TRUSTEES

/s/ Robert Cates

/s/ John T. Richard

/s/ Charles McCall

/s/ Frank Phillips

/s/ Bill Miller

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**APPENDIX 13**

**ATCO PUBLIC IMPROVEMENT AUTHORITY**

Article I	Creation of Trust
Article II	Name of Trust
Article III	Purposes of Trust
Article IV	Duration of Trust
Article V	The Trust Estate
Article VI	The Trustees
Article VII	Powers and Duties of the Trustees
Article VIII	Beneficiaries of the Trust
Article IX	Termination of Trust
Article X	Acceptance of Trust

KNOW ALL MEN BY THESE PRESENTS:

THIS TRUST INDENTURE, dated as of the 13th day of February 1991, by and between the Atoka County Chamber of Commerce, Inc. and the Coal County Chamber of Commerce, Inc., both Oklahoma corporations, referred to below as the Trustors, and Martha Yates, City Manager of the City of Atoka; Bob Baxter, City Manager of the City of Coalgate; Johnny Self, Chairman of the Board of County Commissioners of Atoka County; Johnny Ward, Chairman of the Board of County Commissioners of Coal County; and John Doe, a private citizen, and their successors in office, as provided below, to be known as the Trustees of the ATCO Public Improvement Authority, who shall be and are referred to below as Trustees of the Authority (referred to as “Authority” or “Trust”) set out:

WITNESSETH

That in consideration of the payment by the Trustors to the Trustees in the sum of Ten Dollars (\$10.00), the mutual covenants set forth below and other valuable considerations, the Trustees agree to hold, manage, invest, assign, convey and distribute as provided, authorized and directed, by this instrument any property that Trustors, or others, may from time to time assign, transfer, lease, convey, give, bequeath, devise or deliver to this Trust or its Trustees.

TO HAVE AND TO HOLD that property and their proceeds, rent, profits and increases to the Trustees, and the Trustees’ successors and assigns, in trust, for the use and benefit of the City of Atoka, Oklahoma; the City of Coalgate, Oklahoma; Atoka County, Oklahoma; and Coal County, Oklahoma and upon the following trusts, terms and conditions.

**ARTICLE I  
CREATION OF TRUST**

The undersigned Trustors create and establish a trust for the use and benefit of the Beneficiaries for the public purposes set forth below, under the provisions of Title 60, Oklahoma Statutes

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## Appendix 13 – ATCO Public Improvement Authority

1981, Sections 176 to 180.4 inclusive, as amended and supplemented, the Oklahoma Trust Act and other applicable statutes and laws of the State of Oklahoma.

### ARTICLE II

The Trustees of the Trust shall conduct all business and execute or authorize the execution of all instruments in the name of this Trust, which shall be “ATCO Public Improvement Authority.” The Trustees shall perform the duties and functions required in the execution of this Trust. They hereby authorize the Chairman and secretary of the Authority to execute instruments on behalf of the Authority as directed by duly enacted resolutions of the Authority.

### ARTICLE III

This public trust is created for public charitable purposes as that term is contemplated by the Internal Revenue Code of 1954, Section 501(c)(3), as amended or supplemented and Internal Revenue Ruling 56-0185. This public trust is not organized for private profit; no part of the net earnings, receipts, gains, profits or other income shall inure to the benefit of any trustee, individual or private person or entity, but shall be used exclusively in fulfilling charitable trust purposes.

The purposes of this Trust are:

(1) To and refinance all types of public projects, including but not limited to solid and toxic waste disposal collection, recycling sites, and power generation as appropriate and to acquire, construct, purchase, install, equip, maintain, repair, enlarge, remodel and operate buildings and other facilities for use by the Beneficiaries of this Trust. This language shall not be construed to prohibit the Trustees from taking actions which might directly or indirectly benefit the United States of America or the State of Oklahoma, or authorities or agencies of the United States of America or of the State of Oklahoma or any of their political subdivisions, including municipal corporations, by permitting their use of Trust facilities.

(2) To engage generally in the administration, promotion, management and policing of the facilities of the Trust in a manner consistent with the laws of the United States of America, the State of Oklahoma, and appropriate ordinances of the City of Atoka and the City of Coalgate, for the benefit and use of the Beneficiaries.

(3) To provide funds for the cost of financing, acquiring, constructing, purchasing, equipping, maintaining, leasing, repairing, improving, extending, enlarging, remodeling, holding, storing, operating and administering any or all of such services, utilities, buildings, facilities, and all properties (real, personal or mixed), required to execute and fulfill the Trust’s purposes set forth in this instrument and all other charges, costs, and expenses necessarily incurred in that connection and in so doing, to incur indebtedness, either secured or unsecured by all or any part of the Trust estate and its revenue.

(4) To expend all funds coming into the hands of the Trustees as revenue or otherwise for the payment of any indebtedness incurred by the Trustees for the purposes specified in this instrument, and in the payment of costs and expenses or any other obligation properly chargeable against the Trust Estate, and to carry on all activities reasonably necessary or convenient to accomplish any and all of the purposes of this Trust.

(5) To acquire by lease, purchase, production, reduction to possession or and to plan,

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establish, develop, construct, enlarge, improve, extend, maintain, equip, operate, furnish, provide, supply, regulate, hold, store and administer any and all physical properties (real, personal or mixed), rights, privileges, immunities, benefits, and any other thing of value, designated or needful for utilization in operating, administering, and maintaining the Trust properties, buildings, equipment and facilities on behalf of the Beneficiaries or any other entity or entities; to finance and refinance and to enter into contracts of purchase, lease-purchase or other interest in or operation and maintenance of the properties and their revenue, and to comply with the terms and conditions of any of those contracts, leases or other contracts made in connection with the acquisition, equipping, operation, maintenance and disposal of any of the property; and to relinquish, dispose of, rent or otherwise make provisions for properties owned or controlled by the Trust but no longer needful for Trust purposes.

(6) To exercise the power of eminent domain as necessary and permitted by law in acquiring, operating, administering, and maintaining the Trust facilities and systems and/or to contract with the Beneficiaries, the State of Oklahoma, or any municipality, school district, county or other political subdivision of the State of Oklahoma for the exercise of eminent domain.

(7) To make and enter into all contracts and agreements which, in the judgment of the Authority, are necessary or incidental to the performance of its duties and the execution of its powers; to employ engineers, attorneys, accountants, construction and financial experts, superintendents, managers, law enforcement officers or agencies or policing agencies and those other employees and consultants as may be necessary in their judgment, and to fix their compensation.

(8) To receive and accept from any Federal or State agencies grants or loan for or in aid of the acquisition, construction, or operation of any facilities or system and to receive and accept aid or contributions of money, labor or other valuable things from any source.

(9) To expend all funds coming into the hands of the Trustees as revenue or otherwise for the payment of any indebtedness incurred by the Trustees for purposes specified in this instrument, and in the payment of those costs and expenses, and in payment of any other obligation properly chargeable against the Trust Estate, and to distribute the residue and remainder of those funds to the Beneficiaries.

### ARTICLE IV DURATION OF TRUST

The duration of this Trust shall be co-extensive with the duration of its Beneficiaries, or as long as any Beneficiary remains in existence, and until that time as its purpose shall have been completely fulfilled, or until it shall be terminated as provided below.

### ARTICLE V THE TRUST ESTATE

The Trust Estate shall consist of:

1. The funds and property presently in the hands of the Trustees or to be acquired or constructed by Trustees and dedicated by the Trustors and others to be used for Trust purposes.

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2. Any and all contracts, resolutions and other official actions of the governing bodies of the Beneficiaries as defined in Article VIII, Section 1, below, pertaining to accomplishment of the purposes of this Trust, including but not limited to all contracts of any nature between the Trust and the United States of America, any of its agencies or authorities, the State of Oklahoma, or any of its agencies, authorities or political subdivisions pertaining to the Trust or any of its facilities or functions.

3. Any and all leasehold rights demised to the Trustees by any beneficiary or beneficiaries as authorized and empowered by law, or by the United States of America or any of its agencies or authorities or the State of Oklahoma or any of its political subdivisions or public agencies.

4. Any and all money, property (real, personal, or mixed), in action, contracts, leases, privileges, immunities, licenses, franchises, benefits and all other things of value coming into the possession of the Trustees pursuant to the provisions of this Trust Indenture.

The instruments executed for each project and each issuance of Trustees bonds and other indebtedness, shall set out the specific property of the Trust Estate exclusively pledged for the payment of such indebtedness, if any.

### ARTICLE VI THE TRUSTEES

(1) The Trustees of the Authority shall be five (5) in number. The Trustees shall be the persons occupying the offices of City Manager of the City of Atoka and the City of Coalgate, the Chairmen of the Board of County Commissioners of Atoka County, Oklahoma and Coal County, Oklahoma, on the date of the execution of this Trust Indenture so long as they are in office, and their duly appointed or elected successors in their respective offices, and a citizen and resident of the two-county area of Atoka County or Coal County, Oklahoma, appointed as provided below to serve as a Trustee-at Large. Each successor in the named public offices or positions shall, without any further act or conveyance, become fully vested with all the estate, properties, rights, powers, duties and obligations of his predecessor with the same effect as if originally named as a Trustee. A Surrogate Trustee may be designated by the governing body of each beneficiary to act in the absence of the Trustee. The Surrogate Trustee shall take any oath of office required of his principal while acting in this capacity, the Surrogate Trustee shall be vested with all the estate, property, rights, powers, duties and obligations of his principal. The original Trustees, their Surrogates, and each successor in office shall be deemed to be public officers and the oath of office of public officers shall be administered to all Trustees as a condition precedent to their becoming Trustees of the Trust. The term of the Trustee-at-Large shall be three (3) years. The term of the first Trustee-at-Large shall commence upon the date of the first meeting of the Trustees.

The Trustee-at-Large shall be appointed by the unanimous vote of a committee composed of the presidents of the Atoka State Bank, the First National Bank of Atoka, and the First National Bank of Coalgate. The Trustee shall be chosen from a list of not less than six (6) residents of the two-county area of Atoka County and Coal County, Oklahoma, prepared and submitted by a committee of four (4) members composed of one (1) representative selected by each of the governing bodies of each of the Beneficiaries. In the event this committee is unable to select a Trustee, the judge of the District Court of Atoka County and Coal County shall, upon application of the committee, appoint a Trustee to serve until the committee is able to fill the

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vacancy or until the term of the Trustee expires. The Trustee-at-Large is eligible for an indefinite number of successive terms.

(2) The Trustees shall elect one of the Trustees as Chairman, who shall preside at all meetings and perform other duties designated by the Trustees. All actions by the Trustees pursuant to the terms of this Trust Indenture shall be approved by an affirmative vote of at least a majority of the Trustees then qualified to act in that capacity under the provisions of this Trust Indenture, unless a greater percentage is required by law. The Trustees shall also elect one of the Trustees as a Vice-Chairman, who shall act in the place of the Chairman during the latter's absence or incapacity to act. The terms of the Chairman and Vice-Chairman respectively shall be determined by the Trustees. Each of these officers may be removed from their position as the Chairman and Vice-Chairman, respectively, with or without cause, by a majority vote of the Trustees.

(3) The Trustees shall elect a Secretary of the Authority who need not be a Trustee. The Trustees may appoint or elect an Assistant Secretary who need not be a Trustee. The Secretary or Assistant Secretary shall keep minutes of all meetings of the Trustees and shall maintain complete and accurate records of all their transactions with all such minutes, books and records to be on file in the office of the Authority, which shall be at the County Court House of a designated county Beneficiary designated by the Trustees. All meetings of the Trustees shall be open to the public and all minutes, books and records of the Trustees shall be open to the public, shall be considered as public records and shall be available for inspection of the office of the Authority at all reasonable times by any interested party.

(4) The Trustees shall appoint or elect a Treasurer of the Authority who need not be a Trustee. The Trustees may appoint or elect an Assistant Treasurer of the Trustees who need not be a Trustee.

(5) The Trustees may appoint a General Manager for the Trust Estate, and may employ the clerical, professional, legal and technical assistance as may be deemed necessary in the discretion of the Trustees to operate the business of the Trust Estate properly. The Trustees may fix their duties, terms of employment and compensation. Any employee may be a person who shall be an officer or employee of a Beneficiary. In that event, the officer or employee may receive compensation from the Trust Estate. All Trustees shall serve without compensation but shall be reimbursed for actual expenses incurred in the performance of their Trust duties. In the event a General Manager for the Trust Estate is appointed by the Trustees, the General Manager shall administer the business of the Trust Estate as directed from time to time by the Trustees.

(6) The Trustees are authorized to contract, in connection with the incurring of any funded indebtedness secured by the Trust Estate and/or its revenues, or any part of either or both, that in the event of a default in the fulfillment of any contract or obligation undertaken on behalf of the Trust Estate, that a temporary trustee or trustees or receiver shall be appointed and operate the Trust Estate, and provide for compensation to be paid, the appointment to be vacated, and permanent Trustees to be automatically reinstated upon termination of all defaults by which their appointment was authorized.

(7) Bonds or other evidences of indebtedness to be issued by the Trustees shall not constitute an indebtedness of any Beneficiary, the State of Oklahoma, or be a personal obligation of the Trustees, but shall constitute obligations of the Trust payable solely from the Trust Estate.

(8) The Trustees and the Beneficiaries shall not be charged personally with any liability whatsoever by reason of any act or omission committed or suffered in good faith or in the

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exercise of their honest discretion in the performance of their Trust or in the operation of the Trust Estate. Any act or liability for any omission or obligation of the Trustees in the execution of such Trust, or in the operation of the Trust Estate, shall extend to the whole of the Trust Estate or so much of it as may be necessary to discharge the liability or obligation.

(9) Notwithstanding any other provision of this Indenture which shall appear to provide otherwise, no Trustee or Trustees shall have the power or authority to bind or obligate any other Trustee, or any Beneficiary, in his or its capacity, nor can any Beneficiary bind or obligate the Trust or any individual Trustee.

(10) The Trust shall cause an audit to be prepared annually at the close of each fiscal year of the Authority of the funds, financial affairs and transactions of the Authority. This audit shall be certified with the unqualified opinion of a certified public accountant, a certified municipal accountant or a licensed public account, prepared in accordance with the standards set by the Oklahoma State Auditor and Inspector. A copy of the annual audit shall be filed with the State Auditor and Inspector and with the Beneficiaries of the Trust following the close of each fiscal year of the Authority. Unless later changed by resolution of the Trustees, the fiscal year of the Authority shall be identical with the calendar year. The fiscal year shall be certified to the State Auditor and Inspector. The cost of the audits shall be paid from the Trust Estate.

## ARTICLE VII POWERS AND DUTIES OF THE TRUSTEES

To accomplish the purposes of the Trust, and subject to the provisions and limitations otherwise provided in this Trust Indenture, the Trustees shall have, in addition to the usual powers incident to their office and the powers granted to them in other parts of this Trust Indenture, the following rights, powers, duties, authority, discretion, and privileges, all of which may be exercised by them without any order or authority from any Beneficiary or any court:

(1) To conduct, manage and control the affairs or business of the Trust, and to make and enforce those rules and regulations as are (a) compatible with the prudent operation of the appropriate public function in which the Trust is engaged, and (b) are in compliance with all appropriate federal and state requirements, and applicable rules and regulations of the Oklahoma State Health Department and other appropriate agencies.

(2) To finance, refinance, acquire, establish, develop, construct, enlarge, improve, extend, maintain, equip, operate, lease, furnish, provide, supply, regulate, hold, store and administer any of the property or facilities designated pursuant to Article III of this Trust Indenture as the Trustees shall determine to be necessary for the benefit and development of the Beneficiaries.

(3) To enter into contracts (in accordance with the requirements of law) for the acquisition and construction of the facilities authorized to be acquired and constructed pursuant to the terms of this Trust Indenture and in compliance with it, other than facilities constructed by employees of the Trustees.

(4) To employ any architectural, engineering or other firm or firms as the Trustees deem necessary to prepare preliminary and detailed studies, plans, specifications, cost estimates and feasibility reports as the Trustees determine maybe required to further the Trust purposes. The cost of this engineering, architectural or other work shall be paid out of the proceeds of the issuance of indebtedness or from such other funds as may be available.

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(5) To enter into contracts for the sale of bonds, notes or other evidences of indebtedness or obligations of the Trust for the purpose of acquiring and constructing works and facilities authorized to be acquired or constructed under the terms of this Trust Indenture or a repayment contract with a lending or constructing party. For that purpose, the Trustees may:

(a) Employ a financial advisor, or committee of advisors, to advise and assist the Trustees in the marketing of the bonds, notes or other evidences of indebtedness or obligations, and to present financial plans for the financing of the acquisition or construction of each project, and to recommend to, or consult with, the Trustees concerning the terms and provisions of bond indentures and bond issues, and may pay appropriate compensation for the work and services performed in the furtherance of the project;

(b) Sell all bonds, notes or other evidences of indebtedness or obligations of the Trust in whole or in installments or series and on the terms and conditions and in the manner as is prescribed by law and as the Trustees shall deem to be in the best interest of the Trust Estate; and

(c) Appoint and compensate attorneys, paying agencies and corporate trustees in connection with the issuance of any bonds, notes, evidences of indebtedness or other obligations of the Trust.

(6) To enter into and execute, purchase, lease or otherwise acquire property, real, personal or mixed, contracts, leases, rights, privileges, benefits, choses in action or other things of value and to pay for them in cash, with bonds or other evidences of indebtedness or otherwise.

(7) To make and change investments; to convert real into personal property, and vice-versa; to lease, improve, exchange or sell, at public or private sale, upon terms as they deem proper, and to resell, at any time and as often as they deem advisable, any or all of the property of the Trust, real and personal; to borrow money, renew loans to the Trust, or refund outstanding bonded indebtedness, and to secure any of them by mortgage, lien, pledge or otherwise; to purchase property from any person, firm, corporation or entity and lease land and other property to and from the Beneficiaries or other entities, and construct, improve, repair, extend, remodel and equip facilities and to operate or lease or rent them to any public entity or entities, including the United States of America, the State of Oklahoma, including all municipal or other political subdivisions of the State of Oklahoma, and to do all things provided for in Article III of this Trust Indenture, and procure funds necessary for those purposes by the sale of bonds or other evidences of indebtedness, either unsecured or secured by a mortgage, lien, pledge or other encumbrance or otherwise of such real and personal property and facilities owned or otherwise acquired, leased or controlled by the Trustees, and by rentals, income, receipts and profits, or from any other revenues associated with the ownership, operations or control of the property of the Trust; and to lease or sublease to appropriate lessees or sublessees any property of the Trust or of which the Trustees may become the owners or lessees.

(8) To fix, demand and collect charges, rentals and fees for the services and facilities of the Trust and to discontinue furnishing of services and facilities to any person, firm or corporation, or public instrumentality, delinquent in the payment of any indebtedness to the trust; and to purchase and sell any supplies, goods and commodities as are incident to the operation of its properties.

(9) To make and perform contracts of every kind, including management contracts, with any person, firm, corporation, association, joint venture, trusteeship, municipality, government, sovereignty or other entity; without limitation as to amount, to make, accept, endorse, assume, guarantee, account, execute and issue promissory notes, drafts, bills of exchange, acceptances,

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warrants, bonds, debentures, and other negotiable or non-negotiable instruments, obligations and evidences of unsecured indebtedness, or of indebtedness secured by mortgage, deed of trust or otherwise upon any or all income of the Trust in the same manner and to the same extent as a natural person might or could do.

(10) To collect and receive any property, money, rents or income of any sort and distribute it or any portion of it for the furtherance of the authorized Trust purposes.

(11) To do all other acts which, in their judgment, are necessary or desirable for the proper and advantageous management, investment and distribution of the Trust Estate and its income. The whole title, legal and equitable, to the properties of the Trust is and shall be vested in the Trustees to the degree or extent that title in the Trustees is necessary for the due execution of this Trust. The Trustees shall have and exercise exclusive management and control of the properties of the Trust Estate.

(12) The Trustees may contract for the furnishing of any services or the performance of any duties that they deem necessary or proper, and pay for them as they see fit.

(13) The Trustees may select depositories for the funds and securities of this Trust. Any temporary trustee or trustees or receiver appointed pursuant to paragraph 6 Article VI, above, may employ special counsel to represent them. Compensation for this special counsel shall be paid from the revenues of the Trust Estate.

(14) The Trustees may compromise any debts or claims of or against the Trust Estate, and may adjust any dispute in relation to debts or claims against the Trust Estate upon any evidence deemed by the Trustees to be sufficient. The Trustees may bring any suit or action which in their judgment is necessary or proper to protect the interest of the Trust Estate, including the seeking of relief from the United States Bankruptcy Court, or to enforce any claim, demand or contract for the Trust. They shall defend, in their discretion, any suit against the Trust, or the Trustees or Trust employees, agents or servants.

They may compromise and settle any suit or action and discharge it out of assets of the Trust Estate; together with court costs and attorneys' fees. All these expenditures shall be treated as expenses of executing this Trust.

(15) No purchaser at any sale or lessee under a lease made by the Trustees shall be bound to inquire into the expediency, propriety, validity or necessity of the sale or lease or to see to or be liable for the application of the purchase or rental monies arising from it.

### ARTICLE VIII BENEFICIARIES OF THE TRUST

(1) The Beneficiaries of this Trust shall be the City of Atoka, Oklahoma, the City of Coalgate, Oklahoma, the County of Atoka, and the County of Coal, Oklahoma, under and pursuant to Title 60, Oklahoma Statutes 1981, Section 176 to 180.3, inclusive, as amended and supplemented, and other statutes of the State of Oklahoma presently in force and effect. Trustors now declare that this Trust Indenture shall not be subject to revocation, alteration, amendment, revision, modification or termination detrimental to any holder of indebtedness of the Authority, from and after the date any indebtedness is incurred by the Trustees, without consent of the holder of indebtedness. With the consent of Trustors, Trustees and the Beneficiaries, the Trust Indenture may be amended, revised or modified to provide additional security or protection of the rights and benefits of such holders, including preservation of tax exemption on indebtedness.

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(2) No Beneficiary shall have legal title, claim or right to the Trust Estate, its income, or to any part of it, nor demand any partition or distribution of it. Neither shall any Beneficiary have any authority, power or right whatsoever, to do or transact any business for, or on behalf of, or binding upon the Trustees or upon the Trust Estate, nor the right to control or direct the actions of the Trustees pertaining to the Trust Estate, or any part of it. The Beneficiaries shall be entitled solely to the benefits of this Trust, as administered by the Trustees, and at the termination of the Trust, and then only, the Beneficiaries shall receive the residue of the Trust Estate.

ARTICLE IX  
TERMINATION OF TRUST

This Trust shall terminate

(3) on the third anniversary of the effective date of the creation of this Trust May 3, 1994, unless any of the following has occurred:

(a) the requisite authority to perform any function for which this Trust is created has been applied for by the Trust or has been issued by the United States of America, the State of Oklahoma, or any appropriate department or agency of either; or

(b) adequate or substantially adequate financing has been obtained for the performance of any function the Trust is created to perform, or

(c) the Trustees have expressly declared the term to be extended to a date certain by unanimous vote of the Trustees, either personally or by surrogate, at a properly scheduled meeting of the Trustees. This authority to extend the term may be exercised an unlimited number of times.

Upon the termination of this Trust, the Trustees shall proceed to wind up the affairs of this Trust, and after payment of all debts, expenses and obligations out of the moneys and properties of the Trust Estate, shall distribute the residue of the money and properties of the Trust Estate to the Beneficiaries under equitable terms and conditions as may be established by the Trustees. Upon final distribution, the powers, duties and authority of the Trustees shall cease.

ARTICLE X

The Trustees accept the Trust created and provided for and agree to carry out the provisions of this Trust Indenture on their part to be performed.

IN WITNESS WHEREOF, the Trustors and the Trustees have set their hands on the day and year indicated,

/s/ Robert Cates, Trustor

/s/ Robert Baxter, Trustee

/s/ Johnny Self, Trustor

/s/ Alvin Pebworth, Trustee

/s/ Martha Yates, Trustee

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**APPENDIX 14**

**THE ATOKA CITY CEMETERY TRUST**

Article I	Creation, Name and Duration
Article II	Terms, Phrases and Definitions
Article III	Trust Uses and Purposes
Article IV	The Trustees
Article V	Additional Powers and Duties of the Trustees
Article VI	Termination of Trust
Article VII	Miscellaneous Trust Provisions
Article VIII	Acceptance

**KNOW ALL MEN BY THESE PRESENTS:**

THIS TRUST INDENTURE AND AGREEMENT created, made and entered into on and effective this 21<sup>st</sup> day of February, 1995, by and between Charles McCall, J. R. Caton, C. A. McCall, and Richard E. Mayfield, hereinafter referred to as the Trustors, and Melinda Durbin, Connie Edwards, and C. A. “Barney” McCall (and their respective successors in office) hereinafter referred to as the Trustees of this, the Atoka City Cemetery Trust;

FOR AND IN CONSIDERATION of the sum of ten dollars (\$10.00) and other property this day transferred and/or paid and delivered, in trust, by said Trustors to said Trustees, the receipt of which is hereby acknowledged by said Trustees, and in consideration of the mutual covenants herein set forth, the provisions hereof, such additional property as the Trustees, as such Trustees, may hereafter, from time to time, acquire from said Trustors and/or others, and other good and valuable lawful and sufficient consideration, the receipt of which is by said Trustees hereby acknowledged conveyed, transferred and delivered:

TO HAVE AND TO HOLD such property and any and all income, increase, profits and/or proceeds thereof and the entirety of the Trust Estate unto said Trustees, and their successors, but always and nevertheless in Trust for the use and benefit of the Beneficiary, the City of Atoka, Oklahoma, subject to and upon the uses, trusts, terms and conditions below provided;

WITNESSETH:

**ARTICLE I**  
**CREATION, NAME AND DURATION**

1.01 The Trustors hereby declare and establish this Trust, a public trust for the Beneficiary’s use and benefit, and for the uses and purposes below set forth, under and pursuant to the Act and other laws of the State for such cases made and provided.

1.02 The name of this Trust shall be “The Atoka City Cemetery Trust”, hereinbelow also referred to as “Trust” or “this Trust”.

1.03 Insofar as practical, unless prohibited by law, the Trustees shall carry out the uses and

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purposes of this Trust, exercise their powers and authorities, execute all instruments and paper, and otherwise conduct and perform their business, duties and functions required herein, in and/or under said Trust name.

1.04 This Trust's duration shall be co-extensive with the that of its Beneficiary and/or for so long as said Beneficiary or successor thereof remains in existence, and until such time as its purposes shall have been completely fulfilled, or until it shall be terminated as below provided in Article VI hereof.

### ARTICLE II TERMS, PHRASES AND DEFINITIONS

2.01 Unless the context clearly indicates otherwise, the following words and/or expressions herein shall have and be construed and interpreted as having the meanings ascribed thereto:

(a) "Acquire": to, howsoever in any manner, acquire and/or use, enjoy, possess, have, hold, receive, accept, assume, reduce to possession, and/or obtain by way of contract, donation, gift, bequest, devise, grant, loan, purchase, lease, let, rent, foreclosure, transfer in lieu of foreclosure, conveyance and/or other transfer and/or otherwise obtain or acquire.

(b) "Act": State Public Trust Act, 60 O.S.A. §§ 176 et seq.

(c) "Beneficiary": The City, and its successors.

(d) "By-Laws": The rules, regulations and other by-laws as duly, from time to time, adopted and/or amended by the Trustees.

(e) "Cemetery": A place or area, or part thereof, intended and/or set aside and/or used for or in relation to the internment, burial, storing, keeping and/or maintaining of the remains of deceased humans in graves, tombs, mausoleums, and the like, located or situated, or principally located or situated, within and/or adjacent to the geographical City limits of the City, as the same may now, or hereafter, be drawn and/or constituted.

(f) "Cemetery functions": All property, services, occurrences, and/or functions relating, pertaining, ancillary and/or incidental to acquiring, operating and/or utilizing cemeteries located or situated, or principally located or situated, within and/or adjacent to the geographical city limits of the City, as the same may now, or hereafter, be drawn and/or constituted.

(g) "City": Atoka Oklahoma, a Municipal Corporation.

(h) "City Council": The governing board of the City.

(i) "Dispose of": To, howsoever in any manner, donate and/or give, grant, abandon, forfeit, waive, bargain, convey, pledge, lease, let, rent, transfer, sell, and/or otherwise dispose of and/or cause or allow another person to acquire.

(j) "Entity": Anyone or more, and/or any combination of, any form of venture, association, operation, sole proprietorship, partnership, co-adventure, private and/or business and/or public trust, syndicate, corporation or other similar entity.

(k) "Finance": To acquire, operate, dispose of, furnish, arrange, contract respecting, and/or otherwise howsoever in any manner deal in and/or with funds, money, and/or things of value.

(l) "Governmental Unit": The State, The United States, and/or any political division and/or subdivision, unit, board, agency, department, facility, authority, trust, and/or instrumentality thereof and/or any association and/or combination thereof.

(m) "Howsoever in any manner": In whole and/or in part, by action or inaction, directly

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or indirectly and/or by agent, publicly or privately and/or with or without bid and/or appraisal, and/or otherwise in any method and/or manner whatsoever.

(n) “Improve”: To, howsoever in any manner, propose and/or plan, design, develop, implement, plant, place, revise, change, alter, modify, enlarge, extend, scrape, dig, trench, excavate, bury, tunnel, affix, create, raise, construct, erect, build, install, equip, furnish, hold, store, maintain, raze, destroy, eliminate, remove, improve and/or similarly deal in and/or with.

(o) “Majority vote” of the Trustees (or similar expression): by the affirmative vote of (at least) two (2) Trustees, if there are three (3) Trustees, three (3) Trustees if there are four (4) or five (5) trustees, and etc. as to a larger number of Trustees.

(p) “Operate”: To, howsoever in any manner, acquire and/or dispose of, improve, utilize, invest (and/or reinvest, keep invested or not), hold, use, administer, administrate, supply, provide, arrange, manage, control, maintain, furnish, regulate and/or otherwise operate and/or similarly deal in and/or with.

(q) “Person”: Any entity, governmental unit, individual, other natural or legal person, and/or any combination thereof.

(r) “Pledge”: To, howsoever in any manner, finance, encumber, hypothecate, mortgage, pledge and/or otherwise make, create, cause, suffer and/or allow a lien or other security interest in.

(s) “Professional Services”: Any, all, and/or any combination of, services of a professional or quasi-professional type or nature whatsoever, including but not limited to banking, accounting, financial, securities, investments, bonding, debt service, management, improvement, operation, insurance, promotion, legal, advertisement, drafting, architectural, engineering, mechanical, utilities, acquisition and/or other similar services.

(t) “Property”: Any and all money and/or funds, negotiable and/or non-negotiable instruments and/or paper, accounts, stocks, bonds, investments, insurance policies, reckonings, chattels, real and/or personal, intellectual, tangible, intangible, mixed and/or other property, items, goods, documents, rights, titles, interests, claims, demands, choses in action, privileges, powers, leases, franchises, immunities, contracts, benefits or thing of value and/or any instruments, documents and/or evidences thereof.

(u) “Quorum” of the Trustees (or similar expression): the presence of (at least) two (2) Trustees, if there are three Trustees, three (3) Trustees if there are four (4) or five trustees, and etc. as to a larger number of Trustees.

(v) “State”: The State of Oklahoma.

(w) “Trust Estate”: Cash in the sum of \$10.00 from the Trustors, and all other property acquired by the Trustees as Trustees.

(x) “Trust Paper”: Any, all, and/or combination of, notes, bonds, debentures, finance documents and/or other item, document, thing and/or instrument of and/or evidencing or representing any debt, indebtedness and/or other similar obligation of the Trust.

(y) “Utilize”: To, howsoever in any manner, use, acquire, operate, improve, finance, arrange and/or contract, pay, compensate, have available and/or otherwise utilize.

2.02 Furthermore, unless the contrary clearly appears from accompanying text: the singular includes the plural, and the plural includes the singular; pronouns include the female, male or neuter;

and, extensions and/or conjugations of a word shall carry the same general import and/or meaning as the base word.

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ARTICLE III  
TRUST USES AND PURPOSES

The uses and purposes of this Trust are:

- 3.01 To acquire, finance, improve, operate, utilize, pledge, dispose of and/or otherwise deal in and/or with: one or more cemeteries; cemetery functions; Trust paper and the Trust estate.
- 3.02 To acquire, finance, improve, operate, utilize, pledge, dispose of and/or otherwise deal in and/or with any public works, improvements, facilities, activities, business, occupation and/or functions which is/are not now or hereafter prohibited by the Act.
- 3.03 To do and/or engage in any other use, action, activity, business, trade, occupation and/or function as any corporation and/or private trust organized and existing under the laws of the State which is/are not now or hereafter prohibited by the Act.
- 3.04 To utilize and dispose of all funds and other property acquired by the Trustees, principal and/or revenue and/or income and/or otherwise, for the payment and/or other satisfaction of any debt and/or obligation incurred and/or created by the Trustees for any of the purposes specified herein and/or otherwise properly chargeable against the Trust Estate, and to carry on any and all activities reasonably necessary and/or convenient to accomplish any or all of such uses or purposes.
- 3.05 To acquire or accept contributions, donations, gifts or other transferences of property, in trust, to the Trust, from any person; or to decline so to do, in the discretion of the Trustees.
- 3.06 To so acquire or accept contributions, donations, gifts or other transferences of property, in trust, to the Trust, or decline so to do, upon the condition and/or with the proviso and/or agreement that the same shall be “earmarked” or otherwise similarly designated as being utilized for, or primarily for, a (or more) specified cemetery(ies), provided that the same shall not otherwise restrict the utilization thereof by the Trustees within said cemetery(ies); provided further, any other provisions herein contained directly or indirectly appearing to otherwise authorize the Trustees notwithstanding, in such events such “earmarked” property shall only be utilized by the Trustees for, in and/or otherwise in respect to said specifically designated cemetery(ies).

ARTICLE IV  
THE TRUSTEES

- 4.01 The Trustees of this Trust shall be the hereinabove named and hereunto subscribing Trustees; and their respective successors, which successors shall, without further act, deed or conveyance, automatically become a Trustee hereof and fully vested with all the estate, properties, rights, powers, duties and obligations of his predecessor hereunder, as if originally named as a Trustee herein.
- 4.02 Except for said original (hereinabove named and hereunto subscribing) Trustees, the Trustees and successors shall be appointed by the affirmative vote of a majority of the City Council.
- 4.03 The City Council shall fill any vacancies in the number of Trustees occurring due to the death or resignation of a Trustee, or occurring due to the removal or incapacity thereof, or

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otherwise occurring, by the affirmative vote of a majority of the City Council; and, the Trustee so appointed shall serve out the remainder of the unexpired term of the Trustee whose vacancy was so filled.

4.04 At the time of the making, execution and creation hereof, there are three (3) existing and used Cemeteries located or situated, or principally located or situated, within and/or adjacent to the geographical limits of the City; namely: “Green Meadows Cemetery”, “Westview Cemetery” and “Green Hill Cemetery”. And, as used herein with respect to the qualifications of an individual to serve as Trustee hereunder, the term, phrase or expression “representative of” in reference to a Cemetery means that such individual is an otherwise appropriate individual to serve as a Trustee of this Trust who has an immediate family member (from Grandparents to Grandchildren) interred in or at said referenced Cemetery.

4.05 It is the express intention of the Trustors that, except as otherwise hereinbelow in this Paragraph provided, the number of Trustees of this Trust shall (from time to time) be equal to the number of existing and used Cemeteries located or situated, or principally located or situated, from time to time, within and/or adjacent to the geographical limits of the City; provided, however, that there shall not be less than three (3) Trustees even if there are, at any time, less than three such Cemeteries.

4.06 Except as otherwise hereinbelow in this Paragraph provided, with respect thereto: one (1) such Trustee shall be such a “representative of” said “Green Meadows Cemetery”; one (1) such Trustee shall be such a “representative of” said “Westview Cemetery”; and the remaining one (1) of such Trustee shall be such a “representative of” said “Green Hill Cemetery”. Provided further, that if there are more than three such Cemeteries (and therefore an equal number of Trustees), then likewise one Trustee shall respectively be such a “representative of” each of such other Cemeteries.

4.07 Except as hereinbelow set forth in Paragraph 4.08 hereof as to the original (hereinabove named and hereunto subscribing) Trustees: each Trustee’s term of office shall be for a period of Two (2) years; which shall be deemed to commence at 12:01 O’Clock A.M on January 1st (First) of (the year 1996, and) each even numbered year hereafter, and to respectively expire at 12:00 O’Clock P.M. (Midnight) on December 31st (Thirty-First) of (the Year 1997, and) each respective odd numbered year thereafter; provided, however, any Trustee shall continue as Trustee until such time as his/her successor shall be appointed in the event that his/her said successor is not so timely appointed, and, in such case, upon the such appointment thereof, such successor shall carry out the then remaining balance of the said term of such Trustee.

4.08 Provided, the terms of said original (hereinabove named and hereunto subscribing) Trustees shall commence upon the date of execution hereof, and expire at Midnight on December 31, 1995 (however, each said original Trustee shall continue as such Trustee until such time as his/her successor is so appointed).

4.09 Any provisions herein directly or indirectly otherwise appearing to the contrary notwithstanding: any individual may serve any number of terms and/or partial terms as Trustee, consecutive or otherwise, as to which he or she may be appointed (and agree to so serve); and, any one or more of the Trustees may be, but need not be, a member of the City Council and/or employee of the City.

4.10 The trustees shall not receive any compensation for the performance of their duties as such, but may be reimbursed by the Trust for their actual expenses incurred in the course thereof.

4.11 The Trustees shall act only as a body at scheduled meetings, and only when a quorum

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shall be present; provided, however, a smaller number may adjourn from day to day or from time to time, should a quorum not be present. Furthermore, except as otherwise herein specifically provided, all matters coming before the Trustees at such meetings shall be acted upon and/or decided by the majority vote of the Trustees.

4.12 The Trustees shall hold at least one regular meeting semiannually. Special or emergency meetings may be called as set forth below. Such regular and other meetings shall be held at such time and place as the Trustees shall prescribe by its calling, by the By-Laws, or otherwise by their majority vote. Furthermore, such semiannual, special or emergency meetings may be called by the Chairperson and or, during the Chairperson's absence or incapacity to act, by the Vice-Chairperson, and/or (regardless of the absence (or not) or incapacity (or not) of either said Chairperson and/or Vice-Chairperson) jointly by any two (2), or more, Trustees.

4.13 The Trustees may hold and/or conduct executive sessions during regular, special or emergency meetings, upon the majority vote thereof. Such executive sessions shall be limited to the purposes of: discussing the employment, hiring, appointment, promotion, demotion, disciplining, resignation and/or similar matter relating to personnel utilized by the Trust; and/or consulting with their attorney concerning a pending investigation, claim or action, where disclosure thereof could seriously impair the Trustees' ability to process the claim and/or conduct the investigation, litigation and/or proceeding in the interests of the Trust or Beneficiary; and/or for relating to condemnations; and/or any other purposes not prohibited by the Open Meeting Act of the State.

4.14 Except for such executive sessions, all meetings of the Trustees shall be open to the public, and agendas and other notices thereof had and given, in and to the same manner and extent as any similar open public meeting of the City Council.

4.15 The minutes of such meetings, journals of proceedings, and other books, documents, records and archives of the Trust shall be open to public inspection, in and to the same manner and extent as any similar books, documents, records and/or archives of the Beneficiary is required by law to be open to public inspection.

4.16 The Trustees shall have a Chairperson and a Vice-Chairperson, a Secretary-Clerk, and a Treasurer, each selected and/or appointed by majority vote of the Trustees. A Trustee may simultaneously, conjointly or concurrently serve as such Secretary-Clerk or as such Treasurer while serving as such Chairperson or Vice-Chairperson; but no person shall simultaneously, conjointly or concurrently serve as both said Secretary-Clerk and said Treasurer. The Trustees may utilize a general manager and such additional positions and/or officers as the Trustees may, from time to time, designate. In addition to any matters below specified, said Chairperson, Vice-Chairperson, Secretary-Clerk, Treasurer, and potential others, shall have and perform such other and/or further duties and/or responsibilities as may be, from time to time, designated by the By-Laws and/or otherwise by majority vote of the Trustees.

4.17 The Trustees shall select one of their members to be Chairperson, and another of their members to be Vice-Chairperson; who shall, each respectively, serve in such capacity at the pleasure of a majority of the Trustees and/or until such time as he/she resigns such position and/or is no longer a Trustee.

4.18 The Chairperson shall preside at all meetings of the Trustees. The Vice-Chairperson shall act in the place of the Chairperson during the latter's absence or incapacity to act, during which time the Vice-Chairperson shall have all the duties, responsibilities and authority of the Chairperson.

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4.19 The person who is, from time to time, the City Clerk may, but need not, be designated by the Trustees to act as Secretary-Clerk of the Trust and the Trustees. The Secretary-Clerk shall keep and maintain all minutes of meetings of the Trustees, and all other journals of their proceedings, and all other books, documents, records and archives of the Trust and/or Trustees. Further, the Secretary-Clerk shall be the custodian of and attest and/or affix the seal of the Trust to documents as shall be, from time to time, required by the By-Laws and/or other majority vote of the Trustees.

4.20 The person who is, from time to time, the City Treasurer may, but need not, be designated by the Trustees to act as Treasurer of the Trust and the Trustees. Subject to such regulations and/or directions as the Trustees may, from time to time, prescribe by the By-Laws or other majority vote of the Trustees, the Treasurer shall keep and maintain complete and accurate records of all financial transactions, and deposit funds received for the Trust in such depositories and/or accounts as the Trustees may designate.

4.21 All contracts, conveyances and/or other similar documents and/or instruments shall, unless subsequently otherwise provided for by the By-Laws or other Majority Vote of the Trustees, be executed for and on behalf of the Trust by the Chairperson and attested to and sealed by the Secretary-Clerk; provided further, however, that all drafts, checks, demands and/or orders of payment

and/or other similar Trust Paper must be signed by at least two (2) of the Trustees, neither of whom shall be the Treasurer.

4.22 The Trustees shall set and determine the fiscal year of the Trust, which shall, absent subsequent action by the Trustees, be concurrent with that of the Beneficiary.

### ARTICLE V ADDITIONAL POWERS AND DUTIES OF THE TRUSTEES

Subject to any provisions and limitations otherwise provided in this Trust Indenture and Agreement, to accomplish the uses and/or purposes hereof, the Trustees shall have, in addition to the usual powers incident to their office and the powers granted to them otherwise herein, the following rights, powers, duties, authority, discretion and/or privileges, all of which may be exercised without any order or authority from any court:

5.01 To take any action and/or allow or suffer any inaction which appears reasonable, necessary and/or convenient to acquire, finance, improve, operate, utilize, pledge, dispose of and/or otherwise deal in and/or with, accomplish and/or carry out one or more of the uses and/or purposes of this Trust.

5.02 To make and/or enter into, execute, modify, alter, amend, revoke, cancel, acquire, finance, dispose of, carry out, perform, operate, pledge, utilize and/or otherwise deal in and/or with any contract of any nature with any person which the Trustees consider as being reasonable, necessary and/or convenient with respect to said uses and/or purposes and/or upon relation to any other matters

set forth in this Article V.

5.03 To acquire, finance, operate, dispose of and/or otherwise utilize professional services and such other clerical, technical and/or other assistance and/or services as may be deemed reasonable, convenient and/or necessary by the Trustees; and, to fix the duties, terms of employment, compensation and/or other related attributes of and/or pertaining thereto. Any

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individual covered hereby may also be a City officer or employee, in which case he/she/they may also receive compensation therefor from this Trust, additional to that, if any, received from the City.

5.04 To fix, demand and collect charges, rentals and/or other fees from any person for any services, functions, property and/or facilities of the Trust and/or discontinue the same for payment delinquency, to the same extent as any person might do.

5.05 To, without limit as to the amount thereof, draw and/or make, accept, endorse, assume, guarantee, account, execute and issue promissory notes, drafts, bills of exchange, acceptances, warranties, bonds, debentures and other negotiable or nonnegotiable instruments, obligations and evidences of secured and/or unsecured indebtedness and/or otherwise acquire, finance, improve, operate, utilize, pledge and/or dispose of the same in the same manner and to the same extent as any person might do.

5.06 To make, acquire, improve, finance, operate and/or utilize suitable and proper accounts, accounting processes and procedures, books and records, audits, financing statements, and other financial records, processes, items, documents and/or things which the Trustees consider necessary or convenient.

5.07 To at any time, and from time to time, “ earmark”, allocate and/or otherwise designate, declare, determine, divide, group, classify, specify, separate and/or treat separately all and/or any portion of the Trust estate as and/or into principal, income, revenue, reserves, surplus, depletion, amortization, depreciation and/or other accounts, distinctions, classifications, designations and/or uses, whether or not relating and/or pertaining to the matters set forth in Paragraph 5.06 hereof, as the Trustees may determine to be useful, reasonable, proper and/or convenient; and to otherwise, with respect thereto acquire, finance, improve, operate, utilize, pledge and/or dispose of the same and/or any portion thereof, in kind and/or partly in kind, or otherwise.

5.08 The Trustees may sue and be sued, in the name of the Trust, and/or may set-off and/or compromise any debts or claims of or against the Trust, and adjust any dispute in relation to such debts or claims by arbitration or otherwise, and/or pay any debts or claims against the Trust upon any evidence deemed by the Trustees to be sufficient. The Trustees may bring, intervene into and/or otherwise be involved with respect to any suit or action, which in their judgment is necessary or proper to protect any interest of the Trust and/or to acquire or enforce any claim, demand or contract for the Trust; and they shall defend, in their discretion, any suit and/or other action against the Trust, or the Trustees or employees, agents or servants thereof and/or waive, enforce, adjust, compromise, settle and/or otherwise dispose of any such claim, demand suit and/or action referenced herein, and/or discharge the same out of assets of the Trust Estate, together with court costs and attorney’s fees. Any such expenditures may be treated as expenses of executing this Trust.

5.09 To conduct their meetings in accordance with such rules of procedure as they may, from time to time, approve and adopt by majority vote; provided, however, that the vote on any item shall be by the voice vote of each Trustee there present by “Yes”, “No” and/or “Abstain” (or the equivalent thereof), and each such item, vote and the total vote shall be recorded in the minutes, and entered upon the journal, of such meetings.

5.10 To create, alter, amend and/or repeal By-Laws, rules, regulations and/or resolutions relating and/or pertaining to any of the matters referenced and/or included in this instrument.

5.11 To Sell and/or otherwise dispose of Trust paper and/or other bonds, notes or other evidences of indebtedness or obligations of the Trust in whole or in installments or series, by

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public and/or private and/or negotiated and/or other method or form, and on such terms and conditions and in such manner as the Trustees shall deem to be in the best interest of the Trust.

5.12 In connection with the pledging of all or any portion of the Trust estate and/or revenues, and/or otherwise with respect to incurring of any funded indebtedness secured, in whole and/or in part, by the Trust Estate and/or its revenues, or any part of either or both: To contract with a governmental unit that in the event of a default in the fulfillment of any contract obligation undertaken on behalf of the Trust and/or in the payment of any indebtedness incurred on behalf thereof, that one or more Temporary trustees or receivers may be appointed to succeed to the rights, powers and duties of the Trustees then in office. In any such event such contract shall specifically set out the terms and conditions under which such Temporary trustee(s) or receiver(s) may be appointed, the number thereof, the authority and compensation thereof, if any, and for the removal and/or vacation of any such appointment, and the automatic reinstatement of the Trustee(s) temporarily replaced thereby upon termination of all defaults by reason of which such appointment(s) was/were authorized. Further in this regard, the Trustees may likewise contract that any such temporary trustee(s) or receiver(s) may employ special counsel to represent them and that such counsel's compensation may be paid from the revenues of the Trust Estate.

5.13 To acquire the assistance of, cooperate with, and/or otherwise utilize any governmental unit for the purposes of acquiring property by eminent domain, and participate in any proceedings, actions or other matters connected therewith.

5.14 The Trustees shall have and exercise exclusive and total operation, utilization, management and control of the Trust estate for the use and benefit of the Beneficiary; but may, in the exercise of their discretion, agree for approval of any or all of its actions and transactions by the Beneficiary.

5.15 Provided however, any provisions herein set forth appearing otherwise notwithstanding, unless otherwise specifically determined and/or agreed upon by majority vote of the Trustees: it is required hereby that there shall be effective competition on contracts for all construction work and materials as is required by the applicable State laws. Contracts for the construction of all improvements as a whole, or in part, shall be entered into only after reasonable public advertisement for bids, and when and to the extent deemed advisable and practical by the Trustees, the Trust shall cause plans and specifications to be prepared in sufficient detail for contractors to submit bids on such construction works. Plans and specifications shall be made available to all bidders and, whenever practicable in the opinion of the Trustees, final detailed plans and specifications shall be prepared prior to advertisement for bids and shall be made available to all bidders.

5.16 To take all necessary steps to secure and/or attempt to secure a "tax exempt" "charitable" and/or other similarly appropriate tax status finding and/or determination from the Internal Revenue Service, the State and/or any other similar authority; and otherwise do, and/or refrain from doing, any and all other acts and/or things which, in their judgment, may be reasonable, convenient, necessary and/or desirable, for the proper and/or advantageous acquisition, financing, pledging, improvement, operation, disposition of and/or utilization of the Trust Estate and/or to carry out and/or into effect the uses and/or purposes of the Trust, or any one thereof, and/or the matters set forth in this Article V, or any part hereof: the above paragraphs of this Article V being by way of illustration rather than limitation.

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ARTICLE VI  
TERMINATION OF TRUST

6.01 This Trust shall terminate: when the purposes set out in Article III hereof have been fully executed; at the end of its duration; or at such time and in the manner provided by the Act.

6.02 Provided further, however, that this Trust shall not be terminated by voluntary action if there then exists outstanding indebtedness or fixed term obligations of the Trust, unless all owners thereof shall have consented in writing thereto.

6.03 Upon termination of this Trust the Trustees shall: wind up its affairs; pay all its debts, expenses and obligations out of the Trust Estate, to the extent thereof; and, then distribute the residue of the Trust Estate, if any, to the Beneficiary.

6.04 Upon such final distribution, the liabilities, powers, duties and authority of the Trustees hereunder shall cease.

ARTICLE VII  
MISCELLANEOUS TRUST PROVISIONS

7.01 Except as below set forth in Paragraph 7.02 hereof, this Trust Indenture and Agreement may be altered, amended, revised and/or modified, but only upon and by the affirmative vote of at least a majority, in number, of the members of the City Council and (plus) the affirmative majority vote of the Trustees. Any such alteration, amendment, revision or modification may originate from the Trustees, or the City Council.

7.02 Provided, this Trust Indenture and agreement shall not be altered, amended, revised, and/or modified if, at the time of the proposed effective date thereof, there exists outstanding indebtedness or fixed term obligations of the Trust, unless all owners thereof shall have consented in writing thereto.

7.03 The whole title, legal and equitable, to all and every part of Trust estate is and shall be vested in the Trustees.

7.04 No purchaser or lessee of any property disposed of by the Trustees shall be bound to inquire into the expediency, propriety, validity or necessity of such disposition or to see to or be liable for the application of any proceeds therefrom.

7.05 The Beneficiary shall have no legal right, title, claim or demand to the Trust Estate and/or any portion thereof, nor to demand or require any partition or distribution thereof. Neither shall the Beneficiary have any right, privilege, power or authority to do or transact any business for, or on behalf of, or binding upon the Trustees or upon the Trust, nor to control or direct the Trustees, in any manner or extent. The Beneficiary may receive and enjoy any benefits as may inure thereto, from time to time, through the execution and/or carrying-out of this Trust and the terms and provisions hereof by the Trustees; but it shall be entitled, only, to the benefit of receiving the distribution of the Trust estate residue upon, and only upon, termination of this Trust, as provided in Article VI hereof.

7.06 Trust Paper, bonds and/or evidences of indebtedness utilized by the Trustees shall not constitute an indebtedness of the State of Oklahoma, or of the Beneficiary, or personal obligations of the Trustees of the Trust, but shall constitute obligations of the Trust payable solely from the Trust Estate.

7.07 No Trustee, nor the Trustees, nor the Beneficiary, shall be charged personally with any

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liability whatsoever by reason of any act or omission committed or suffered by the Trustees in good faith or in the exercise of their honest discretion in the performance hereof; but rather, any such liability or obligation shall be the Trust's and shall extend to so much of the Trust Estate as may be necessary to discharge the same.

7.08 Notwithstanding any other provision(s) hereof which may appear to provide otherwise, no Trustee or Trustees shall have the power or authority to bind or obligate any other Trustees, or the Beneficiary, in his, her or its capacity, nor can the Beneficiary bind or obligate the Trust, Trustees or any Trustee.

7.09 In the event the Trustees utilize a general manager for the Trust, the said general manager shall so administer the business of the Trust, and have such other duties, responsibilities and/or authority, as provided and/or directed, from time to time, by the By-Laws and/or other majority vote of the Trustees.

7.10 The situs of this Trust shall be the City of Atoka, Atoka County, Oklahoma; and, the offices of this Trust, until or unless changed by the Trustees by its By-Laws and/or other majority vote thereof, shall be located at the City hall of the City.

IN WITNESS WHEREOF the undersigned Trustors execute, make and create this Trust, and the undersigned Trustees accept the Trust herein created and provided for, and agree to carry out the provisions of this Trust Indenture and Agreement on their part to be performed; and Trustors and Trustees hereunto set their hands.

**TRUSTORS**

/s/ Charles McCall

/s/ J. R. Caton

/s/ C.A. McCall

/s/ Richard Mayfield

**TRUSTEES**

/s/ Melinda Durbin

/s/ Connie Edwards

/s/ C.A. McCall

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**APPENDIX 15**

**THE ATOKA CITY EMERGENCY MANAGEMENT AUTHORITY TRUST**

Article I	Creation, Name and Duration
Article II	Terms, Phrases and Definitions
Article III	Trust Uses and Purposes
Article IV	The Trustees
Article V	Additional Powers and Duties of the Trustees
Article VI	Termination of Trust
Article VII	Miscellaneous Trust Provisions
Article VIII	Execution and Acceptance.

KNOW ALL MEN BY THESE PRESENTS:

THIS TRUST INDENTURE AND AGREEMENT created, made and entered into on and effective this 15th day of September, 2013, by and between Robert L. Frederick, Brian Cathey, Don Walker, Donnie Allen and Richard E. Mayfield, hereinafter referred to as “Trustors”, and Robert L. Frederick, Ronald McGue, Brian Cathey, Elisabeth Frazier and James Thornley, and their respective successors in office, hereinafter referred to as the Trustees of this, the “Atoka City Emergency Management Authority Trust”;

FOR AND IN CONSIDERATION of the sum of ten dollars (\$10.00) and other property this day transferred or paid and delivered, in trust, by Trustors to Trustees, the receipt of which is hereby acknowledged by Trustees, and in consideration of the mutual covenants herein, the provisions hereof, such additional property as the Trustees may hereafter, from time to time acquire, and other good and valuable lawful and sufficient consideration, the receipt of which the Trustees hereby acknowledged as conveyed, transferred and delivered;

TO HAVE AND TO HOLD such property and any and all income, increase, profits and/or proceeds thereof and the entirety of the Trust Estate unto the Trustees, and their successors, but always and nevertheless in Trust for the use and benefit of the Beneficiary, the City of Atoka, Oklahoma, a municipal corporation, subject to and upon the uses, trusts, terms and conditions below provided;

WITNESSETH:

**ARTICLE I**  
**CREATION, NAME AND DURATION**

1.01 The Trustors hereby declare and establish this Trust, a public trust for the Beneficiary’s use and benefit, and for the uses and purposes below set forth, under and pursuant to the Act and other laws of the State for such cases made and provided.

1.02 The name of this Trust shall be “The Atoka City Emergency Management Authority Trust”, hereinbelow also referred to as “ACEMA”, “Trust” or “this Trust”.

1.03 Insofar as practical, unless prohibited by law, the Trustees shall carry out the uses and purposes of this Trust, exercise their powers and authorities, execute all instruments and paper,

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and otherwise conduct and perform their business, duties and functions required herein, in and/or under said Trust name and/or the name “Atoka City Emergency Management Authority” and/or its acronym “ACEMA”.

ARTICLE II  
TERMS, PHRASES AND DEFINITIONS

2.01 Unless the context clearly indicates otherwise, the following words and/or expressions herein shall have and be construed and interpreted as having the meanings ascribed thereto:

(a) “Acquire”: to, howsoever in any manner, acquire and/or use, enjoy, possess, have, hold, receive, accept, assume, reduce to possession, and/or obtain by way of contract, donation, gift, bequest, devise, grant, loan, purchase, lease, let, rent, foreclosure, transfer in lieu of foreclosure, conversion from another form of property, condemnation, conveyance and/or other transfer and/or otherwise obtain or acquire.

(b) “Act”: State Public Trust Act, 60 O.S.A. §§ 176 et seq..

(d) “Beneficial Associate”: The City (Beneficiary), and/or any Public Trust whose primary beneficiary is the City (Beneficiary).

(c) “Beneficiary”: The City, and its successors.

(d) “By-Laws”: The rules, regulations and other by-laws as duly, from time to time, adopted and/or amended by the Trustees.

(e) “City”: City of Atoka Oklahoma, a Municipal Corporation.

(f) “City Council”: The governing board of the City.

(g) “Dispose of”: To, howsoever in any manner, donate and/or give, grant, abandon, forfeit, waive, bargain, convey, pledge, lease, let, rent, transfer, sell, and/or otherwise dispose of and/or cause or allow another person to acquire.

(h) “Emergency Management”: Establishing, maintaining, building, training, coordinating, sustaining and improving the capability to mitigate against, prepare and plan for, respond to, and recover from threatened or actual natural disasters, acts of terrorism, or other man-made hazards, hazardous circumstances and/or disasters.

(i) “Emergency Management Services”: The coordination creation, disposition, establishment, finance, improvement, integration, operation, planning, preparation, and utilization of organizations, strategic plans, activities, services, equipment and personal necessary or convenient for the for the purposes of and/or relating or pertaining to establishing, maintaining, building, training, coordinating, sustaining and improving Emergency Management.

(j) “Entity”: Any one or more, and/or any combination of, any form of venture, association, operation, sole proprietorship, partnership, co-adventure, private and/or business and/or public trust, syndicate, corporation, or other similar entity.

(k) “Finance”: To acquire, operate, dispose of, furnish, arrange, contract respecting, and/or otherwise howsoever in any manner deal in and/or with funds, money, and/or things of value.

(l) “Governmental unit”: The state, The United States, and/or any political division and/or subdivision, unit, board, agency, department, facility, authority, trust, and/or instrumentality thereof and/or any association and/or combination thereof.

(m) “Howsoever in any manner”: In whole and/or in part, by action or inaction, directly or indirectly and/or by agent, publicly or privately and/or with or without bid and/or appraisal, and/or otherwise in any method and/or manner whatsoever.

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(n) “Improve”: To, howsoever in any manner, propose and/or plan, design, develop, implement, plant, place, revise, change, alter, modify, enlarge, extend, scrape, dig, trench, excavate, bury, tunnel, affix, create, raise, construct, erect, build, install, equip, furnish, hold, store, maintain, raze, destroy, eliminate, remove, improve and/or similarly deal in and/or with.

(o) “Majority vote” of the Trustees (or similar expression): by the affirmative vote of (at least) three (3) Trustees.

(p) “Operate”: To, howsoever in any manner, acquire and/or dispose of, improve, utilize, invest (and/or reinvest, keep invested or not), hold, use, administer, administrate, supply, provide, arrange, manage, control, maintain, furnish, regulate and/or otherwise operate and/or similarly deal in and/or with.

(q) “Person”: Any entity, governmental unit, individual, other natural or legal person, and/or any combination thereof.

(r) “Pledge”: To, howsoever in any manner, finance, encumber, hypothecate, mortgage, pledge and/or otherwise make, create, cause, suffer and/or allow a lien or other security interest in.

(s) “Professional Services”: Any, all, and/or any combination of services of a professional or quasi-professional type or nature whatsoever, including but not limited to emergency management, security, broadcasting, communications, technology, banking, accounting, financial, securities, investments, bonding, debt service, management, improvement, operation, insurance, promotion, legal, advertisement, drafting, architectural, engineering, mechanical, utilities, acquisition and/or other similar services.

(t) “Property”: Any and all money or funds, negotiable or non-negotiable instruments or paper, accounts, stocks, bonds, investments, insurance policies, reckonings, chattels, real or personal, intellectual, tangible, intangible, mixed or other property, items, goods, documents, rights, titles, interests, claims, demands, choses in action, privileges, powers, leases, franchises, immunities, contracts, benefits or thing of value and/or any instruments, documents or evidences thereof.

(u) “State”: The State of Oklahoma.

(v) “Trust Estate”: Cash in the sum of \$10.00 from the Trustors, and all other property acquired by the Trustees as Trustees.

(w) “Trust Paper”: Any, all, and/or combination of notes, bonds, debentures, finance documents or other item, document, thing and/or instrument of and/or evidencing or representing any debt, indebtedness or other similar obligation of the Trust.

(x) “Utilize”: To, howsoever in any manner, use, acquire, operate, improve, finance, arrange and/or contract, pay, compensate, have available and/or otherwise utilize.

2.02 Furthermore, unless the contrary clearly appears from accompanying text: the singular includes the plural, and the plural includes the singular; pronouns include the female, male or neuter; and, extensions and/or conjugations of a word shall carry the same general import and/or meaning as the base word.

### ARTICLE III TRUST USES AND PURPOSES

The uses and purposes of this Trust are:

3.01 To acquire, finance, improve, operate, utilize, pledge, dispose of and/or otherwise deal in and/or with: the Trust Estate; Trust Paper; and/or one or more Emergency Management services

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and/or Emergency Management.

3.02 To acquire, finance, improve, operate, utilize, pledge, dispose of and/or otherwise deal in and/or with any public works, improvements, facilities, activities, business, occupation and/or functions which is/are not now or hereafter prohibited by the Act.

3.03 To do and/or engage in any other use, action, activity, business, trade, occupation and/or function as any corporation and/or private trust organized and existing under the laws of the State which is/are not now or hereafter prohibited by the Act.

3.04 To utilize and dispose of all funds and other property acquired by the Trustees, principal and/or revenue and/or income or otherwise, for the payment or other satisfaction of any debt or obligation incurred or created by the Trustees for any of the purposes specified herein or otherwise properly chargeable against the Trust Estate, and to carry on any and all activities reasonably necessary or convenient to accomplish any or all of such uses or purposes.

3.05 To acquire or accept contributions, donations, gifts or grants, loans, time-shares, leases, profits and/or other transferences of property, in trust, to the Trust, from any person, singularly or in combination with any other person also benefiting therefrom; or to decline so to do, in the discretion of the Trustees.

3.06 To so acquire or accept contributions, donations, gifts or other transferences of property, in trust, to the Trust, or decline so to do, upon the condition or with the proviso or agreement that the same be “earmarked” or otherwise similarly designated as being utilized for, or primarily for, a (or more) specified Emergency Management services and/or Emergency Management; provided that the same shall not otherwise restrict the utilization thereof by the Trustees within such more Emergency Management services and/or Emergency Management; provided further, in such events such “earmarked” property shall only be utilized by the Trustees for, in and/or otherwise in respect to such specifically designated Emergency Management services and/or Emergency Management.

3.07 To negotiate, enter into, accept, perform, breach, modify, nullify, demand or refuse performance under or otherwise howsoever in any manner, operate or utilize understandings, letter agreements, Inter-local agreements, contracts and agreements of all and any type and nature with any person in furtherance of the convenience, interests or purposes of the Trust. Including, by way of illustration, and not limitation, to contract with or regarding, hire, fire, discipline, control, engage, or otherwise howsoever in any manner operate and/or utilize independent contractors, employees or other servants, including but not limited to an Emergency Management Director or other managing personnel of the Trust and/or operations of the Trust (limited or unlimited).

3.08 To share or otherwise authorize the use of any such contractor, employee or servant of the Trust with one or more Beneficial Associates, and/or any other governmental unit, and to share, utilize, accept, and otherwise receive the benefit or beneficial use of the labor or other services or property of and/or from or associated with any contractor, employee or servant of one or more Beneficial Associates, and/or any other governmental unit, upon a related understanding agreement, contract inter-local agreement or contract therewith deemed convenient, appropriate or desirable by the Trustees.

ARTICLE IV  
THE TRUSTEES

4.01 The Trustees of this Trust shall be the hereinabove named and hereunto subscribing

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Trustees; and their respective successors, which successors shall, without further act, deed or conveyance, automatically become a Trustee hereof and fully vested with all the estate, properties, rights, powers, duties and obligations of his predecessor hereunder, as if originally named as a Trustee herein.

4.02 Except for the original (hereinabove named and hereunto subscribing) Trustees, the Trustees and successors shall be appointed by the affirmative vote of a majority of the City Council. Any Trustee, and/or all or any number of Trustees, may (but need not) be a member of the City Council, concurrently or otherwise.

4.03 Each Trustee, and all the Trustees (including said original, hereinabove named and hereunto subscribing, Trustees) shall so serve at the pleasure of the City Council; and, hence, shall not serve for any particular time designated period or term.

4.04 The City Council shall fill any vacancies in the number of Trustees occurring due to the death or resignation of a Trustee, and/or the removal or incapacity thereof, or otherwise occurring, by the affirmative vote of a majority of the City Council.

4.05 The trustees shall not receive compensation for the performance of their duties as such, but may be reimbursed by the Trust for their actual expenses incurred in the course thereof.

4.06 The Trustees shall act only as a body at scheduled meetings, and only when a quorum (Three (3) or more) thereof shall be present; provided, however, a smaller number may adjourn from day to day or from time to time, should a quorum not be present. Furthermore, except as otherwise herein specifically provided, all matters coming before the Trustees at such meetings shall be acted upon and/or decided by the majority vote of the Trustees.

4.07 The Trustees shall hold at least one regular meeting quarter-annually. Special or emergency meetings may be called as set forth below. Such regular and other meetings shall be held at such time and place as the Trustees shall prescribe by its calling, by the By-Laws, or otherwise by their majority vote.

4.08 The Trustees may hold and/or conduct executive sessions during regular, special or emergency meetings, upon the majority vote thereof. Such executive sessions shall, however, be limited to a purposes not prohibited by the Open Meeting Act of the State.

4.09 Except for such executive sessions, all meetings of the Trustees shall be open to the public, and agendas and other notices thereof had and given, in and to the same manner and extent as any similar open public meeting of the City Council.

4.10 The minutes of such meetings, journals of proceedings, and other Trust books, documents, records and archives shall be open to public inspection, in and to the same manner and extent as any similar books, documents, records and/or archives of the Beneficiary are required by law to be open to public inspection.

4.11 The Trustees shall have a Chairperson and a Vice-Chairperson, a Secretary-Clerk, and a Treasurer, each selected and/or appointed by majority vote of the Trustees. The Secretary-Clerk or the Treasurer may be, but need not be, a Trustee. A Trustee may simultaneously, conjointly or concurrently serve as Secretary-Clerk or Treasurer while serving as Chairperson or Vice-Chairperson; but no person shall simultaneously, conjointly or concurrently serve as both Secretary-Clerk and Treasurer, whether or not also a Trustee. The Trustees may utilize a general manager and such additional positions or officers as the Trustees may, from time to time, designate. In addition to any matters below specified, said Chairperson, Vice-Chairperson, Secretary-Clerk, Treasurer, and potential others, shall have and perform such other and/or further duties and/or responsibilities as may be, from time to time, designated by the By-Laws and/or otherwise by majority vote of the Trustees.

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4.12 The Trustees shall select one of their members to be Chairperson, and another of their members to be Vice-Chairperson; who shall, each respectively, serve in such capacity at the pleasure of a majority of the Trustees and/or until such time as he/she resigns such position and/or is no longer a Trustee.

4.13 The Chairperson shall preside at all meetings of the Trustees. The Vice-Chairperson shall act in the place of the Chairperson during the latter's absence or incapacity to act, during which time the Vice-Chairperson shall have all the duties, responsibilities and authority of the Chairperson.

4.14 The person who is, from time to time, the City Clerk of the Beneficiary may, but need not, be designated by the Trustees to act as Secretary-Clerk of the Trust. The Secretary-Clerk shall keep and maintain all minutes of meetings of the Trustees, all journals of their proceedings, and all other books, documents, records and archives of the Trust. Further, the Secretary-Clerk shall be the custodian of and attest or affix the seal of the Trust to documents as shall be, from time to time, required by the By-Laws or other majority vote of the Trustees.

4.15 The person who is, from time to time, the City Treasurer of the Beneficiary may, but need not, be designated by the Trustees to act as Treasurer of the Trust. Subject to such regulations or directions as the Trustees may, from time to time, prescribe by the By-Laws or other majority vote of the Trustees, the Treasurer shall keep and maintain complete and accurate records of all financial transactions, and deposit funds received for the Trust in such depositories or accounts, as the Trustees may designate.

4.16 The Trustees shall set and determine the fiscal year of the Trust, which shall, absent subsequent action by the Trustees, be concurrent with that of the Beneficiary. The Trustee's quarter-annual, special or emergency meetings may be called by the Chairperson, or jointly by the Vice Chairperson and at least one other Trustee.

### ARTICLE V

#### ADDITIONAL POWERS AND DUTIES OF THE TRUSTEES

Subject to provisions or limitations provided, to accomplish the uses and purposes hereof, the Trustees shall have, in addition to the usual powers incident to such office and those elsewhere herein granted, the following rights, powers, duties, authority, discretion or privileges, all of which may be exercised without any order or authority from any court:

5.01 To take any action or allow or suffer any inaction which appears reasonable, necessary or convenient to acquire, finance, improve, operate, utilize, pledge, dispose of and/or otherwise deal in or with, accomplish and/or carry out one or more of the uses or purposes of this Trust.

5.02 To make and/or enter into, execute, modify, alter, amend, revoke, cancel, acquire, finance, dispose of, carry out, perform, operate, pledge, utilize and/or otherwise deal in and/or with any contract of any nature with any person which the Trustees consider as being reasonable, necessary and/or convenient with respect to said uses and/or purposes and/or upon relation to any other matters set forth in this Article V.

5.03 To acquire, finance, operate, dispose of or otherwise utilize professional services and such other clerical, technical or other assistance or services as may be deemed reasonable, convenient or necessary by the Trustees; and, to fix the duties, terms of employment, compensation and other related attributes of or pertaining thereto. Any individual covered hereby may also be an officer or employee of one or more Beneficial Associates, or any other governmental unit, in which case he/she/they may also receive compensation therefor from this

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Trust, additional to that, if any, received from the one or more Beneficial Associates, and/or any other governmental unit.

5.04 To fix, demand and collect charges, rentals or other fees from any person for any services, functions, property or facilities of the Trust and/or discontinue the same for payment delinquency, to the same extent as any person might do.

5.05 To, without limit as to the amount thereof, draw and/or make, accept, endorse, assume, guarantee, account, execute and issue promissory notes, drafts, bills of exchange, acceptances, warranties, bonds, debentures and other negotiable or nonnegotiable instruments, obligations and evidences of secured and/or unsecured indebtedness and/or otherwise acquire, finance, improve, operate, utilize, pledge and/or dispose of the same in the same manner and to the same extent as any person might do.

5.06 To make, acquire, improve, finance, operate and/or utilize suitable and proper accounts, accounting processes and procedures, books and records, audits, financing statements, and other financial records, processes, items, documents and/or things which the Trustees consider necessary or convenient.

5.07 To at any time, and from time to time, “ earmark”, allocate or otherwise designate, declare, determine, divide, group, classify, specify, separate or treat separately all or any portion of the Trust estate as or into principal, income, revenue, reserves, surplus, depletion, amortization, depreciation or other accounts, distinctions, classifications, designations or uses, whether or not relating or pertaining to the matters set forth in Paragraph 5.06 hereof, as the Trustees may determine to be useful, reasonable, proper or convenient; and to otherwise, with respect thereto acquire, finance, improve, operate, utilize, pledge or dispose of the same and/or any portion thereof, in kind or partly in kind, or otherwise.

5.08 The Trustees may sue and be sued in the name of the Trust, and may set-off or compromise any debts or claims of or against the Trust, and adjust any dispute in relation to such debts or claims by mediation or non-binding arbitration or otherwise, and/or pay any debts or claims against the Trust upon any evidence deemed by the Trustees to be sufficient. The Trustees may bring, intervene into or otherwise be involved with respect to any suit or action, which in their judgment is necessary or proper to protect any interest of the Trust or to acquire or enforce any claim, demand or contract for the Trust; and they shall defend, in their discretion, any suit or other action against the Trust, or the Trustees or employees, agents or servants thereof and/or waive, enforce, adjust, compromise, settle or otherwise dispose of any such claim, demand suit or action referenced herein, and/or discharge the same out of assets of the Trust Estate, together with court costs and attorney’s fees. Any such expenditures may be treated as expenses of executing this Trust.

5.09 To conduct their meetings in accordance with such rules of procedure as they may, from time to time, approve and adopt by majority vote; provided, however, that the vote on any item shall be by the voice vote of each Trustee there present by “Yes”, “No” and/or “Abstain” (or the equivalent thereof), and each such item, vote and the total vote shall be recorded in the minutes, and entered upon the journals, of such meetings.

5.10 To create, alter, amend or repeal By-Laws, rules, regulations or resolutions relating or pertaining to any of the matters referenced and/or included in this document.

5.11 To Sell or otherwise dispose of Trust paper or other bonds, notes or other evidences of indebtedness or obligations of the Trust in whole or in installments or series, by public or private and/or negotiated or other method or form, and on such terms and conditions and in such manner as the Trustees shall deem to be in the best interest of the Trust.

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5.12 In connection with the pledging of all or any portion of the Trust estate and/or revenues, and/or otherwise with respect to incurring of any funded indebtedness secured, in whole or in part, by the Trust Estate or its revenues, or any part of either or both: To contract with a governmental unit that in the event of a default in the fulfillment of any contract obligation undertaken on behalf of the Trust and/or in the payment of any indebtedness incurred on behalf thereof, that one or more Temporary trustees or receivers may be appointed to succeed to the rights, powers and duties of the Trustees then in office. In any such event such contract shall specifically set out the terms and conditions under which such Temporary trustee(s) or receiver(s) may be appointed, the number thereof, the authority and compensation thereof, if any, and for the removal and/or vacation of any such appointment, and the automatic reinstatement of the Trustee(s) temporarily replaced thereby upon termination of all defaults by reason of which such appointment(s) was/were authorized. Furthermore, the Trustees may likewise contract that any such temporary trustee(s) or receiver(s) may employ special counsel to represent them and that such counsel's compensation may be paid from the revenues of the Trust Estate.

5.13 To acquire the assistance of, cooperate with, or otherwise utilize any governmental unit for the purposes of acquiring property by eminent domain, and participate in any proceedings, actions or other matters connected therewith.

5.14 The Trustees shall have and exercise exclusive and total operation, utilization, management and control of the Trust estate for the use and benefit of the Beneficiary; but may, in the exercise of their discretion, agree for approval of any or all of its actions and transactions by the Beneficiary.

5.15 To take all necessary steps to secure or attempt to secure a "tax exempt," "charitable" or other similarly appropriate tax status or determination from the Internal Revenue Service, the State or other similar authority; and otherwise do, or refrain from doing, any and all other acts or things which, in their judgment, may be reasonable, convenient, necessary or desirable, for the proper or advantageous acquisition, financing, pledging, improvement, operation, disposition or utilization of the Trust Estate or to carry out or into effect the uses or purposes of the Trust, or any one thereof, or the matters set forth in this Article V, or any part hereof: the above paragraphs of this Article being by way of illustration rather than limitation.

5.16 Provided however, any provisions hereinabove set forth appearing otherwise notwithstanding, unless otherwise specifically determined or agreed upon by majority vote of the Trustees: it is required hereby that there shall be effective competition on contracts for all construction work and materials as is required by the applicable State laws. Contracts for the construction of all improvements as a whole, or in part, shall be entered into only after reasonable public advertisement for bids, and when and to the extent deemed advisable and practical by the Trustees, the Trust shall cause plans and specifications to be prepared in sufficient detail for contractors to submit bids on such construction works. Plans and specifications shall be made available to all bidders and, whenever practicable in the opinion of the Trustees, final detailed plans and specifications shall be prepared prior to advertisement for bids and shall be made available to all bidders.

### ARTICLE VI TERMINATION OF TRUST

6.01 This Trust shall terminate: when all of the purposes set out in Article III hereof shall have been fully executed; at the end of its duration; or at such time and in the manner as provided by

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the Act.

6.02 Provided further, however, that this Trust shall not be terminated by voluntary action if there then exists outstanding indebtedness or fixed term obligations of the Trust, unless all owners thereof shall have consented in writing thereto.

6.03 Upon termination of this Trust the Trustees shall: wind up its affairs; pay all its debts, expenses and obligations out of the Trust Estate, to the extent thereof; and, then distribute the residue of the Trust Estate, if any, to the Beneficiary.

6.04 Upon such final distribution, the liabilities, powers, duties and authority of the Trustees hereunder shall cease.

## ARTICLE VII MISCELLANEOUS TRUST PROVISIONS

7.01 Except as otherwise provided in Paragraph 7.02 hereof, this Trust Indenture may be altered, amended, revised or modified, but only upon and by the affirmative vote of at least Four-Fifths (4/5), in number, of the members of the City Council and (plus) the affirmative vote of at least Four-Fifths (4/5), in number, of the Trustees. Any such alteration, amendment, revision or modification may originate from either the Trustees, or the City Council.

7.02 Provided, this Trust Indenture and agreement shall not be altered, amended, revised or modified if, at the time of the proposed effective date thereof, there exists outstanding indebtedness or fixed term obligations of the Trust, unless all owners thereof shall have consented in writing thereto.

7.03 The whole title, legal and equitable, to all and every part of Trust estate is and shall be vested in the Trustees.

7.04 No purchaser or lessee of any property disposed of by the Trustees shall be bound to inquire into the expediency, propriety, validity or necessity of such disposition or to see to or be liable for the application of any proceeds therefrom.

7.05 The Beneficiary shall have no legal right, title, claim or demand to the Trust Estate or any portion thereof, nor to demand or require any partition or distribution thereof. The Beneficiary shall not have any right, privilege, power or authority to do or transact any business for, on behalf of, or binding upon the Trustees or upon the Trust, nor to control or direct the Trustees, in any manner or extent. The Beneficiary may receive and enjoy any benefits as may, from time to time, inure thereto by the execution or carrying-out of this Trust and the terms and provisions hereof by the Trustees; but it shall be entitled, only, to receiving the distribution of the Trust estate residue upon, and only upon, termination of this Trust, as provided in Article VI hereof.

7.06 Trust Paper, bonds and/or evidences of indebtedness utilized by the Trustees shall not constitute an indebtedness of the State of Oklahoma, nor of the Beneficiary, nor the personal obligations of the Trustees of the Trust, but shall constitute obligations of the Trust payable solely from the Trust Estate.

7.07 Neither the Trustees, nor any Trustee, nor the Beneficiary, shall be charged personally with any liability whatsoever by reason of any act or omission committed or suffered by the Trustees in good faith or in the exercise of their honest discretion in the performance hereof; but rather, any such liability or obligation shall be that of the Trust and shall extend to so much of the Trust Estate as may be necessary to discharge the same.

7.08 Notwithstanding any provision(s) hereof which may appear to provide otherwise, no Trustee shall have the power or authority to bind or obligate any other Trustee or the

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Beneficiary, in his, her or its capacity, nor shall the Beneficiary have the power or authority bind or obligate the Trust, Trustees or any Trustee.

7.09 If the Trustees utilize a general manager for the Trust, then such general manager shall so administer the business of the Trust, and have such other duties, responsibilities or authority, as provided or directed, from time to time, by the By-Laws and/or other majority vote of the Trustees.

7.10 The situs of this Trust shall be the City of Atoka, Atoka County, Oklahoma; and, the offices of this Trust, until or unless changed by the Trustees by its By-Laws and/or other majority vote thereof, shall be located at the City hall of the City.

ARTICLE VIII  
EXECUTION AND ACCEPTANCE

IN WITNESS WHEREOF the undersigned Trustors execute, make and create this Trust, and the undersigned Trustees accept the Trust herein created and provided for, and agree to carry out the provisions of this Trust Indenture and Agreement on their part to be performed; and said Trustors and Trustees hereunto set their hands.

TRUSTORS

/s/ Robert L. Frederick

/s/ Brian Cathey

/s/ Don Walker

/s/ Donnie Allen

/s/ Richard E. Mayfield

TRUSTEES

/s/ Robert L. Frederick

/s/ Ronald McGue

/s/ Brian Cathey

/s/ Elisabeth Frazier

/s/ James Thornley

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**APPENDIX 16**

**THE ATOKA CITY AIRPORT AUTHORITY TRUST**

Article I	Creation, Name and Duration
Article II	Terms, Phrases and Definitions
Article III	Trust Uses and Purposes
Article IV	The Trustees
Article V	Additional Powers and Duties of the Trustees
Article VI	Termination of Trust
Article VII	Miscellaneous Trust Provisions
Article VIII	Execution and Acceptance.

KNOW ALL MEN BY THESE PRESENTS:

THIS TRUST INDENTURE AND AGREEMENT AND DECLARATION OF TRUST is made and entered into on and effective this 5th day of December, 2014, by and between Robert L. Frederick, Brian Cathey, Donnie Allen and Richard E. Mayfield, hereinafter referred to as “Trustors”, and Robert L. Frederick, Ronald McGue, Brian Cathey, Elisabeth Frazier and James Thornley, and their respective successors in office, hereinafter referred to as the “Trustees” of this, the “Atoka City Airport Authority Trust”;

FOR AND IN CONSIDERATION of the sum of ten dollars (\$10.00) and other property this day transferred or paid and delivered, in trust, by Trustors to Trustees, the receipt of which is hereby acknowledged by Trustees, and in consideration of the mutual covenants herein, the provisions hereof, such additional property as the Trustees may hereafter, from time to time acquire, and other good and valuable lawful and sufficient consideration, the receipt of which the Trustees hereby acknowledged as conveyed, transferred and delivered;

TO HAVE AND TO HOLD such property and any and all income, increase, profits and/or proceeds thereof and the entirety of the Trust Estate unto the Trustees, and their successors, but always and nevertheless in Trust for the use and benefit of the Beneficiary, the City of Atoka, Oklahoma, a municipal corporation, subject to and upon the uses, trusts, terms and conditions below provided;

WITNESSETH:

**ARTICLE I**  
**CREATION, NAME AND DURATION**

1.01 The Trustors hereby declare and establish this Trust, a public trust for the Beneficiary’s use and benefit, and for the uses and purposes below set forth, under and pursuant to the Act and other laws of the State for such cases made and provided.

1.02 The name of this Trust shall be “The Atoka City Airport Authority Trust”, also referred to as “ACAAT”, “Trust” or “this Trust”.

1.03 Insofar as practical, unless prohibited by law, the Trustees shall carry out the uses and purposes of this Trust, exercise their powers and authorities, execute all instruments and paper, and otherwise conduct and perform their business, duties and functions required herein, in and/or under said Trust name and/or the name “Atoka Airport Authority Trust” and/or its

acronym “ACAAT”.

ARTICLE II  
TERMS, PHRASES AND DEFINITIONS

2.01 Unless the context clearly indicates otherwise, the following words and/or expressions herein shall have and be construed and interpreted as having the meanings ascribed thereto:

- (a) “acquire”: to, howsoever in any manner, acquire and/or use, enjoy, possess, have, hold, receive, accept, assume, reduce to possession, and/or obtain by way of contract, donation, gift, bequest, devise, grant, loan, purchase, lease, let, rent, foreclosure, transfer in lieu of foreclosure, conversion from another form of property, condemnation, conveyance and/or other transfer and/or otherwise obtain or acquire.
- (b) “Act”: the Oklahoma Public Trust Act, 60 O.S.A. §§ 176 et seq.
- (c) “airport emergency and security related services”: the coordination creation, disposition, establishment, finance, improvement, integration, operation, planning, preparation, and utilization of organizations, strategic plans, activities, services, equipment and personal necessary or convenient for the for the purposes of and/or relating or pertaining to establishing, maintaining, building, training, coordinating, sustaining and improving security and security related services for one or more airports or airparks, and any ancillary airport services, and/or establishing, maintaining, building, training, coordinating, sustaining and improving the capability to mitigate against, prepare and plan for, respond to, and recover from threatened or actual natural disasters, acts of terrorism, or other man-made hazards, hazardous circumstances and/or disasters relating or pertaining to any such airport or airparks, and any and all things relating or ancillary thereto.
- (d) “airport functions and services”: to, howsoever in any manner acquire, improve, pledge, conduct, operate, manage and otherwise utilize and/or be involved in or with one of more: airports and/or airparks; related terminals and runways; public use and/or access; parking areas and structures, hangars and other storage structures and/or facilities for automobiles, other vehicles, and/or airplanes and aircraft of any and every type, nature and description; tunnels and/or overpasses; mechanical devices to move persons and/or property; service, maintenance and/or repair areas and/or structures; service structures and general structures; retail and commercial stations; fuel storage and delivery stations and facilities; airport emergency and security related services; and any and all other items and/or things related or pertaining to airports and/or ancillary airport services not otherwise prohibited by the Act.
- (e) “ancillary airport activities”: to, howsoever in any manner acquire, improve, pledge, conduct, operate, manage and otherwise utilize and/or be involved in or with one of more activities, functions, actions, omissions or other involvement with or related to any airport and/or airport functions and services, or any which are ancillary, related, associated, support or supportable by and/or with said airport functions and services, and any and all other acts, provisions, services, items and/or things related or pertaining to airports not otherwise prohibited by the Act.; including but not limited to the pursuit of, contracting regarding, provision for, maintenance, management and/or operations of, things, services and/or acts relating or pertaining to vending devices, locker and other storage facilities, mechanical services, vehicle or airplane/aircraft



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storage, mechanical services, fueling, terminal operations, food services, and retail outlets and/or operations.; and any and all other items and/or things related or pertaining to airports not otherwise prohibited by the Act.

- (f) “Beneficial Associate”: The City (Beneficiary), and/or any Public Trust whose primary beneficiary is the City (Beneficiary).
- (g) “Beneficiary”: The City, and its successors.
- (h) “By-Laws”: The rules, regulations and other by-laws as duly, from time to time, adopted and/or amended by the Trustees.
- (i) “City”: The City of Atoka Oklahoma, a Municipal Corporation, and subdivision of the State.
- (j) “City Council”: The governing board of the City.
- (k) “dispose of”: to, howsoever in any manner, donate and/or give, grant, abandon, forfeit, waive, bargain, salvage, convey, pledge, lease, let, rent, transfer, sell, and/or otherwise dispose of and/or cause or allow another person to acquire.
- (l) “entity”: any one or more, and/or any combination of, any form of venture, association, operation, sole proprietorship, partnership, co-adventure, private and/or business and/or public trust, syndicate, corporation, or other similar entity.
- (m) “finance”: to howsoever in any manner acquire, operate, dispose of, furnish, arrange, contract respecting, and/or otherwise deal in and/or with funds, money, and/or things of value.
- (n) “governmental unit”: the State, The United States, and/or any political division and/or subdivision, unit, board, agency, department, facility, authority, trust, and/or instrumentality thereof and/or any association and/or combination thereof.
- (o) “howsoever in any manner”: in whole and/or in part, by action or inaction, directly or indirectly and/or by agent or otherwise, publicly or privately and/or with or without bid and/or appraisal, and/or otherwise in any method and/or manner whatsoever.
- (p) “improve”: to, howsoever in any manner, propose and/or plan, design, develop, implement, plant, place, revise, change, alter, modify, enlarge, extend, scrape, dig, trench, excavate, bury, tunnel, affix, create, raise, construct, erect, build, install, equip, furnish, hold, store, maintain, raze, destroy, eliminate, remove, improve and/or similarly deal in and/or with.
- (q) “Majority vote” of the Trustees (or similar expression): by the affirmative vote of (at least) three (3) Trustees.
- (r) “operate”: to, howsoever in any manner, acquire and/or dispose of, improve, utilize, invest (and/or reinvest, keep invested or not), hold, use, administer, administrate, supply, provide, arrange, manage, control, maintain, furnish, regulate and/or otherwise operate and/or similarly deal in and/or with.
- (s) “person”: any entity, governmental unit, individual, other natural or legal person, and/or any combination thereof.
- (t) “pledge”: to, howsoever in any manner, finance, encumber, hypothecate, mortgage, pledge and/or otherwise contract regarding, make, create, cause, suffer and/or allow a lien or other security interest in.
- (u) “professional services”: any, all, and/or any combination of services of a professional or quasi-professional type or nature whatsoever, including but not limited to: concessions and/or business operations and/or oversight; airplane or aircraft

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possession, design, manufacture, operation, commercialization, repossession, fueling, maintenance, repair, refurbishing, refurbishment, salvage, and/or storage; airport operations; security; broadcasting; communications; technology; banking, accounting, financial, securities, investments, bonding, debt service; management, improvement, operation; insurance; legal; promotion, advertisement; drafting, architectural, engineering; mechanical; construction; utilities; acquisition and/or other similar, related or necessary services.

(v) “property”: any and all money or funds, negotiable or non-negotiable instruments or paper, accounts, stocks, bonds, investments, insurance policies, reckonings, chattels, real or personal, intellectual, tangible, intangible, mixed or other property, items, goods, documents, rights, titles, interests, claims, demands, choses in action, privileges, powers, leases, franchises, immunities, contracts, benefits or thing of value and/or any instruments, documents or evidences thereof.

(w) “State”: the State of Oklahoma.

(x) “Trust Estate”: cash in the sum of \$10.00 from the Trustors, and all other property acquired by the Trustees as Trustees.

(y) “Trust Paper”: any, all, and/or any combination of notes, bonds, debentures, finance documents or other item, document, thing and/or instrument of and/or evidencing or representing any debt, indebtedness or other similar obligation of the Trust.

(z) “utilize”: to, howsoever in any manner, use, acquire, operate, improve, finance, arrange and/or contract, pay, compensate, have available and/or otherwise utilize.

2.02 Furthermore, unless the contrary clearly appears from accompanying text: the singular includes the plural, and the plural includes the singular; pronouns include the female, male or neuter; and, extensions and/or conjugations of a word shall carry the same general import and/or meaning as the base word.

### ARTICLE III TRUST USES AND PURPOSES

The uses and purposes of this Trust are:

3.01 To howsoever in any manner acquire, finance, improve, operate, utilize, pledge, dispose of and/or otherwise maintain, manage, operate and/or otherwise deal in and/or with: the Trust Estate; Trust Paper; and/or one or more airports; airport emergency and security related services, airport functions and services, ancillary airport activities, airport operations; airport management; airplane and aircraft storage, maintenance, repairs and related services; airport hangars, fueling stations and/or storage and/or supply and related equipment, fixtures and improvements; bars, restaurants, cafes, lounges, concessions, vending equipment, merchandizing, stores, commercial outlets, businesses or related enterprises; and any and all other services, functions, operations or activities commonly associated with local, regional and/or international airports or airport terminals; and all other airport services and functions and/or ancillary airport services and/or operations.

3.02 To acquire, finance, improve, operate, utilize, pledge, dispose of and/or otherwise deal in and/or with any works, improvements, facilities, activities, business, occupation and/or functions which is/are not now or hereafter prohibited by the Act.

3.03 To do and/or engage in any other use, action, activity, business, trade, occupation and/or



## Appendix 16 – The Atoka City Airport Authority Trust

function as any corporation and/or private trust organized and existing under the laws of the State which is/are not now or hereafter prohibited by the Act.

3.04 To utilize and dispose of all funds and other property acquired by the Trustees, principal and/or revenue and/or income or otherwise, for the payment or other satisfaction of any debt or obligation incurred or created by the Trustees for any of the purposes specified herein or otherwise properly chargeable against the Trust Estate, and/or any other lawful purpose not herein prohibited, and to carry on any and all activities reasonably necessary or convenient to accomplish any or all of the same.

3.05 To acquire or accept contributions, donations, gifts or grants, loans, rents, charges, fees, concessions, time-shares, leases, profits and/or other transferences of property, in trust, to the Trust, from any person, singularly or in combination with any other person also benefiting therefrom; or to decline so to do, in the discretion of the Trustees.

3.06 To so acquire or accept contributions, donations, gifts or other transferences of property, in trust, to the Trust, or decline so to do, upon the condition or with the proviso or agreement that the same be “earmarked” or otherwise similarly designated as being utilized for, or primarily for, one or more specified use or purpose related to the Trust; provided that the same shall not otherwise restrict the utilization thereof by the Trustees within the general authorities granted thereto by this Trust; provided further, in such events such “earmarked” property shall only be utilized by the Trustees for, in and/or otherwise in respect to such specifically designated airport related uses, functions and/or services.

3.07 To negotiate, enter into, accept, perform, breach, modify, nullify, demand or refuse performance under or otherwise howsoever in any manner, operate or utilize understandings, letter agreements, Inter-local agreements, contracts and agreements of all and any type and nature with any person in furtherance of the convenience, interests or purposes of the Trust. Including, by way of illustration, and not limitation, to contract with or regarding the contracting, engaging, hiring, termination, discipline, control, conduct, or otherwise howsoever in any manner utilization of independent contractors, employees or other servants, including but not limited to an Airport Management Director or other managing personnel of the Trust and/or operations of the Trust (limited or unlimited).

3.08 To share or otherwise authorize the use of any such contractor, employee or servant of the Trust with one or more Beneficial Associates, and/or any other governmental unit, and to share, utilize, accept, and otherwise receive the benefit or beneficial use of the labor or other services or property of and/or from or associated with any contractor, employee or servant of one or more Beneficial Associates, and/or any other governmental unit, upon a related understanding or agreement, inter-local contract or agreement, or other contract deemed convenient, appropriate or desirable by the Trustees.

### ARTICLE IV THE TRUSTEES

4.01 The Trustees of this Trust shall be the hereinabove named or identified, and their respective successors, which successors shall, without further act, deed or conveyance, automatically become a Trustee hereof and fully vested with all the estate, properties, rights, powers, duties and obligations of his predecessor hereunder, as if originally named as a Trustee herein.

4.02 Except for the original Trustees, the Trustees and successors shall be appointed by the

## Appendix 16 – The Atoka City Airport Authority Trust

affirmative vote of a majority of the City Council. All or any number of Trustees, may (but need not) be a concurrent member of the City Council; however the first or original Trustees shall be said City Council members.

4.03 Each Trustee, and all the Trustees shall so serve at the pleasure of the City Council; and, hence, shall not serve for any particular time designated period or term.

4.04 The City Council shall fill any vacancies in the number of Trustees occurring due to the death or resignation of a Trustee, and/or the removal or incapacity thereof, or otherwise occurring, by the affirmative vote of a majority of the City Council.

4.05 The trustees shall not receive compensation for the performance of their duties as such, but may be reimbursed by the Trust for their actual expenses incurred in the course thereof.

4.06 The Trustees shall act only as a body at scheduled meetings, and only when a quorum (Three (3) or more) thereof shall be present; provided, however, a smaller number may adjourn from day to day or from time to time, should a quorum not be present. Furthermore, except as otherwise herein specifically provided, all matters coming before the Trustees at such meetings shall be acted upon and/or decided by the majority vote of the Trustees.

4.07 The Trustees shall hold at least one regular meeting quarter-annually. Special or emergency meetings may be called as set forth below. Regular and other meetings shall be held at such time and place as the Trustees shall prescribe by its calling, by the By-Laws, or otherwise by their majority vote.

4.08 The Trustees may hold and/or conduct executive sessions during regular, special or emergency meetings, upon the majority vote thereof. Such executive sessions shall, however, be limited to a purposes not prohibited by the Oklahoma Open Meeting Act.

4.09 Except for such executive sessions, all meetings of the Trustees shall be open to the public, and agendas and other notices thereof had and given, in and to the same manner and extent as would accompany any similar open public meeting of the City Council.

4.10 The minutes of such meetings, journals of proceedings, and other Trust books, documents, records and archives shall be open to public inspection, in and to the same manner and extent as any similar books, documents, records and/or archives of the Beneficiary are required by law to be open to public inspection.

4.11 The Trustees shall have a Chairperson and a Vice-Chairperson, a Secretary-Clerk, and a Treasurer, each selected and/or appointed by majority vote of the Trustees. The Secretary-Clerk or the Treasurer may be, but need not be, a Trustee. A Trustee may simultaneously, conjointly or concurrently serve as Secretary-Clerk or as Treasurer while serving as a Trustee; but no person shall simultaneously, conjointly or concurrently serve as both Secretary-Clerk and Treasurer, whether or not also a Trustee. The Trustees may utilize a general manager and such additional positions or officers as the Trustees may, from time to time, designate. In addition to any matters below specified, said Chairperson, Vice-Chairperson, Secretary-Clerk, Treasurer, and potential others, shall have and perform such other and/or further duties and/or responsibilities as may be, from time to time, designated by the By-Laws and/or otherwise by majority vote of the Trustees.

4.12 The Trustees shall select one of their members to be Chairperson, and another of their members to be Vice-Chairperson; who shall, each respectively, serve in such capacity at the pleasure of a majority of the Trustees and/or until such time as he/she resigns such position and/or is no longer a Trustee.

4.13 The Chairperson shall preside at all meetings of the Trustees. The Vice-Chairperson shall act in the place of the Chairperson during the latter's absence or incapacity to act, during which time the Vice-Chairperson shall have all the duties, responsibilities and authority of the

Chairperson.

4.14 The person who is, from time to time, the City Clerk of the Beneficiary may, but need not, be designated by the Trustees to act as Secretary-Clerk of the Trust. The Secretary-Clerk shall keep and maintain all minutes of meetings of the Trustees, all journals of their proceedings, and all other books, documents, records and archives of the Trust. Further, the Secretary-Clerk shall be the custodian of and attest or affix the seal of the Trust to documents as shall be, from time to time, required by the By-Laws or other majority vote of the Trustees.

4.15 The person who is, from time to time, the City Treasurer of the Beneficiary may, but need not, be designated by the Trustees to act as Treasurer of the Trust. Subject to such regulations or directions as the Trustees may, from time to time, prescribe by the By-Laws or other majority vote of the Trustees, the Treasurer shall keep and maintain complete and accurate records of all financial transactions, and deposit funds received for the Trust in such depositories or accounts, as the Trustees may designate.

4.16 The Trustees shall set and determine the fiscal year of the Trust, which shall, absent subsequent action by the Trustees, be concurrent with that of the Beneficiary. The Trustee's quarter-annual, special or emergency meetings may be called by the Chairperson, or jointly by the Vice Chairperson and at least one other Trustee.

#### ARTICLE V

#### ADDITIONAL POWERS AND DUTIES OF THE TRUSTEES

Subject to provisions or limitations provided, to accomplish the uses and purposes hereof, the Trustees shall have, in addition to the usual powers incident to such office and those elsewhere herein granted, the following rights, powers, duties, authority, discretion or privileges, all of which may be exercised without any order or authority from any court:

5.01 To take any action or allow or suffer any inaction which appears reasonable, necessary or convenient to acquire, finance, improve, operate, utilize, pledge, dispose of and/or otherwise deal in or with, accomplish and/or carry out one or more of the uses or purposes of this Trust.

5.02 To make and/or enter into, execute, modify, alter, amend, revoke, cancel, acquire, finance, dispose of, carry out, perform, operate, pledge, utilize and/or otherwise deal in and/or with any contract of any nature with any person which the Trustees consider as being reasonable, necessary and/or convenient with respect to said uses and/or purposes and/or upon relation to any other matters set forth in this Article V.

5.03 To acquire, finance, operate, dispose of or otherwise utilize professional services and such other clerical, technical or other assistance or services as may be deemed reasonable, convenient or necessary by the Trustees; and, to fix the duties, terms of employment, compensation and other related attributes of or pertaining thereto. Any individual covered hereby may also be an officer or employee of one or more Beneficial Associates, or any other governmental unit, in which case he/she/they may also receive compensation therefor from this Trust, additional to that, if any, received from the one or more Beneficial Associates, and/or any other governmental unit.

5.04 To fix, demand and collect charges, rentals or other fees from any person for any services, functions, property or facilities of the Trust and/or discontinue the same for payment delinquency, to the same extent as any person might do.

5.05 To, without limit as to the amount thereof, draw and/or make, accept, endorse, assume, guarantee, account, execute and issue promissory notes, drafts, bills of exchange, acceptances,

## Appendix 16 – The Atoka City Airport Authority Trust

warranties, bonds, debentures and other negotiable or nonnegotiable instruments, obligations and evidences of secured and/or unsecured indebtedness and/or otherwise acquire, finance, improve, operate, utilize, pledge and/or dispose of the same in the same manner and to the same extent as any person might do.

5.06 To make, finance, operate and/or utilize suitable and proper accounts, accounting processes and procedures, books and records, audits, financing statements, and other financial records, processes, items, documents and/or things which the Trustees consider necessary or convenient.

5.07 To at any time, and from time to time, “ earmark”, allocate or otherwise designate, declare, determine, divide, group, classify, specify, separate or treat separately all or any portion of the Trust estate as or into principal, income, revenue, reserves, surplus, depletion, amortization, depreciation or other accounts, distinctions, classifications, designations or uses, whether or not relating or pertaining to the matters set forth in Paragraph 5.06 hereof, as the Trustees may determine to be useful, reasonable, proper or convenient; and to otherwise, with respect thereto acquire, finance, improve, operate, utilize, pledge or dispose of the same and/or any portion thereof, in kind or partly in kind, or otherwise.

5.08 The Trustees may sue and be sued in the name of the Trust, and may set-off or compromise any debts or claims of or against the Trust, and adjust any dispute in relation to such debts or claims by mediation or non-binding arbitration or otherwise, and/or pay any debts or claims against the Trust upon any evidence deemed by the Trustees to be sufficient. The Trustees may bring, intervene into or otherwise be involved with respect to any suit or action, which in their judgment is necessary or proper to protect any interest of the Trust or to acquire or enforce any claim, demand or contract for the Trust; and they shall defend, in their discretion, any suit or other action against the Trust, or the Trustees or employees, agents or servants thereof and/or waive, enforce, adjust, compromise, settle or otherwise dispose of any such claim, demand suit or action referenced herein, and/or discharge the same out of assets of the Trust Estate, together with court costs and attorney’s fees. Any such expenditures may be treated as expenses of executing this Trust.

5.09 To conduct their meetings in accordance with such rules of procedure as they may, from time to time, approve and adopt by majority vote; provided, however, that the vote on any item shall be by the voice vote of each Trustee there present by “Yes”, “No” and/or “Abstain” (or the equivalent thereof), and each such item, vote and the total vote shall be recorded in the minutes, and entered upon the journals, of such meetings.

5.10 To create, alter, amend or repeal By-Laws, rules, regulations or resolutions relating or pertaining to any of the matters referenced and/or included in this document.

5.11 To Sell or otherwise dispose of Trust paper or other bonds, notes or other evidences of indebtedness or obligations of the Trust in whole or in installments or series, by public or private and/or negotiated or other method or form, and on such terms and conditions and in such manner as the Trustees shall deem to be in the best interest of the Trust.

5.12 In connection with the pledging of all or any portion of the Trust estate and/or revenues, and/or otherwise with respect to incurring of any funded indebtedness secured, in whole or in part, by the Trust Estate or its revenues, or any part of either or both: To contract with a governmental unit that in the event of a default in the fulfillment of any contract obligation undertaken on behalf of the Trust and/or in the payment of any indebtedness incurred on behalf thereof, that one or more temporary trustees or receivers may be appointed to succeed to the rights, powers and duties of the Trustees then in office. In any such event such contract shall

specifically set out the terms and conditions under which such temporary trustee(s) or receiver(s) may be appointed, the number thereof, the authority and compensation thereof, if any, and for the removal and/or vacation of any such appointment, and the automatic reinstatement of the Trustee(s) temporarily replaced thereby upon termination of all defaults by reason of which such appointment(s) was/were authorized. Furthermore, the Trustees may likewise contract that any such temporary trustee(s) or receiver(s) may employ special counsel to represent them and that such counsel's compensation may be paid from the revenues of the Trust Estate.

5.13 To acquire the assistance of, cooperate with, or otherwise utilize any governmental unit for the purposes of acquiring property by eminent domain, and participate in any proceedings, actions or other matters connected therewith, or for any other purpose related to this Trust and not prohibited by the Act.

5.14 The Trustees shall have and exercise exclusive and total operation, utilization, management and control of the Trust estate for the use and benefit of the Beneficiary; but may, in the exercise of their discretion, agree for approval of any or all of its actions and transactions by the Beneficiary, and/or join or otherwise participate with the Beneficiary in the performance or non-performance of any act or thing not otherwise prohibited by the Act.

5.15 To take all necessary steps to secure or attempt to secure a "tax exempt," "charitable" or other similarly appropriate tax status or determination from the Internal Revenue Service, the State or other similar authority; and otherwise do, or refrain from doing, any and all other acts or things which, in their judgment, may be reasonable, convenient, necessary or desirable, for the proper or advantageous acquisition, financing, pledging, improvement, operation, disposition or utilization of the Trust Estate or to carry out or into effect the uses or purposes of the Trust, or any one thereof, or the matters set forth in this Article V, or any part hereof: the above paragraphs of this Article being by way of illustration rather than limitation.

5.16 Provided however, any provisions hereinabove set forth appearing otherwise notwithstanding, unless otherwise specifically determined or agreed upon by majority vote of the Trustees: it is required hereby that there shall be effective competition on contracts for all public construction work and materials as is required by the applicable State laws. Contracts for the construction of all public improvements as a whole, or in part, shall be entered into only after reasonable public advertisement for bids, and when and to the extent deemed advisable and practical by the Trustees, the Trust shall cause plans and specifications to be prepared in sufficient detail for contractors to submit bids on such construction works. Plans and specifications shall be made available to all bidders and, whenever practicable in the opinion of the Trustees, final detailed plans and specifications shall be prepared prior to advertisement for bids and shall be made available to all bidders.

## ARTICLE VI TERMINATION OF TRUST

6.01 This Trust shall terminate: when all of the purposes set out in Article III hereof shall have been fully executed; at the end of its duration; or at such time and in the manner as provided by the Act.

6.02 Provided further, however, that this Trust shall not be terminated by voluntary action if there then exists outstanding indebtedness or fixed term obligations of the Trust, unless all owners thereof shall have consented in writing thereto.

6.03 Upon termination of this Trust the Trustees shall: wind up its affairs; pay all its debts,



expenses and obligations out of the Trust Estate, to the extent thereof; and, then distribute the residue of the Trust Estate, if any, to the Beneficiary.

6.04 Upon such final distribution, the liabilities, powers, duties and authority of the Trustees hereunder shall cease.

ARTICLE VII  
MISCELLANEOUS TRUST PROVISIONS

7.01 Except as otherwise provided in Paragraph 7.02 hereof, this Trust Indenture may be altered, amended, revised or modified, but only upon and by the affirmative vote of at least Four-Fifths (4/5), in number, of the members of the City Council and (plus) the affirmative vote of at least Four-Fifths (4/5), in number, of the Trustees. Any such alteration, amendment, revision or modification may originate from either the Trustees, or the City Council.

7.02 Provided, this Trust Indenture and agreement shall not be altered, amended, revised or modified if, at the time of the proposed effective date thereof, there exists outstanding indebtedness or fixed term obligations of the Trust, unless all owners thereof shall have consented in writing thereto.

7.03 The whole title, legal and equitable, to all and every part of Trust estate is and shall be vested in the Trustees.

7.04 No purchaser or lessee of any property disposed of by the Trustees shall be bound to inquire into the expediency, propriety, validity or necessity of such disposition or to see to or be liable for the application of any proceeds therefrom.

7.05 The Beneficiary shall have no legal right, title, claim or demand to the Trust Estate or any portion thereof, nor to demand or require any partition or distribution thereof. The Beneficiary shall not have any right, privilege, power or authority to do or transact any business for, on behalf of, or binding upon the Trustees or upon the Trust, nor to control or direct the Trustees, in any manner or extent. The Beneficiary may receive and enjoy any benefits as may, from time to time, inure thereto by the execution or carrying-out of this Trust and the terms and provisions hereof by the Trustees; but it shall be entitled, only, to receiving the distribution of the Trust estate residue upon, and only upon, termination of this Trust, as provided in Article VI hereof.

7.06 Trust Paper, bonds and/or evidences of indebtedness utilized by the Trustees shall not constitute an indebtedness of the State of Oklahoma, nor of the Beneficiary, nor the personal obligations of the Trustees of the Trust, but shall constitute obligations of the Trust payable solely from the Trust Estate.

7.07 Neither the Trustees, nor any Trustee, nor the Beneficiary, shall be charged personally with any liability whatsoever by reason of any act or omission committed or suffered by the Trustees in good faith or in the exercise of their honest discretion in the performance hereof; but rather, any such liability or obligation shall be that of the Trust and shall extend to so much of the Trust Estate as may be necessary to discharge the same.

7.08 Notwithstanding any provision(s) hereof which may appear to provide otherwise, no Trustee shall have the power or authority to bind or obligate any other Trustee or the Beneficiary, in his, her or its capacity, nor shall the Beneficiary have the power or authority bind or obligate the Trust, or any Trustee.

7.09 If the Trustees utilize a general manager for the Trust, then such general manager shall so administer the business of the Trust, and have such other duties, responsibilities or authority, as provided or directed, from time to time, by the By-Laws and/or other majority vote of the

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Trustees.

7.10 The situs of this Trust shall be the City of Atoka, Atoka County, Oklahoma; and, the offices of this Trust, until or unless changed by the Trustees by its By-Laws and/or other majority vote thereof, shall be located at the City Hall of the City.

ARTICLE VIII  
EXECUTION AND ACCEPTANCE

IN WITNESS WHEREOF the undersigned Trustors execute, make and create this Trust:

/s/ Robert L. Frederick

/s/ Brian Cathey

/s/Donnie Allen

/s/ Richard E. Mayfield

**ATOKA DISPOSITION TABLE**

TABLE OF ORDINANCES

ORD. NO.	DATE	SUBJECT	DISPOSITION
308	01/06/86	Package liquor store license fee.	3-102
309	02/03/86	Permit requirement for electricians and plumbers	5-123, 5-124
312	02/15/86	Repealing Sec. 1-1 through 1-5, Art. 8, Sec. 18-13 Charging fees for zoning clearance permit.	R
311	02/18/86	Repealing Sec. 2-2, Art. 8, Sec. 18-13 relating to fees charged for building permits	R
313	02/18/86	Amending Sec. 7-58, exemption of feeds and prescription drugs from sales tax.	7-309
314	02/18/86	Repealing Sec. 8-10, burning of rubbish.	R
315	02/18/86	Amending Sec. 14-9 setting salary of municipal judge.	6-205
316	02/18/86	Amending Sec. 14-20, setting uniform traffic arrest bonds.	1-108, 6-111
317	02/18/86	Amending Sec. 14-16, setting bond of municipal court clerk.	6-108
318	02/18/86	Repealing Sec. 16-51 relating to illegal entry.	R
319	02/18/86	Prohibiting operation of motor vehicles without state vehicle license.	12-306
320	02/18/86	Prohibiting unlicensed persons from operating motor vehicles.	15-521
321	02/18/86	Making turns at intersections.	15-901
322	12/08/86	Adopting 1986 Code of ordinances	Spec. Ord.

\*\* Section numbers refer to the Code of Atoka. **S** = Superseded by a later ordinance;  
**R** = Repealed; **NC** = Not Codified; **Spec. Ords.** = Listing of special ordinances in tables.



**ATOKA DISPOSITION TABLE**

TABLE OF ORDINANCES

ORD. NO.	DATE	SUBJECT	DISPOSITION
323	10/06/86	Amending Sec. 1-69, making Columbus Day a holiday for employees	N.C.
324	11/17/86	Setting water rates for outside users.	Appendix 2 Fee schedule
325	11/17/86	Amending Sec. 10-17, fixing new rates for garbage pickup.	Appendix 2 Fee schedule
326	11/17/86	Amending Sec. 20-30, setting sewer use charges for multi-family dwellings and mobile home parks.	Appendix 2 Fee schedule
327	11/17/86	Amending Sec. 10-17, resetting monthly rates for garbage and refuse for residential customers.	Appendix 2 Fee schedule
328	11/17/86	Levying charge for sewer service	Appendix 2 Fee schedule
329	1/5/87	Replacing Columbus Day with Martin Luther King Day as employee holiday	N.C.
330	1/20/87	Amending Sec. 20-30 Setting sewer use charges for multi-family dwelling and mobile home parks.	Appendix 2 Fee schedule
331	1/20/87	Amending water rates for commercial, residential, multi-family dwellings, mobile home parks.	Appendix 2 Fee schedule
332	7/21/86	Governing flea markets.	9-301 et seq.
333	2/17/87	Amending planning commission	12-101 et seq.
334	2/17/87	Mandatory use of seat belts.	15-542
335	1/4/87	Flood Prevention. Approved by attorney	12-501 et seq
336	1/4/87	Hazardous Chemical code	8-601 et seq

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**ATOKA DISPOSITION TABLE**

TABLE OF ORDINANCES

ORD. NO.	DATE	SUBJECT	DISPOSITION
337	4/6/87	Fire protection outside city; Agreements	13-221 et seq
338	4/6/87	Amending Sec. 20-57 setting sewer tap fees	Appendix 2 Fee schedule
339	4/20/87	Extending city limits.	Spec. Ord.
340	4/4/87	Amending Sec. 20-13 regarding water bills due and delinquent; cessation of service; charge for resumption of service; meter removal and reinstallation; new deposit and rereading.	17-101 et seq
341	5/4/87	Parking of mobile homes, commercial vehicles, motor homes, trailers of all types.	12-234-12-237
343	6/1/87	Amending water rates for Atoka Public School District.	Appendix 2 Fee schedule
345	7/6/87	Bail bond procedure, exceptions arrest, citation and bail.	6-114, 6-119, 6-134
346	7/6/87	Administration of Sales Tax agreement.	Spec. Ord.
347	9/21/87	Uses of property at Atoka City Lake	11-201
348	4/4/88	Charging \$15.00 for every account established with AMA for water service.	Fee schedule Appendix 2
352	1/7/88	Granting cablevision permit to McGree Creek Cablevision	Appendix 7
353	2/1/88	Amending Sec. 1-69 replacing Washington's birthday with President's Day.	N.C.
354	2/16/88	Amending Sec. 20-13 providing for \$.50 fee for water receipts issued in triplicate when customer pays without a bill.	Appendix 2 Fee schedule

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**ATOKA DISPOSITION TABLE**

TABLE OF ORDINANCES

ORD. NO.	DATE	SUBJECT	DISPOSITION
355	4/18/88	Amending Sec. 6-4, setting charges for burial lots; interment, disinterment, differential where curbing vegetation, etc., to be removed.	11-305, 11-306
356	6/6/88	Granting gas franchise to Arkansas Louisiana Gas Company, a division of Arkla, Inc.	Appendix 6
357	6/5/88	Agreement for sales tax administration	Spec. Ord.
358		Not Approved	
359	9/19/88	Uniform traffic arrest bonds.	1-108, 6-111
360	9/19/88	Amending zoning map and code.	Spec. Ord.
361	10/3/88	Amending zoning map and code.	Spec. Ord.
362	12/5/88	Prohibition of dancing, exceptions, defining terms, permit requirements and fees prohibiting certain acts.	9-501 et seq
363	2/6/89	Amending Sec. 20-27, amending monthly sanitary sewer charges for Class A, B & C users.	Appendix 2 Fee schedule
364	2/6/89	Deannexing.	Spec. Ord.
365	2/6/89	Amending Sec. 20-10 Resetting monthly water rates.	Appendix 2 Fee Schedule
366	2/6/89	Setting water rates charged to employees and firemen	Appendix 2 Fee schedule
368	3/6/89	Amending Sec. 20-10 resetting monthly water rate for Class C, institutional customers.	Appendix 2 Fee schedule
369	3/6/89	Amending zoning code and map.	Spec. Ord.
370	5/15/89	Rezoning a parcel of land from R-1 to C-2	Spec. Ord.
371	6/5/89	Levying 2% excise tax.	7-401 et seq

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**ATOKA DISPOSITION TABLE**

TABLE OF ORDINANCES

ORD. NO.	DATE	SUBJECT	DISPOSITION
372	Tabled		
373		Mobile home application fee.	12-234-12-237
374	8/21/89	Rezoning a parcel of land from R-2 to I-1	Spec. Ord.
375	8/21/89	Rezoning a parcel of land from R-2 to C-2	Spec. Ord.
376	11/20/89	Procedure for acquiring unclaimed utility deposits.	17-106
377	2/5/90	Residency not required for employment.	2-114
378	1/16/90	Qualification for non lawyer and lawyer City judge.	6-201
379	1/16/90	Amending Sec. 14-9 providing for salary of municipal judge.	6-205
381	3/5/90	Sewer cleaning service charge; surcharge for depositing into AMA waste facility	Appendix 2 Fee schedule
382	4/2/90	Bail, penalties and costs for traffic related offenses; bail bond and fine schedule 6-111	1-108, 1-109,
383		Amending Sec. 1-33, mayor and vice-mayor to be bonded.	2-109
384	5/21/90	Resetting rates for monthly sewer charges for Class A, B, C & D users of sanitary sewer service.	Appendix 2
385	6/18/90	Administration of sales tax.	Spec. Ord.
386	3/18/90	Administration of use tax.	Spec. Ord.
387	6/18/90	Requiring connection to water system.	17-303
388	6/18/90	Authorizing AMA to secure loan from Federal Housing Administration for \$387,000.	Spec. Ord.

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**ATOKA DISPOSITION TABLE**

TABLE OF ORDINANCES

ORD. NO.	DATE	SUBJECT	DISPOSITION
390	10/1/90	Establishing fees for garbage and refuse Service.	17-405, 17-409
391	10/1/90	911 Emergency system; levying service fee of 5%.	7-501, 7-502
392	3/4/91	Rezoning.	Spec. Ord.
393	3/18/91	Rezoning	Spec. Ord.
394	4/1/91	Annexing.	Spec. Ord.
395	4/15/91	Rezoning.	Spec. Ord.
397	9/3/91	Rezoning.	Spec. Ord.
400	9/3/91	Competitive bidding.	7-201 et seq.
401	9/3/91	New ward boundaries.	1-302
402	9/16/91	Local energy officer, committee created.	7-901 et seq.
403	9/16/91	Rezoning.	Spec. Ord.
404	10/7/91	Prohibiting loud sound amplification systems.	10-405
406	2/3/92	Rezoning.	Spec. Ord.
407	4/6/92	Annexing.	Spec. Ord.
408	5/18/92	Establishing fees for landfill	17-442
409	9/18/92	Establishing fees for cemetery lots and burial.	11-303
410	9/21/92	Height restriction in vicinity of airport.	Spec. Ord.
411	Void		
412	9/8/92	Vacating alleyway	Spec. Ord.
413	5/3/93	Establishing sewer fees.	17-331

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**ATOKA DISPOSITION TABLE**

TABLE OF ORDINANCES

ORD. NO.	DATE	SUBJECT	DISPOSITION
414	5/3/93	Establishing water fees.	17-202
415	5/3/93	Establishing garbage/refuse fees.	17-409
416	7/6/93	Spot zone, 108 West Court	Spec. Ord.
417	Tabled		
418	1/18/94	1994 Code Book	Spec. Ord.
419	8/15/94	Curfew hours.	10-505
420	10/19/94	Increase sales tax ½ cents Special election on 12/13/94	7-306
421	12/19/94	Fair housing	5-801
422	1/3/95	Increase use tax ½ cent	7-403
423	Not used		
424	2/95	Increasing City limits north of town.	Spec. Ord.
425	2/95	Increasing City limits north of town.	Spec. Ord.
426	7/95	Large animals, exceptions	4-108
427	7/95	Master flood plan	12-501
428	8/95	Discharging of fire arms	10-703
429	10/2/95	Water deposits.	17-104
430	Void		
431	2/20/96	Rezoning 500 block E. Court from I-1 to C-2	Spec. Ord.
432	3/4/96	Annexation	Spec. Ord.
433	3/4/96	Annexation setting boundaries South of town	Spec. Ord.
434	4/1/96	Set back variance.	Spec. Ord.

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**ATOKA DISPOSITION TABLE**  
**TABLE OF ORDINANCES**

ORD. NO.	DATE	SUBJECT	DISPOSITION
435	3/25/96	Annexation correction.	Spec. Ord.
436	3/25/96	Annexation correction.	Spec. Ord.
437	4/1/96	Rezoning	Spec. Ord.
438	Void		
439	7/1/96	Annexation - Chicken Fight Rd. & Kilmer Rd.	Spec. Ord.
440	Void		
441	10/7/96	De-annexation - Dowd	Spec. Ord.
442	11/4/96	Spot Zone - Atoka Funeral Home	Spec. Ord.
443	11/18/96	Spot Zone - Mansell	Spec. Ord.
444	Void		
445	2/3/97	Spot Zone - Phillips	Spec. Ord.
446	2/3/97	Spot Zone - Whittington	Spec. Ord.
447	2/3/97	Spot Zone -	Spec. Ord.
448	4/7/97	City limits	Spec. Ord.
449	4/7/97	City Limits	Spec. Ord.
450	4/7/97	City Limits	Spec. Ord.
451	6/16/97	Rezone - Sheffield	Spec. Ord.
452	9/2/97	Height restrictions - Airport	12-601
453	1/20/98	Annexation - Kilmer Add.	Spec. Ord.
454	1/20/98	Absentee voting - Charter amendment	Spec. Ord.
455	4/6/98	Amending Fines and Penalties	Appendix 4
456	4/20/98	Massage Parlor	9-700

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**ATOKA DISPOSITION TABLE**  
**TABLE OF ORDINANCES**

ORD. NO.	DATE	SUBJECT	DISPOSITION
458	7/20/98	Rezoning	Spec. Ord.
461	10/5/98	Rezoning	Spec. Ord.
462	11/16/98	Refuse collection, police dept.	17-412
463	11/16/98	Reduction of Seat Belt fine	15-542
464	2/16/99	Billboard Sign Regulations	12-240
465	3/4/99	Public Service Franchise	Spec. Ord.
466	3/15/99	Spot Zone	Spec. Ord.
467	5/17/99	Spot Zone	Spec. Ord.
468	9/7/99	½ Cent Sales Tax, Economic Dev.	Spec. Ord.
470	3/6/00	Rezone - Eaves	Spec. Ord.
471	7/3/00	Amending Fines & Penalties	Appendix 4
472	7/3/00	Refuse Collection - Prohibiting Private handlers	17-301
473	7/17/00	Prohibiting “Jake” brakes	15-307
474	8/21/00	Adoption of new City Code book	Spec. Ord.
475	9/18/00	Rezone - Burleson and Griffin for Atoka State Bank parking lot	Spec. Ord.
476	5/7/01	Rezone - Atoka State Bank (Crossroads Superstore)	Spec. Ord.
477	6/26/01	Sale and Exchange of Certain Real Property owned by the City of Atoka In Section 9, T2S R11E	Spec. Ord.
478	7/2/01	Prohibiting Driving, Operating or being In Actual Physical Control of a Motor Vehicle While Adversely Affected by Alcohol or Other Intoxicants	Spec. Ord.

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**ATOKA DISPOSITION TABLE**

TABLE OF ORDINANCES

ORD. NO.	DATE	SUBJECT	DISPOSITION
479	8/20/01	Rezone - Mike Dale, 112 East 1 <sup>st</sup> Street	Spec. Ord.
480	10/15/01	Rezone - Brian Mixon, 709 West 6 <sup>th</sup> Street	Spec. Ord.
481	1/7/02	Hotel Tax	7-701 - 7-718
482	12/6/01	Additional Sales Tax to Exclusively Fund a Paid Fire Department	7-326
483	1/22/02	Zoning - Section 10, 2 South 11 East Industrial Tract, A-1 to I-1	Spec. Ord.
484	1/22/02	Annexation - Section 21, 2 South 11 East	Spec. Ord.
485	2/19/02	Amend Dollar Amounts in Sec 7-201 — 7-213 Relating to Purchasing and Contracting Policies	Spec. Ord.
486	2/19/02	Annexation - Section 28, 2 South 11 East	Spec. Ord.
487	3/4/02	Zoning - Section 10, 2 South 11 East Community Building and Veterans Memorial A-1 to C-1	Spec. Ord.
488	4/1/02	Annexation - Section 28, 2 South 11 East	Spec. Ord.
489	4/15/02	Typographical Error in the Definition of “Core Area” for Billboard Signs	12-241
490	4/15/02	Clarifications for I-1(Light Industrial)	12-348
491	6/3/02	Annex - Section 33, 2 South Range 11 East	Spec. Ord.
492	9/3/02	Establishing and/or Describing City Wards	Spec. Ord.
493	10/21/02	De-annexing- Section 28, 2 South Range 11 East	Spec. Ord.
494	11/4/02	Spot Zone - R-1 to C-1, 500 East 15 <sup>th</sup> Street Edgar Vinson, Evelyn Randolph, BBQ Wagon	Spec. Ord.
495	1/6/03	Spot Zone - R-1 to R-2, 417 West Court, Jhona Walker, Daycare Home	Spec. Ord.
496	2/18/03	Zoning - R-1 to C-2, Lot 1 & 2,	Spec. Ord.

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**ATOKA DISPOSITION TABLE**

TABLE OF ORDINANCES

ORD. NO.	DATE	SUBJECT	DISPOSITION
		Block 1, Cobb Subdivision, Bruce Usher	
497	3/17/03	Annexation - Section 8 & 9, Township 2 South, Range 11 East	Spec. Ord.
498	2/2/04	Amending City Code, Section 2-102 Council Meetings from 7:00 p.m. to 5:30 p.m.	2-102
499	5/17/04	Refund of Residential Water Deposits Authorized Under Certain Circumstances	17-214
500	9/20/04	Sale of Property – Clint Bond Section 9, Township 2 South, Range 11 East	Spec. Ord.
501	6/21/04	Zoning - I-2 to C-2, along South Mississippi From 5 <sup>th</sup> Street to 13 <sup>th</sup> Street	Spec. Ord.
502	8/16/04	Zoning - R-1 to C-2, Lot 3 & Lot 6, Block 60, FirstBank	Spec. Ord.
503	9/7/04	One-half Cent Sales Tax Election	Spec. Ord.
504	11/1/04	Amending City Code, Section 9-511 Senior Citizen Dances	9-511
505	1/3/05	Zoning - Designating Zone To C-2 (Sears Fruit Stand and Woodworks)	Spec. Ord.
506	4/18/05	Zoning - R-1 to C-2, Lots 8, 9, & 10 Block 18, Marvin Phillips	Spec. Ord.
507	7/18/05	Zoning - R-1 to C-1, Lots 1 and 2, Block 1, Ethan Allen Addition, Anthony Parker	Spec. Ord.
508	7/18/05	Zoning - R-1 to R-2, Lot 6, Block 4, Chapman Addition, Andrew Investment Company, LLC	Spec. Ord.
509	7/5/05	Amending City Code Section 2-102, Council Meeting to begin at 6:00 p.m.	2-102
510	9/5/05	One-half Cent Sales Tax Election, Water Plant Project	7-326
511	1/11/06	Additional Use Tax, Water Plant Project	7-430

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**ATOKA DISPOSITION TABLE**

TABLE OF ORDINANCES

ORD. NO.	DATE	SUBJECT	DISPOSITION
512	7/7/06	Zoning – I-2 to C-1. Section 9, Clint Bond	Spec. Ord.
513	7/17/06	Assessing fees for Fire Dept.	13-227
514	7/17/06	Sale of Property – Section 9, Choctaw Nation	Spec. Ord.
515	1/7/07	Annexation, Section 9, T2S, R11E, Atoka Memorial Hospital	Spec. Ord.
516		Requiring connection to the sanitary sewer system	17-303
517	1/17/07	Amending Sec. 12-235; Mobile Home within the City Limits	12-235
518	10/1/07	Transfer of Property to the Atoka Municipal Authority	Spec. Ord.
519	1/22/08	Prohibiting Oil and Gas Exploration	8-701
520	5/5/08	Lodging Tax Election	7-329
521	9/15/08	Enacting new provisions relating to the Lodging Tax	7-330
522	1/5/09	Adopting the International Building Codes	Section 10
523	3/16/09	Zoning – R-2 to C-2; Lot 3 & 4, Block 39 Andrew Investment Company, LLC	Spec. Ord.
524	9/21/09	One-half Cent Sale Tax Election, Economic Development	7-325
524A	5/18/09	Prohibiting Possession of Tobacco Products By persons under eighteen years of age	10-517
525	1/4/10	Relating to Handicap or Disabled Parking	15-602A
526	8/16/10	Adoption of New City Code Book	Spec. Ord.
527	9/30/10	Relating to the CDBG-EDIF Grant	N.C.

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**ATOKA DISPOSITION TABLE**

TABLE OF ORDINANCES

ORD. NO.	DATE	SUBJECT	DISPOSITION
528	5/16/11	Zoning - R-1 to C-2; Lot 1, Block 9 Joe Crowley	Spec. Ord.
529	6/20/11	Zoning - R-1 to A-1; 800 S. Greathouse Atoka Public Schools/Agricultural Education Dept.	Spec. Ord.
530	10/17/11	Zoning - R-1 to A-1; 1085 South Dickerson Randy Daniel	Spec. Ord.
531	11/7/11	Zoning - C-2 to I-1; 115 West C St. ERS Telecom Properties, LLC	Spec. Ord.
532	7/2/12	Clean Indoor Air Act	N.C.
532A	8/20/12	Zoning – C-3 to I-1; 110 South Main Tower Group I	Spec. Ord.
533	1/22/13	Annexation; Section 28, T2S, R11E Chicken Fight Road	Spec. Ord.
534	5/6/13	Cable Franchise; BCI Cable	Spec. Ord.
535	10/07/13	Prohibiting riding horses in the City Limits	4-110
536	10/21/13	Granting gas franchise to CenterPoint Energy Resources Corp.	Appendix 6
537	2/3/14	Amend Dollar Amounts in Section 7-213 Relative to Contracts and/or Acquisitions	7-213
538	5/19/14	Zoning – R-1 to C-2; Lots 3, 4, 5, & 6, Block 57 Mike Daniel	Spec Ord
539	8/18/14	One-half Cent Sale Tax Election, Economic Development	7-325
540	4/6/15	Amend Chapter Ten (10) providing for the automatic periodic adoption of revisions of the ICC Codes	5-1007 5-1008 5-1009
541	12/7/15	One-Cent Sales Tax Election, Atoka Public Schools	N.C.

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**ATOKA DISPOSITION TABLE**

TABLE OF ORDINANCES

ORD. NO.	DATE	SUBJECT	DISPOSITION
542	7/5/16	Repeal Fluoride	17-212
543	8/15/16	Establishing and/or Describing City Wards	1-302
544	1/17/17	Zoning – R-1 & R-2 – Texoma Building Services	Spec Ord
545	5/15/17	Amend Lodging Tax Provisions	7-329 - 7-331
546	9/5/17	Amend Amount of Fines for violation of Municipal Codes	1-108
547	9/5/17	Amend definitions	8-301
548	9/18/17	Amend Utility Deposit Return Procedure	17-106
549	11/6/17	Recreational Vehicles	12-289
550	11/6/17	Amend Penalty; Continuing Violations	8-415
551	11/6/17	Fine for Violation Chapter 2	8-206
552	5/21/18	Annexation; Section 9, T2S, R11E Choctaw Nation	Spec. Ord.
553	12/10/18	One-half Cent Sales Tax Election, Economic Development	7-325
554	1/22/19	Marijuana Regulations	9-801 to 9-807
555	2/04/19	Zoning – C-2 to I-1; 749 South Adams	Spec. Ord.
557	2/04/19	Alcoholic Beverages	3-301
558	4/1/19	Annexation: Section 1, T2S, R11E, ACIDA	Spec. Ord.
559	4/1/19	Annexation: Section 2, T2S, R11E, ACIDA	Spec. Ord.
560	4/15/19	Amending Ordinance 559, Zoning - I-2; ACIDA	
561	4/15/19	Amending Ordinance 558, Zoning - I-2; ACIDA	
562	9/3/19	Zoning – R-1 to I-1; 643 East 13 <sup>th</sup>	Spec. Ord.

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**ATOKA DISPOSITION TABLE**

TABLE OF ORDINANCES

ORD. NO.	DATE	SUBJECT	DISPOSITION
563	12/2/19	Mobile Home Park or Court	12-288
564	4/06/20	Curfew from 10:00 pm to 5:00 am	Spec. Ord.
565	4/06/20	Prohibiting Service of Food In-Doors at Commercial Restaurants	Spec. Ord.
566	6/01/20	Annexation: Section 1, T2S, R11E; ACIDA	Spec. Ord.
567	Void		
568	7/20/20	Adopt new City Code Book	Spec. Ord.
569	9/21/20	Purchases by City	7-201
570	12/07/20	Central Business District	12-334
571	1/14/21	Increment District No. 1	Spec. Ord.
572	2/01/21	Abandoned Refrigerators, Freezers, Iceboxes	8-119
573	7/06/21	Flood Plain	12-501 – 12-524
574	9/7/21	Controlled Drug	10-502 10-503
576	11/1/2021	Building Permit; 1000 sq ft Minimum	12-372
577	11/1/2021	Building Facades	12-224.1
578	11/1/2021	Amending Ordinance No, 464; Zoning	12-241
579	1/25/2022	Formal Adoption of Appendix 2	
580	1/25/2022	Amending and/or adjusting the rates, fees, and charges in Appendix 2; Administrative hearing fee	
581	01/25/2022	Amending and/or adjusting the rates, fees, and charges in Appendix 2; Medical Marijuana	
582	04/18/2022	Buildings, Structures for Animals, Location, Animal Quantity	4-104

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**ATOKA DISPOSITION TABLE**

TABLE OF ORDINANCES

ORD. NO.	DATE	SUBJECT	DISPOSITION
584	04/26/2022	Exchange of Certain Real Property Between The City of Atoka and the Atoka City Industrial Authority	Spec. Ord.
585	06/06/2022	Delete all Public Dancing Regulations	9-501-519
586	06/06/2022	Delete sections 9-114 and renumber 9-115 to 9-114 pertaining to Pool/Billiards.	9-114 and 9-115
587	07/18/2022	Power to Close Public Streets, Public Ways, Or Easements by Ordinance-Reopening-Rights of Utilities	14-112
588	8/8/2022	Adopting an employee retirement plan; defined contribution plan for the City Manager	Spec. Ord.
589	10/17/2022	Establishing a new technology fee for all convictions entered	6-127
590	01/17/2023	Amending the employee retirement plan; defined contribution plan for the City Manager	Spec. Ord.
591	04/03/2023	Exchange of Real Property between the City of Atoka and the Atoka City Industrial Development Authority	Spec. Ord.
592	08/21/2023	Amending the employee retirement plan; defined contribution plan for the City Manager	Spec. Ord.
593	08/21/2023	Amending Part 3 Alcoholic Beverages; Amend Chapter 1, and delete Chapters 2 and 3	3-All
594	09/05/2023	Public Service Franchise	Spec. Ord.
595	10/02/2023	Amending Part 8 Health and Nuisances; Amending Sec 8-119 Abandoned Refrigerators, Freezers, and Iceboxes	8-119
596	10/16/2023	One-half Cent Sales Tax Election, Economic Development	7-325

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Atoka Disposition Table – Special Ordinances

**ATOKA DISPOSITION TABLE**

LISTING OF CERTAIN SPECIAL ORDINANCES

- Part 1 Ordinances annexing territory to or excluding territory
- Part 2 Ordinances opening or vacating streets and alleys
- Part 3 Zoning Ordinance map amendments
- Part 4 Other special ordinances\*

PART 1

Ordinances Annexing Territory to, or Excluding Territory from, the City

<u>Ord. No.</u>	<u>Date</u>	<u>Subject</u>
339	4/20/87	Extending the City Limits.
364	2/6/89	De-annexing.
394	4/1/91	Annexing.
407	4/6/92	Annexing.
424	2/95	Increase City limits North of town.
425	2/95	Increase City limits North of town.
432	3/4/96	Annexation
433	3/4/96	Annexation, South of town
434	4/1/96	Set back variance
435	3/25/96	Annexation correction

\*Other Special Ordinances include: (1) Granting the right to use streets; (2) Special election calls; (3) Bond issues; (4) Acceptance of beneficial interest in public trusts; (5) Other special or temporary ordinances where applicable, some of these special ordinances may be referred to in the text of the code of ordinances as well.



## Atoka Disposition Table - Special Ordinances

### PART 1

#### Ordinances Annexing Territory to, or Excluding Territory from, the City

<u>Ord. No.</u>	<u>Date</u>	<u>Subject</u>
436	3/25/96	Annexation correction
439	7/1/96	Annexation - Chicken Fight Road, Kilmer Rd.
441	10/7/96	De-annexation - Dowd
448	4/7/97	Annexation
449	4/7/97	Annexation
450	4/7/97	Annexation
453	1/20/98	Annexation - Kilmer addition
477	6/26/01	Sale and Exchange of Certain Real Property owned By the City of Atoka in Section 9, T2S R11E
484	1/22/02	Annexation
486	2/19/02	Annexation
488	4/1/02	Annexation
491	6/3/02	Annexation
493	10/21/02	De-Annexation — Section 28, T2 S R11E
497	3/17/03	Annexation, Section 8 & 9, T2S R11E
500	9/20/04	Sale of Property – Clint Bond Section 9, Township 2 South, Range 11 East

\*Other Special Ordinances include: (1) Granting the right to use streets; (2) Special election calls; (3) Bond issues; (4) Acceptance of beneficial interest in public trusts; (5) Other special or temporary ordinances where applicable, some of these special ordinances may be referred to in the text of the code of ordinances as well.

## Atoka Disposition Table - Special Ordinances

### PART 1

#### Ordinances Annexing Territory to, or Excluding Territory from, the City

<u>Ord. No.</u>	<u>Date</u>	<u>Subject</u>
514	7/17/06	Sale of Property – Section 9, Choctaw Nation
515	1/7/07	Annexation, Section 9, T2S, R11E, Atoka Memorial Hospital
533	1/22/13	Annexation, Section 28, T2S, R11E, Chicken Fight Road
552	5/21/18	Annexation, Section 9, T2S, R11E, Choctaw Nation
558	4/1/19	Annexation, Section 1, T2S, R11E, ACIDA
559	4/1/19	Annexation, Section 2, T2S, R11E, ACIDA
566	6/01/20	Annexation: Section 1, T2S, R11E; ACIDA

\*Other Special Ordinances include: (1) Granting the right to use streets; (2) Special election calls; (3) Bond issues; (4) Acceptance of beneficial interest in public trusts; (5) Other special or temporary ordinances where applicable, some of these special ordinances may be referred to in the text of the code of ordinances as well.

Atoka Disposition Table - Special Ordinances

PART 2

Ordinances Opening or Vacating Streets and Alleys

<u>Ord. No.</u>	<u>Date</u>	<u>Subject</u>
412	9/8/92	Vacating alley, by the AMA Church - Route 2, Atoka
587	7/18/22	Power to close streets, public ways, or easements

\*Other Special Ordinances include: (1) Granting the right to use streets; (2) Special election calls; (3) Bond issues; (4) Acceptance of beneficial interest in public trusts; (5) Other special or temporary ordinances where applicable, some of these special ordinances may be referred to in the text of the code of ordinances as well.

Atoka Disposition Table - Special Ordinances

PART 3

Zoning Ordinance Map Amendments

<u>Ord. No.</u>	<u>Date</u>	<u>Subject</u>
360	9/19/88	Amending zoning map and code A-1 Hwy 75 and Pine Street
361	10/3/88	Amending zoning map and code C-2 Third Street
369	3/6/89	Amending zoning map and code R-1 to C-2 204 East 1st
370	5/15/89	Rezoning a parcel of land from R-1 to C-2 Let's Skate Greathouse Dr
374	8/21/89	Rezoning a parcel of land from R-2 to I-1 North Ohio – Old Armory
375	8/21/89	Rezoning a parcel of land from R-2 to C-2 106 East 3rd
392	3/4/91	Rezoning R-1 to A-1 Gilbert Baker
393	3/18/91	Rezoning R-1 to R-2 306 North Kentucky
395	4/15/91	Rezoning R-1 to R-2 Greathouse Drive
397	9/3/91	Rezoning R-1 to R-2 Sec 22
403	9/16/91	Rezoning C-2 to R-1 Lot 3 Block 39
406	2/3/92	Rezoning Lots R-1 to C-1 3 &4 Block 2 4T Heights
416	7/6/93	Spot zoning, R-1 to C-2, 108 W. Court
431	2/20/96	Rezoning 500 block E Court from I-1 to C-2
434	4/1/96	Rezoning R-2 to C-2 106 East 2 <sup>nd</sup>
437	4/1/96	Rezoning R-2 to C-3 300 and 400 Block East 1 <sup>st</sup>
442	11/4/96	Spot zoning - Atoka Funeral Home

\*Other Special Ordinances include: (1) Granting the right to use streets; (2) Special election calls; (3) Bond issues; (4) Acceptance of beneficial interest in public trusts; (5) Other special or temporary ordinances where applicable, some of these special ordinances may be referred to in the text of the code of ordinances as well.

Atoka Disposition Table - Special Ordinances

PART 3

Zoning Ordinance Map Amendments

<u>Ord. No.</u>	<u>Date</u>	<u>Subject</u>
443	11/18/96	Spot Zoning – R-1 to C-1 112 West Court Mansell
445	2/3/97	Spot Zoning – R-2 to C-1 206 North Ohio Phillips
446	2/3/97	Spot Zoning – R-2 to C-1 218 South Pennsylvania Whittington
447	2/3/97	Spot Zoning R-2 to C-3 1100 Block West 13th
451	6/16/97	Rezoning - Sheffield
458	7/20/98	Rezoning
461	10/5/98	Rezoning
466	3/15/99	Spot Zoning
467	5/17/99	Spot Zoning
470	3/6/00	Rezoning - Eaves
475	9/18/00	Rezoning - Burlison and Griffin (Atoka State Bank parking lot)
476	5/7/01	Rezoning - Atoka State Bank (Crossroads Superstore)
479	8/20/01	Rezone - Mike Dale, 112 East 1 <sup>st</sup> Street (Insurance Agency)
480	10/15/01	Rezone - Brian Mixon, 709 W. 6 <sup>th</sup> Street (Taxidermy Business)
483	1/22/02	Zoning - Section 10, 2 South 11 East, Industrial Tract (A-1 to I-1)
487	3/4/02	Zoning - Section 10, 2 South 11 East, Community Building and Veterans Memorial (A-1 to C-1)
494	11/4/02	Spot Zoning — 500 East 15 <sup>th</sup> Street Edgar Vinson, Evelyn Randolph
495	1/6/03	Spot Zoning — 417 West Court Street, Jhona Walker

\*Other Special Ordinances include: (1) Granting the right to use streets; (2) Special election calls; (3) Bond issues; (4) Acceptance of beneficial interest in public trusts; (5) Other special or temporary ordinances where applicable, some of these special ordinances may be referred to in the text of the code of ordinances as well.

Atoka Disposition Table - Special Ordinances

PART 3

496	2/18/03	Zoning — Lot 1 & 2 Block 1, Cobb Subdivision, Bruce Usher
501	6/21/04	Zoning – South Mississippi from 5 <sup>th</sup> Street to 13 <sup>th</sup> Street
502	8/16/04	Zoning – R-1 to C-2, Lot 3 & 6, Block 60, FirstBank
505	1/3/05	Zoning – Designate zoning to C-2, Sears Fruit Stand and Woodworks, Highway 69 North
506	4/18/05	Zoning – R-1 to C-2, Lots 8, 9, & 10, Block 18, Marvin Phillips
507	7/18/05	Zoning – R-1 to C-1, Lots 1 and 2, Block 1, Ethan Allen Addition, Anthony Parker
508	7/18/05	Zoning – R-1 to R-2, Lot 6, Block 4, Chapman Addition, Andrew Investment Company, LLC
512	7/7/06	Zoning – I-2 to C-1; Section 9, Clint Bond
523	3/16/09	Zoning – R-2 to C-2; Lot 3 & 4, Block 39 Andrew Investment Company, LLC
528	5/16/11	Zoning - R-1 to C-2; Lot 1, Block 9 Joe Crowley
529	6/20/11	Zoning - R-1 to A-1; 800 S. Greathouse Atoka Public Schools/Agricultural Education Dept.
530	10/17/11	Zoning - R-1 to A-1; 1085 South Dickerson Randy Daniel
531	11/7/11	Zoning - C-2 to I-1; 115 West C St. ERS Telecom Properties, LLC
532A	8/20/12	Zoning – C-3 to I-1; 110 South Main Tower Group I
538	5/19/14	Zoning – R-1 to C-2; Lots 3, 4, 5, & 6, Block 57 Mike Daniel

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## Atoka Disposition Table - Special Ordinances

### PART 3

544	1/17/17	Zoning – R-1 & R-2 – Texoma Building Services
555	2/04/19	Zoning – C-2 to I-1; 749 South Adams
560	4/15/19	Amending Ordinance 559, Zoning - I-2; ACIDA
561	4/15/19	Amending Ordinance 558, Zoning - I-2; ACIDA
562	9/3/19	Zoning – R-1 to I-1; 643 East 13th
578	11/1/2021	Amending Ordinance 464; Legal Description 12-242

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## Atoka Disposition Table - Special Ordinances

### PART 4

#### Other Special Ordinances

<u>Ord. No.</u>	<u>Date</u>	<u>Subject</u>
322	12/8/86	Adopting 1986 Code of Ordinances
346	7/6/87	Administration of Sales Tax agreement
	6/5/88	Agreement for Sales Tax administration
385	6/18/90	Administration of Sales Tax
386	6/18/90	Administration of Use Tax
418	1/18/94	1994 Code Book
419	8/15/94	Curfew Hours
420	10/19/94	Sales Tax increase
422	1/3/95	Use Tax increase
454	1/20/98	Charter amendment - Absentee voting
465	3/4/99	Public Service Franchise
468	9/7/99	Sales Tax for Economic Development
478	7/2/01	Prohibiting Driving, Operating or Being in Actual Physical Control of a Motor Vehicle While Adversely Affected by Alcohol or Other Intoxicants
481	1/7/02	Hotel Tax
482	12/6/01	Additional Sales Tax to Exclusively Fund a Paid Fire Department
485	2/19/02	Amend Dollar Amounts in Section 7-201 — 7-213 Relating to Purchasing and Contracting Policies
489	4/15/02	Typographical Error in the Definition of “Core Area” for Billboard Signs 12-241

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## Atoka Disposition Table - Special Ordinances

### PART 4

490	4/15/02	Clarifications for I-1 (Light Industrial) 12-348
492	9/3/02	Establishing and/or Describing City Wards
498	2/2/04	Amending City Code Section 2-102, Council Meeting to begin at 5:30 p.m.
499	5/17/04	Refund of Residential Water Deposits Authorized Under Certain Circumstances
503	9/7/04	One-half Cent Sales Tax Election
504	11/1/04	Amending City Code, Section 9-511, Senior Citizen Dances
509	7/5/05	Amending City Code Section 2-102, Council Meeting to begin at 6:00 p.m.
510	9/19/05	One-half Cent Sales Tax Election, Water Plant Project
511	1/11/06	Additional Use Tax, Water Plant Project
513	7/17/06	Assessing fees for Fire Dept.
516		Requiring connection to the sanitary sewer system
517	1/17/07	Amending Sec. 12-235; Mobile Home within the City Limits
518	10/1/07	Transfer of Property to the Atoka Municipal Authority
519	1/22/08	Prohibiting Oil and Gas Exploration
520	5/5/08	Lodging Tax Election
521	9/15/08	Enacting new provisions relating to the Lodging Tax
522	1/5/09	Adopting the International Building Codes
524	9/21/09	One-half Cent Sale Tax Election, Economic Development
524A	5/18/09	Prohibiting Possession of Tobacco Products By persons under eighteen years of age

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## Atoka Disposition Table - Special Ordinances

### PART 4

525	1/4/10	Relating to Handicap or Disabled Parking
526	8/16/10	Adoption of New City Code Book
532	7/2/12	Clean Indoor Air Act
534	5/6/13	Cable Franchise; BCI Cable
535	10/07/13	Prohibiting riding horses in the City Limits
536	10/21/13	Granting gas franchise to Centerpoint Energy Resources Corp.
537	2/3/14	Amend Dollar Amounts in Section 7-213 Relative to Contracts and/or Acquisitions
539	8/18/14	One-half Cent Sale Tax Election, Economic Development
540	4/6/15	Amend Chapter Ten (10) providing for the automatic periodic adoption of revisions of the ICC Codes
541	12/7/15	One-Cent Sales Tax Election, Atoka Public Schools
542	7/5/16	Repeal Fluoride 17-212
543	8/15/16	Establishing and/or Describing City Wards 1-302
545	5/15/17	Amend Lodging Tax Provisions 7-329 - 7-331
546	9/5/17	Amend Amount of Fines for violation of Municipal Codes 1-108
547	9/5/17	Amend definitions 8-301
548	9/18/17	Amend Utility Deposit Return Procedure 17-106
549	11/06/17	Recreational Vehicles 12-289
550	11/06/17	Amend Penalty; Continuing Violations 8-415
551	11/06/17	Fine for Violation Chapter 2 – Trash, Grass, and Weeds 8-206

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## Atoka Disposition Table - Special Ordinances

### PART 4

553	12/10/18	One-half Cent Sales Tax Election, Economic Development
554	1/22/19	Marijuana Regulations 9-801 to 9-807
557	2/04/19	Alcoholic Beverages 3-301
563	12/2/19	Mobile Home Park or Court 12-288
564	4/06/20	Curfew from 10:00 pm to 5:00 am
565	4/06/20	Prohibiting Service of Food In-Doors at Commercial Restaurants
567	Void	
568	7/20/20	Adopt new City Code Book
569	9/21/20	Purchases by City 7-201
570	12/07/20	Central Business District 12-334
571	1/14/21	Increment District No. 1
572	2/01/21	Abandoned Refrigerators, Freezers, Iceboxes 8-119
573	7/06/21	Flood Plain 12-501 – 12-524
574	9/7/21	Controlled Drug 10-502, 10-503
575	Void	
576	11/1/2021	Building Permit 12-372
577	11/1/2021	Building 12-224.1
588	08/01/2022	Employee Retirement System for City Manager
590	1/17/2023	Amending 588; Employee Retirement System for City Manager
591	04/03/2023	Exchange of Real Property between the City of Atoka and the Atoka City Industrial Development Authority

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## Atoka Disposition Table - Special Ordinances

592	08/21/2023	Amending the employee retirement plan; defined contribution plan for the City Manager
594	09/05/2023	Public Service Franchise

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