

TOWN CODE

of

POCOLA

OKLAHOMA

2013



STERLING CODIFIERS
3906 Schreiber Way
Coeur d'Alene, ID 83815
(208) 665-7193

PREFACE

This town code of the town of Pocola contains ordinances up to and including ordinance 146-10, passed April 23, 2010. Ordinances of the town adopted after said ordinance supersede the provisions of this town code to the extent that they are in conflict or inconsistent therewith. Consult the town office in order to ascertain whether any particular provision of the code has been amended, superseded or repealed.

Sterling Codifiers
Coeur d'Alene, Idaho

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CHAPTER 1

POCOLA TOWN CODE

SECTION:

1-1-1:	Title
1-1-2:	Acceptance
1-1-3:	Amendments
1-1-4:	Jurisdiction
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1-1-1: **TITLE:** Upon the adoption by the board of trustees, this code is hereby declared to be and shall hereafter constitute the official town code of Pocola. This code of ordinances shall be known and cited as the *POCOLA TOWN CODE* and is hereby published by authority of the board of trustees and shall be supplemented to incorporate the most recent legislation of the town as provided in section 1-1-3 of this chapter. Any reference to the number of any section contained herein shall be understood to refer to the position of the same number, its appropriate chapter and title heading, and to the general penalty clause relating thereto, as well as to the section itself, when reference is made to this code by title in any legal documents. (2013 Code)

1-1-2: **ACCEPTANCE:** This code, as hereby presented in printed form, shall hereafter be received without further proof in all courts and in administrative tribunals of the state as the ordinances of the town of general and permanent effect, except the excluded ordinances enumerated in section 1-2-1 of this title. (2013 Code)

1-1-3: **AMENDMENTS:** Any ordinance amending this code shall set forth the title, chapter and section number of the section or sections to be amended, and this shall constitute sufficient compliance with any statutory requirement pertaining to the amendment or revision by ordinance of any part of this code. All such amendments or revisions by ordinance shall be immediately forwarded to the codifiers, and the said ordi-

nance material shall be prepared for insertion in its proper place in each copy of this code. Each such replacement page shall be properly identified and shall be inserted in each individual copy of this code. (2013 Code)

1-1-4: **JURISDICTION:** All ordinances of the town now in effect within the town are hereby extended to all real property belonging to, or under the control of, the town outside the corporate limits of the town, and shall be in full effect therein, insofar as they are applicable. All ordinances of the town which shall go into effect in the future shall also apply to and be in full effect within the boundaries of all said 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 town shall be deemed to mean and include also the said outlying real property belonging to, or under the control of, the town, unless the context clearly indicates otherwise. (2003 Code § 10-6)

1-1-5: **CODE ALTERATIONS:** It is unlawful for any person to change or amend, by additions or deletions, any part or portion of this code, or to insert or delete pages or portions thereof, or to alter or tamper with this code in any manner whatsoever which will cause the law of the town to be misrepresented thereby. Any person violating this section shall be punished as provided in section 1-4-1 of this title. (2013 Code)

CHAPTER 2

SAVING CLAUSE

SECTION:

- 1-2-1: Repeal Of General Ordinances
- 1-2-2: Public Ways And Public Utility Ordinances
- 1-2-3: Effect Of Repeal; Court Proceedings
- 1-2-4: Severability Clause

1-2-1: **REPEAL OF GENERAL ORDINANCES:** All general ordinances of the town passed prior to the adoption of this code are hereby repealed, except such as are included in this code or are by necessary implication herein reserved from repeal (subject to the saving clauses contained in the following sections), and excluding the following ordinances which are not hereby repealed:

- A. Tax levy ordinances;
- B. Appropriation ordinances;
- C. Ordinances relating to boundaries and annexations;
- D. Franchise ordinances and other ordinances granting special rights to persons or corporations;
- E. Contract ordinances and ordinances authorizing the execution of a contract or the issuance of warrants;
- F. Salary ordinances;
- G. Ordinances establishing, naming or vacating streets, alleys or other public places;
- H. Improvement ordinances;
- I. Bond ordinances;

- J. Ordinances relating to elections;
- K. Ordinances relating to the transfer or acceptance of real estate by or from the town; and
- L. All special ordinances. (2013 Code)

1-2-2: PUBLIC WAYS AND PUBLIC UTILITY ORDINANCES: No ordinance relating to railroad crossings with streets and other public ways, or relating to the conduct, duties, service or rates of public utilities shall be repealed by virtue of the adoption of this code or by virtue of section 1-2-1 of this chapter, except as this code may contain provisions for such matters, in which case, this code shall be considered as amending such ordinance or ordinances in respect to such provisions only. (2013 Code)

1-2-3: EFFECT OF REPEAL; COURT PROCEEDINGS:

- A. Reviving Prior Ordinances: The repeal of an ordinance shall not revive any ordinances in force before or at the time the ordinance repealed took effect.
- B. Offenses: No new ordinance shall be construed or held to repeal a former ordinance, whether such former ordinance is expressly repealed or not, as to any offense committed against such former ordinance or as to any act done, any penalty, forfeiture or punishment so incurred, or any right accrued or claim arising under the former ordinance, or in any way whatever to affect any such offense or act so committed or so done, or any penalty, forfeiture or punishment so incurred or any right accrued or claim arising before the new ordinance takes effect, save only that the proceedings thereafter shall conform to the ordinance in force at the time of such proceeding, so far as practicable. If any penalty, forfeiture or punishment may be mitigated by any provision of a new ordinance, such provision may be, by consent of the party affected, applied to any judgment announced after the new ordinance takes effect.
- C. Extend To All Repeals: This section shall extend to all repeals, either by express words or implication, whether the repeal is in the ordinance making any new provisions upon the same subject or in any other ordinance.

- D. Current Pending Actions: Nothing contained in this chapter shall be construed as abating any action now pending under or by virtue of any general ordinance of the town herein repealed, and the provisions of all general ordinances contained in this code shall be deemed to be continuing provisions and not a new enactment of the same provisions; nor shall this chapter be deemed as discontinuing, abating, modifying or altering any penalty accrued or to accrue, or as affecting the liability of any person, firm or corporation, or as waiving any right of the town under any ordinance or provision thereof in force at the effective date hereof. (2013 Code)

1-2-4: SEVERABILITY CLAUSE: If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this code, or any part hereof or any portion adopted by reference or any codes or portions of codes adopted herein, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this code, or any part hereof or any portion adopted by reference or any codes or portions of codes adopted herein. The board of trustees hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional, invalid or ineffective. (2003 Code§ 10-7; amd. 2013 Code)

CHAPTER 3

DEFINITIONS

SECTION:

- 1-3-1: Construction Of Words; Interpretations
- 1-3-2: General Definitions
- 1-3-3: Catchlines

1-3-1: CONSTRUCTION OF WORDS; INTERPRETATIONS:

- A. Liberal Construction: All general provisions, terms, phrases and expressions contained in this code shall be liberally construed in order that the true intent and meaning of the board of trustees may be fully carried out.
- B. Minimum Requirements: In the interpretation and application of any provision of this code, it shall be held to be the minimum requirements adopted for the promotion of the public health, safety and general welfare.
- C. Computation Of Time: Whenever a notice is required to be given or an act to be done in a certain length of time before any proceeding shall be had, the day on which such notice is given or such act is done shall be counted in computing the time, but the day on which such proceeding is to be held shall not be counted.
- D. Delegation Of Authority: Whenever a provision appears requiring the head of a department or some other town officer to do some act or perform some duty, it is to be construed to authorize the head of the department or other officer to designate, delegate and authorize subordinates to perform the required act or perform the duty unless the terms of the provision or section specify otherwise.
- E. Gender: Words used in the masculine gender in this code or other ordinances of the town include the feminine and neuter, unless a contrary intention plainly appears.

- F. Joint Authority: All words giving a joint authority to three (3) or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.
- G. May; Shall: The word "may" is permissive; the word "shall" is mandatory.
- H. Nontechnical And Technical Words: Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.
- I. Number: A word importing the singular number only may extend and **be applied to several persons and things as if to one person** and thing. Words used in the plural number may also include the singular unless a contrary intention plainly appears.
- J. Officers And Employees Generally: Whenever any officer or employee is referred to by title only, such reference shall be construed as if followed by the words "of the town of Pocola".
- K. Tense: Words used in the past or present tense include the future as well as the past and present.
- L. Ordinance: The word "ordinance" contained in the ordinances of the town has been changed in the content of this code to "title", "chapter", "section" and/or "subsection" or words of like import for organizational and clarification purposes only. Such change to town ordinances is not meant to amend passage and effective dates of such original ordinances. (2003 Code §§ 10-1, 10-2; amd. 2013 Code)

1-3-2: GENERAL DEFINITIONS: Whenever the following words or terms are used in this code, they shall have such meanings herein ascribed to them, unless the context makes such meaning repugnant thereto:

AGENT: A person acting on behalf of another with authority conferred, either expressly or by implication.

CHIEF OF POLICE OR TOWN MARSHAL: The police chief of the town of Pocola, Oklahoma.

CLERK, CLERK OF THE MUNICIPALITY OR TOWN CLERK:	The town clerk of the town of Pocola, Oklahoma.
CODE:	The town code of the town of Pocola, Oklahoma.
CORPORATION COUNSEL:	The town attorney of the town of Pocola, Oklahoma.
COUNCIL, GOVERNING BODY OR BOARD OF TRUSTEES:	The board of trustees of the town of Pocola, Oklahoma.
COUNTY OR THE COUNTY:	The county of LeFlore, Oklahoma.
LICENSE:	The permission granted for the carrying on of a business, profession or occupation.
MAYOR OR CHIEF EXECUTIVE OFFICER OF THE BOARD OF TRUSTEES:	The mayor of the town of Pocola, Oklahoma.
MUNICIPALITY OR TOWN:	The town of Pocola, Oklahoma.
OS:	Oklahoma Statutes.
OCCUPANT:	As applied to a building or land, shall include any person who occupies the whole or any part of such building or land, whether alone or with others.
OFFENSE:	Any act forbidden by any provision of this code or the omission of any act required by the provisions of this code.
OPERATOR:	The person who is in charge of any operation, business or profession.
OWNER:	As applied to a building or land, shall include any part owner, joint owner, tenant in common,

	joint tenant or lessee of the whole or of a part of such building or land.
PERSON:	A human being, firm, association, corporation, trustee, executor, administrator, government agency or other legal entity.
PERSONAL PROPERTY:	Shall include every description of money, goods, chattels, effects, evidence of rights in action and all written instruments by which any pecuniary obligation, right or title to property is created, acknowledged, transferred, increased, defeated, discharged or diminished and every right or interest therein.
RETAILER:	Unless otherwise specifically defined, shall be understood to relate to the sale of goods, merchandise, articles or things direct to the consumer.
RIGHT OF WAY:	The privilege of the immediate use of the roadway or other property.
STATE OR THE STATE:	The state of Oklahoma.
STREET:	Shall include alleys, lanes, courts, boulevards, public ways, public squares, public places and sidewalks.
TENANT:	As applied to a building or land, shall include any person who occupies the whole or any part of such building or land, whether alone or with others.
TOWN MARSHAL OR DEPUTY MARSHAL:	The police officers of the town of Pocola, Oklahoma.
TREASURER, TREASURER OF THE MUNICIPALITY OR TOWN TREASURER:	The town treasurer of the town of Pocola, Oklahoma.

WHOLESALE DEALER: Unless otherwise specifically defined, shall be understood to relate to the sale of goods, merchandise, articles or things to persons who purchase for the purpose of resale.

WRITTEN, IN WRITING: May include printing and any other mode of representing words and letters, but when the written signature of any person is required by law to any official or public writing or bond, it shall be in the proper handwriting of such person or, in case such person is unable to write, by such person's proper mark. (2003 Code §§ 10-3, 10-4, 10-5; amd. 2013 Code)

1-3-3: CATCHLINES: The catchlines of the several sections of this code are intended as mere catchwords to indicate the content of the section and shall not be deemed or taken to be titles of such sections, nor be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any division or section hereof, nor unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted. (2013 Code)

CHAPTER 4

GENERAL PENALTY

SECTION:

1-4-1: General Penalty

1-4-1: GENERAL PENALTY:

- A. Whenever in this code or in other ordinances of the city, or in any rule, regulation or order promulgated by any officer or agency of the city under authority duly vested in him, or it, any act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or the doing of any act is required or the failure to do any act is declared to be unlawful, or an offense, or a misdemeanor, where no specific penalty is provided therefor, the violation of any such provision of this code or any other ordinance of the city, or such rule, regulation or order shall be punished by a fine not exceeding five hundred dollars (\$500.00), excluding costs.
- B. Except where otherwise provided, every day any violation of this code or any other ordinance of the city, or such rule, regulation or order shall continue, shall constitute a separate offense. (2003 Code § 12-30; amd. 2013 Code)

CHAPTER 5

OFFICIAL AND CORPORATE PROVISIONS

SECTION:

1-5-1: Oklahoma Municipal League Membership Authorized

1-5-1: OKLAHOMA MUNICIPAL LEAGUE MEMBERSHIP AUTHORIZED: The town is hereby authorized to procure the services of the Oklahoma municipal league and to have membership. (2003 Code§ 10-8)

CHAPTER 6

MAYOR AND BOARD OF TRUSTEES

SECTION:

- 1-6-1: Primaries And Elections
- 1-6-2: Board Of Trustees
- 1-6-3: Mayor

1-6-1: PRIMARIES AND ELECTIONS:

- A. General Election: A general election shall be held on the first Tuesday in April of every odd numbered year.
- B. Primary Election: On the third Tuesday in March of every year (just prior to the general election), a primary election shall be held should there be a necessity due to the number of candidates. The necessity of a primary election shall be determined by the board of trustees. (2003 Code § 1-1)

1-6-2: BOARD OF TRUSTEES:

- A. Composition: The town board of trustees shall consist of five (5) trustees, who shall be elected from wards and elected at large. (2013 Code)
- B. Regular Meetings: The board of trustees shall meet regularly at six thirty o'clock (6:30) P.M. on the second Tuesday of each month. (2003 Code§ 1-2; amd. 2013 Code)
- C. Place Of Meetings: Every meeting of the board of trustees shall be held in the town hall unless, in case of an emergency, the mayor designates another place in the town for the holding of a special meeting; provided, that any adjourned meeting may be held at any other place within the town designated by the board. (2003 Code § 1-3)

- D. **Supervision Of Town Personnel And Activities:** The board of trustees may designate various ones of its members, or a committee of its members, to have supervision of various personnel and activities of the town (for example, those working on the streets, those working in the water system, etc.) and to report to the board of trustees. Such trustee or committee of trustees so designated by the board shall be subordinate to the board. (2003 Code§ 1-6; amd. 2013 Code)

1-6-3: **MAYOR:**

- A. **Election:** The mayor shall be elected by the board from among its members, and shall serve until the end of the terms of office of the trustees, unless he sooner dies, resigns or is removed by the board of trustees. (2003 Code § 1-4)
- B. **Duties:** The mayor shall preside over meetings of the board, and may call special meetings thereof. He shall perform all other duties prescribed by law or ordinance. (2003 Code § 1-5)

CHAPTER 7

OFFICERS AND EMPLOYEES

SECTION:

- 1-7-1: Appointed Officers
- 1-7-2: Town Clerk-Treasurer
- 1-7-3: Other Personnel May Be Appointed
- 1-7-4: Compensation
- 1-7-5: Oath Of Office
- 1-7-6: Continuation After Expiration Of Term
- 1-7-7: Authority To Lay Off, Suspend, Demote Or Remove

1-7-1: APPOINTED OFFICERS:

A. Town Attorney:

1. Appointment: The board of trustees may appoint a town attorney and/or may secure the attorney or attorneys on a contractual basis when needed.

2. Duties: The town attorney, when and if appointed, shall be the legal advisor of all officers, departments and agencies of the town government in matters relating to their official powers and duties. He shall represent the town in proceedings in the courts. He shall perform all services incident to this position when may be required by law or ordinance. (2003 Code § 1-28)

B. Health Officer: The board of trustees may appoint a town health officer. Also, the director of the cooperative health department of the county and his authorized representatives may perform the duties and functions of a town health officer. (2003 Code § 1-29)

C. Street Commissioner And Street Superintendent:

1. Appointment: There shall be a street commissioner. The board of trustees may appoint a street superintendent and such other street

employees as they deem necessary. (2003 Code § 1-44; amd. 2013 Code)

2. Powers And Duties: The street commissioner, street superintendent and other employees appointed as provided in subsection C1 of this section shall maintain and improve the streets and alleys of the town; and shall place, maintain and remove street signs and traffic signs and devices as directed. (2003 Code § 1-45)

- D. Superintendent Of Parks: The park department shall consist of a superintendent of parks, appointed by the board of trustees, who shall have charge of the maintenance and upkeep of the town parks, and shall perform such other duties as are now or may be hereafter prescribed by ordinance. The board of trustees may employ such additional employees from time to time as may be provided by resolution; provided, however, that during the summer months, playground supervisors may be temporarily employed at the discretion of and upon motion by the board of trustees. (2003 Code § 1-46)

1-7-2: TOWN CLERK-TREASURER:

- A. Offices Combined; Election; Pay Period: The offices of town clerk and town treasurer are combined into an office to be called "town clerk-treasurer". There will be one such person to be elected to such combined office. The town clerk-treasurer shall be elected by the qualified voters in every odd numbered year as provided by law. The person so elected will be remunerated as set by ordinance of the town board of trustees for performing the statutory duties of the clerk and treasurer.
- B. Duties Of Town Clerk-Treasurer:
1. Town Clerk: As town clerk, the town clerk-treasurer shall:
 - a. Have custody of all records, books and papers of the board of trustees, and shall keep minutes of all proceedings as provided by 11 Oklahoma Statutes section 12-109.
 - b. Have such other powers, duties and functions as may be prescribed by law or ordinance or by the board of trustees.
 2. Town Treasurer: As town treasurer, the town clerk-treasurer shall deposit all town funds coming into his hands in depositories as

required by law. Town funds may be disbursed only as provided by law. (2013 Code)

1-7-3: OTHER PERSONNEL MAY BE APPOINTED: The board of trustees may appoint such other officers and employees as it deems desirable, to work in the water system, in the cemetery, and on the streets, and to perform other appropriate duties and functions (including inspectors of the building trades); may determine their compensation by motion, or resolution; and may demote, suspend, lay off or remove all such personnel at pleasure. (2003 Code § 1-37)

1-7-4: COMPENSATION:

A. Specified Officials:

1. Mayor: The mayor shall be paid, for the performance of his/her duties, a monthly sum of up to two hundred fifty dollars (\$250.00).

2. Board Of Trustees: Each member of the town board of trustees, except the town mayor, shall be paid, for the performance of their statutory duties, the monthly sum of one hundred twenty five dollars (\$125.00).

3. Town Clerk-Treasurer:

a. The town clerk-treasurer shall be paid, for the performance of her statutory duties, the monthly sum of seventy five dollars (\$75.00), contingent upon the performance of the town clerk-treasurer statutory duties of the office.

b. The town clerk-treasurer may receive additional compensation by the town, or by a trust authority for whom the town is the beneficiary, for the performance of duties in addition to her statutory duties. Any additional compensation and/or duties assigned to the town clerk-treasurer shall be subject to the discretion of and shall serve at the pleasure of the town board of trustees. The amount of compensation for the performance of such additional duties, and the pay period therefor, shall be set from time to time by the town board of trustees by motion, resolution or otherwise.

4. Judge: The judge shall be paid the sum of four hundred seventy five dollars (\$475.00) per month.

- B. Other Officers And Employees: The board of trustees shall have power, by motion or resolution, to determine the compensation of other officers and employees of the town.
- C. Pay Period: The pay period for elected officials shall be monthly, unless established otherwise by the board of trustees.
- D. Additional Compensation For Elected Officials: Any compensation to be received by an elected official of the town, which is in addition to any compensation currently received by said elected official, shall not be effective until the current term of office for said elected official expires. (2003 Code § 1-40; amd. Ord. 142-07, 2-5-2007; 2013 Code)
- E Set By Motion Or Resolution; Number And Classes Of Personnel:
 - 1. The compensation of all other officers and employees, excepting those whose compensation the law requires to be set by ordinance, may be determined by motion or resolution adopted by the board of trustees, and may be changed at any time in the same manner.
 - 2. Except as the law provides otherwise, the board of trustees may determine or regulate the number and classes of officers and employees. (2003 Code § 1-41)
- F. Salaries Of Certain Officers Not Changed After Election Or Appointment: In no case shall the salary or emoluments of any town officer elected or appointed for a definite term, be changed after his election or appointment or during his term of office, unless by operation of an ordinance passed prior to such election or appointment, such being prohibited by the Oklahoma constitution article XXIII section 10; provided, that this shall not apply to officers chosen for indefinite terms nor to employees. (2003 Code § 1-42)

1-7-5: OATH OF OFFICE:

- A. All officers of the town (but not employees) are required to take the oath or affirmation of office prescribed by the state constitution before they enter upon their duties.
- B. Both officers and employees are currently required to take and subscribe to the loyalty oath prescribed by state law. (2003 Code § 1-38)

1-7-6: CONTINUATION AFTER EXPIRATION OF TERM: Every officer who is elected or appointed for a definite term, shall continue to serve thereafter until his successor is elected or appointed and qualifies, unless his services are sooner terminated by resignation or disqualification, removal, death, abolition of the office, or other legal manner. (2003 Code § 1-39)

1-7-7: AUTHORITY TO LAY OFF, SUSPEND, DEMOTE OR REMOVE: The board of trustees may lay off, suspend, demote or remove any officer or employee whom it appoints or elects, or whose successor they appoint or elect, as provided by 11 Oklahoma Statutes section 8-109. (2003 Code§ 1-43; amd. 2013 Code)

CHAPTER 8
MUNICIPAL COURT

SECTION:

- 1-8- 1: Created Definitions
- 1-8- 2: Jurisdiction Of Court
- 1-8- 3: Judge
- 1-8- 4: Change Of Venue; Disqualifications
- 1-8- 5: Chief Of Police As Principal Officer
- 1-8- 6: Clerk Of The Court
- 1-8- 7: Prosecuting Officer; Town Attorney
- 1-8- 8: Judge To Prescribe Rules
- 1-8- 9: Contempt Of Court
- 1-8-10: Complaints
- 1-8-11: Traffic Violations
- 1-8-12: Summons
- 1-8-13: Warrant Of Arrest
- 1-8-14: Bail
- 1-8-15: Arraignment
- 1-8-16: Postponement
- 1-8-17: Defendant To Be Present
- 1-8-18: Court Procedures
- 1-8-19: Judgment
- 1-8-20: Immediate Judgment Rendered
- 1-8-21: Imprisonment
- 1-8-22: Acquittal
- 1-8-23: Suspension
- 1-8-24: Copy Of Judgment; Warrant For Execution Of Sentence
- 1-8-25: Community Service
- 1-8-26: Jailed Detainees Responsible For Expenses Of Incarceration
- 1-8-27:

1-8-1: **CREATED:** This chapter shall govern the organization and operation of the municipal court of the town. To the extent of conflict between any provisions of this chapter and the provisions of any other ordinance of the town, the provisions of this chapter shall control. (2003 Code § 12-1)

1-8-2: DEFINITIONS: As used in this chapter, unless the context requires a different meaning, the following words shall mean:

COURT: The municipal court of this town.

JUDGE: The judge of the municipality, including any acting judge or alternate judge thereof as provided for by the statutes of this state and this chapter.

MUNICIPALITY OR The town of Pocola, Oklahoma. (2003 Code
THIS MUNICIPALITY: § 12-2)

1-8-3: **JURISDICTION OF COURT:** The court shall exercise original **jurisdiction to hear and determine all prosecutions 'vwherein** a violation of any ordinance of this municipality is charged, including any such prosecutions transferred to the court in accordance with applicable law. (2003 Code § 12-3)

1-8-4: **JUDGE:**

A. Appointment: The board of trustees may appoint as judge:

1. An attorney licensed to practice law in the state, 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 the state, who maintains a permanent office in the municipality. (2003 Code § 12-4; amd. 2013 Code)

B. Term Of Office: The official term of the judge shall be two (2) years, expiring on the first Monday in May each odd numbered year. Each judge, unless sooner removed for proper cause, shall serve until his successor is appointed and qualified; provided, that the judge of the municipal court existing in this municipality at the effective date hereof shall act as judge of the court herein provided for until a judge is appointed and qualified under the terms of this chapter. (2003 Code § 12-5)

C. Alternate Judge: There shall 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 alternate judge of the court in any case if the judge is absent from the court, unable to act as judge or disqualified from acting as judge in the case. (2003 Code § 12-6)

D. Acting Judge: If, at any time, there is no judge or alternate judge, duly appointed and qualified, available to sit as judge, the board of trustees shall appoint some person, possessing the qualifications required by this chapter for the judge, who 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. (2003 Code § 12-7; amd. 2013 Code)

E. Salaries: The town board of trustees shall set by resolution the salaries of judges. (2003 Code § 12-8; amd. 2013 Code)

F. Removal From Office:

1. Judges shall be subject to removal from office, by the governing body, for the causes prescribed by the constitution and laws of the state for the removal of public officers. Proceedings for removal shall be instituted by the filing of a verified written petition, setting forth facts sufficient to constitute one or more legal grounds for removal. Petitions may be signed and filed by the mayor or twenty five (25) or more qualified electors of this municipality. In the latter event, verification may be executed by one or more of the petitioners. The governing body 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. The judge shall be entitled to: (2003 Code § 12-9; amd. 2013 Code)

a. Representation by counsel;

b. Present testimony and to cross examine the witness against him; and

c. Have all evidence against him presented in open hearing. So far as they can be made applicable, the provisions of the Oklahoma administrative procedure act governing individual proceedings shall govern removal proceedings hereunder.

2. Judgment of removal shall be entered only upon individual votes, by a majority of all members of the governing body, in favor of such removal. (2003 Code § 12-9)

G. Vacancies:

1. A vacancy in the office of the judge shall occur if the incumbent:

- a. Dies;
- b. Resigns;
- c. Ceases to possess the qualifications for the office; or

d. Is removed, and the removal proceedings has been affirmed finally in judicial proceedings or is no longer subject to judicial review. (2003 Code § 12-10)

2. Upon the occurrence of a vacancy in the office of judge, the board of trustees shall appoint a successor to complete the unexpired term, upon the same procedure as an original appointment is made. (2003 Code§ 12-10; amd. 2013 Code)

1-8-5: CHANGE OF VENUE; DISQUALIFICATIONS: In prosecutions before the court, no change of venue shall be allowed; but, the judge before whom the case is pending may certify his disqualification or he may be disqualified from sitting under the terms, conditions and procedure provided by law for courts of record. If a judge is disqualified, the matter shall be heard by an alternate or acting judge, appointed as provided in this chapter. (2003 Code§ 12-11)

1-8-6: CHIEF OF POLICE AS PRINCIPAL OFFICER: All writs or processes of the court shall be directed, in his official title, to the chief of police of this municipality, who shall be the principal officer of the court. (2003 Code § 12-12)

1-8-7: CLERK OF THE COURT:

A. Duties: The town clerk-treasurer, or a deputy designated by the board of trustees, shall be ex officio the clerk of the municipal court. The clerk shall: (2003 Code§ 12-13; amd. 2013 Code)

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 the disburse or deliver to the town clerk-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. (2003 Code § 12-13)

- B. Bond Required: The clerk of the court shall give bond in the form provided by 11 Oklahoma Statutes section 27-111 in the sum of fifty dollars (\$50.00). When executed, said bond shall be submitted to the governing body for approval. When approved, it shall be filed with the town clerk-treasurer and retained in the municipal archives. (2003 Code § 12-15)

1-8-8: PROSECUTING OFFICER; TOWN ATTORNEY: The town attorney, or his duly designated assistant, may be the prosecuting officer of the court. He shall have full power to prosecute all alleged violations of the ordinances of the town. 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 municipality in all proceedings arising out of matters of this court. (2003 Code § 12-14)

1-8-9: JUDGE TO PRESCRIBE RULES: The judge may prescribe rules, consistent with the laws of the state and with the ordinances of this municipality, for the proper conduct of the business of the court. (2003 Code § 12-16)

1-8-10: CONTEMPT OF COURT: Obedience to the orders, rules and judgments made by the judge or by the court shall be enforced by the judge, who may fine or imprison for contempt committed as to him while holding court, or committed against processes issued by him, in the same manner and to the same extent as the district courts of this state. (2003 Code § 12-17)

1-8-11: COMPLAINTS: All prosecutions for violation of ordinances of this municipality shall be styled "The Town of Pocola, 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 complaint, and setting forth concisely the offense charged. (2003 Code § 12-18)

1-8-12: TRAFFIC VIOLATIONS:

A. Traffic Violations Bureau:

1. Established: A traffic violations bureau is hereby established as a division of the office of the clerk of the court, to be administered by said clerk, or by subordinates designated by him for that purpose.

2. Schedule Of Fines:

a. Persons who are cited for violation of one of the traffic regulatory ordinances of the town may elect to pay a fine in the traffic violations bureau according to a schedule of fines adopted by the board of trustees, and as it may be amended from time to time.

b. A copy of the current fine schedule shall be kept in the town clerk-treasurer's office.

c. A schedule of traffic fines levied by the bureau, as adopted and amended from time to time by the board of trustees, shall be adopted and incorporated herein by reference. It shall be applicable, until amended, to all specified traffic violations as fully as if set out at length herein.

3. Rules; Payment Of Fine: The court may adopt rules to carry into effect this subsection. Payment of a fine under this subsection shall constitute a final determination of the cause against the defendant. If a defendant who has elected to pay a fine under this subsection fails to do so, prosecution shall proceed under the provisions of this chapter.

B. Citation Procedure; Bail:

1. Issuance: If a police officer observes facts which he believes constitute a violation of the traffic ordinances of the town, in lieu of arresting the person, he may take his name, address, operator's license number, registered license number of the motor vehicle

involved, and any other pertinent and necessary information and may issue him, in writing, on a form prescribed by the town board of trustees, a traffic citation embracing the above information and also stating the traffic violation alleged to have occurred, and notifying him to answer to the charge against him at time specified in the citation. The officer, upon receiving the written promise of the alleged violator, endorsed on the citation, to answer as specified, may then release the person from custody.

2. Failure To Appear; Arrest Warrant; Bond: If the person to whom a citation is issued fails to appear as prescribed in the citation, said person shall be guilty of the offense of failure to appear and shall be liable for a fine as specified by the town board of trustees. Upon said person's failure to appear, the municipal judge may issue a warrant for the arrest of said person who did not appear, and shall set bond on the person not appearing in the amount equal to the fine amount and costs of the charges for which the person did not appear, plus the amount of the fine and costs for failure to appear, plus any other costs associated with issuing the warrant for arrest.

3. Traffic Bail Bond: The police officer shall also use the procedures in subsection C of this section on traffic bail bond procedures.

C. Traffic Bail Bond Procedures:

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

a. The arrested person has been issued a valid license to operate a motor vehicle by Oklahoma, another state jurisdiction within the United States, or any party jurisdiction of the nonresident violator compact;

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

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

d. The violation does not constitute:

(1) A felony;

- (2) Negligent homicide;
- (3) Driving or being in actual physical control of a motor vehicle while impaired or under the influence of alcohol or other intoxicating substances;
- (4) Eluding or attempting to elude a law enforcement officer;
- (5) Operating a motor vehicle without having been issued a valid driver's license, or while the license is under suspension, revocation, denial or cancellation;
- (6) An arrest based upon an outstanding warrant;
- (7) A traffic violation coupled with any offense stated in subsections C1d(1) through C1d(6) of this section;
- (8) An overweight violation, or the violation of a special permit exceeding the authorized permit weight; or
- (9) A violation relating to the transportation of hazardous materials.

2. Duties Of Arresting Officer: If the arrested person is eligible for release on personal recognizance as provided for in subsection C1 of this section, then the arresting officer shall, in writing, on a form prescribed by the board of trustees:

- a. Designate the traffic charge;
- b. 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;
- c. Record the motor vehicle make, model and tag information;
- d. Record the arraignment date and time on the citation; and
- e. 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 condi-

tional and that failure to timely appear for arraignment shall result in the suspension of the arrested person's driver's license in Oklahoma, or in the nonresident's home state pursuant to the non-resident violator compact.

3. Arraignment: The court, or the court clerk, as directed by the court, may continue or reschedule the date and time of arraignment upon request of the arrested person or his attorney. If the arraignment is continued or rescheduled, the arrested person shall remain on personal recognizance and written promise to appear until such arraignment, in the same manner and with the same consequences as if the continued or rescheduled arraignment was entered on the citation by the arresting officer and signed by the defendant. An arraignment may be continued or rescheduled more than one time; provided, however, that the court shall require an arraignment to be had within a reasonable time. It shall remain the duty of the defendant to appear for arraignment unless the citation is satisfied as provided for in subsection C4 of this section.

4. Plea; Payment Of Fine: 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 appropriate court clerk. Payment of the fine and costs may be made by personal, cashier's, traveler's, certified or guaranteed bank check, postal or commercial money order, or other form of payment approved by the court in an amount prescribed as bail for the offense; provided, however, that 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 resolution of the board of trustees or, in the absence of such resolution, in the amount prescribed by the court.

5. Failure To Pay Fine:

a. Arrest Warrant: If, pursuant to the provisions of subsection C4 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. The 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.

b. Suspension Of Driver's License: Additionally, if pursuant to the provisions of subsection C4 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 clerk shall request the state department of public safety to either suspend the defendant's driver's license to operate a motor vehicle in this state, or notify the defendant's home state and request suspension of the defendant's driver's license in accordance with the provisions of the nonresident violator compact. Such notice and request shall be on a form approved or furnished by the state department of public safety. The court clerk shall not process the notification and request provided for in this subsection if, with respect to such charges:

- (1) The defendant was arraigned, posted bail, paid a fine, was jailed or otherwise settled the case; or
- (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; or
- (3) The violation related 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.

6. Proof Of Settlement; Notices: 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 fines 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 said department 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, that the court or court clerk's failure to furnish such proof of 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 of Oklahoma or any political subdivision thereof, or any state department or agency, or employee thereof, but duplicate proof shall be furnished to the person entitled thereto, upon request.

7. Amount Of Bonds: The violation of municipal traffic laws, traffic related laws or bail bonds, are prescribed separately and as a part of the town bond schedule and fines. The court clerk, unless otherwise directed by the town clerk-treasurer, shall accept bail for the payment of fines and costs in the form of currency or personal, cashier's, traveler's, certified or guaranteed bank check, or postal or commercial money order for the amount prescribed in the bail bond schedule. (2013 Code)

1-8-13: SUMMONS:

- A. Issuance: 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. Service; Failure To Appear: The summons shall be served by delivering a copy to the defendant personally. If he fails to appear and to answer the summons within the prescribed period, a warrant shall be issued for his arrest, as provided by this chapter. (2003 Code § 12-21)

1-8-14: WARRANT OF ARREST:

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

The Incorporated Town of Pocola, Oklahoma,

To the Chief of Police of the Municipal Court of Pocola, Oklahoma. Complaint upon oath having this day been made by (naming complaint) that the offense of (naming the offense in particular, the general terms) has been committed and accusing (name of defendant) thereof, you are commanded therefore to arrest forthwith the above named (name of defendant) and bring him before me at Municipal Court, Pocola, Oklahoma. Witness my hand this day of _____, 20

JUDGE OF THE MUNICIPAL CRIMINAL
COURT OF POCOLA, OKLAHOMA

- B. Execution: It shall be the duty of the chief of police, personally, or through a duly constituted member of the police force of this municipality, or through any other persons lawfully authorized to act, to execute said warrant as promptly as possible. (2003 Code § 12-22)

1-8-15: BAIL: Upon arrest, or upon appearance without arrest in response to a citation or summons, or any other time before trial, before or after arraignment, the defendant shall be eligible to be released upon giving bail for his appearance in an amount and upon conditions fixed by the judge. When arrests are made at night or other conditions of emergency, or when the judge is not available, the rules shall authorize the chief of police, or his designated representative, to accept a temporary

cash bond of not more than the maximum monetary penalty provided by ordinance for such offense charged. (2003 Code § 12-23; amd. 2013 Code)

1-8-16: ARRAIGNMENT: Upon making his appearance before the court, the defendant shall be arraigned. The judge, or the town 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. (2003 Code § 12-24)

1-8-17: POSTPONEMENT: Before a trial commences, either party, upon good cause shown, may obtain a reasonable postponement thereof. (2003 Code § 12-25)

1-8-18: DEFENDANT TO BE PRESENT: The defendant must be present in person at the trial. (2003 Code § 12-26)

1-8-19: COURT PROCEDURES: In all trials, as to matters not covered in this chapter, or by the statutes relating to municipal criminal courts, or by rules duly promulgated by the supreme court of Oklahoma, the procedure applicable in trials of misdemeanors in the district courts shall apply to the extent that they can be made effective. (2003 Code § 12-27)

1-8-20: JUDGMENT: 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. (2003 Code § 12-28)

1-8-21: IMMEDIATE JUDGMENT RENDERED: At the close of the trial, judgment must be rendered immediately by the judge, who shall cause it to be entered in his docket. (2003 Code § 12-31)

1-8-22: **IMPRISONMENT:** A judgment that the defendant pay a fine may direct also that he be imprisoned until the fine is satisfied, at the rate of one day imprisonment for each twenty five dollars (\$25.00) of fine, unless the defendant can show good cause for not imposing such imprisonment. However, for each day of work, the prisoner shall be credited for serving two and one-half ($2\frac{1}{2}$) days of imprisonment under his sentence. (2003 Code§ 12-29; amd. 2013 Code)

1-8-23: **ACQUITTAL:** If judgment is of acquittal, and the defendant is not to be detained for any other legal cause, he must be discharged at once. (2003 Code § 12-32)

1-8-24: **SUSPENSION: After conviction and sentence, the judge may** suspend sentence, in accordance with the provision of, and subject to, the conditions and procedures imposed by 11 Oklahoma Statutes sections 27-123 and 27-124. (2003 Code§ 12-33)

1-8-25: **COPY OF JUDGMENT; WARRANT FOR EXECUTION OF SENTENCE:** If, after conviction, judgment of imprisonment is entered, a copy thereof, certified by the court, shall be delivered to the chief of police, the sheriff of the county, or other appropriate police officers, advising the same of such imprisonment. Such copy shall be sufficient for execution of the sentence. (2003 Code § 12-34)

1-8-26: **COMMUNITY SERVICE:**

- A. There currently exists the situation of convicted offenders from the municipal court being unable to pay their fines subsequent to being tried and convicted in said court. As a result thereof, the town is losing the value of said fines when the convicted offenders are not able pay their debt to society for the crime they have committed.
- B. In order to alleviate the problem above set forth and allow indigent or otherwise financially impaired convicted offenders of the municipal court to repay their debt to society, the municipal court is authorized and directed to forthwith and subsequent to the passage date hereof sentence indigent and financially impaired convicted offenders to community service work, such work to be done at the court's discretion.

- C. All offenders sentenced as set forth in subsection B of this section shall not be covered by the Oklahoma workers' compensation act and the provisions of 57 Oklahoma Statutes section 227 are incorporated herein and made a part hereof, word for word as if more particularly hereinafter set forth.
- D. The chief of police, subject to the direction of the mayor and the board of trustees, shall direct where the work shall be performed. The head of the department in charge of the place where the work is to be performed, himself or by some other person designated by him, shall oversee the work. If a guard is necessary, the chief of police shall see that such is provided. (2003 Code § 12-35; amd. 2013 Code)

1-8-27: JAILED DETAINEES RESPONSIBLE FOR EXPENSES OF
 INCARCERATION: All offenders jailed by the town will hereby be responsible for all expenses resulting in their incarceration. It shall include, but not be limited to, daily housing costs, meals, medical expenses and damages done by detainee. (Ord. 145-10, 2-9-2010)

CHAPTER 9

EMPLOYEE RETIREMENT

ARTICLE A. FEDERAL OLD AGE AND SURVIVORS INSURANCE

SECTION:

- 1-9A-1: Policy And Purpose
- 1-9A-2: Mayor Authorized To Execute Agreements
- 1-9A-3: Withholdings From Salaries And Wages
- 1-9A-4: Records And Reports
- 1-9A-5: Employees And Officers Now Covered By Other Retirement Systems
- 1-9A-6: Excluded Employees And Officers

1-9A-1: **POLICY AND PURPOSE:** It is hereby declared to be the policy and purpose of the town to extend at the earliest date to the employee and officials thereof, not excluded by law or ordinance, and whether employed in connection with a governmental or proprietary function, the benefits of the system of federal old age and survivors insurance, as authorized by the federal social security act, and amendments thereto, including public law 734, 81st congress. In pursuance of said policy, and for that purpose, the town shall take such action as may be required by applicable state or federal laws or regulations. (2003 Code § 1-49)

1-9A-2: **MAYOR AUTHORIZED TO EXECUTE AGREEMENTS:** The mayor is hereby authorized and directed to execute all necessary agreements and amendments thereto with the state department of public welfare, as agent or agency, to secure coverage of employees and officials. (2003 Code § 1-50)

1-9A-3: **WITHHOLDINGS FROM SALARIES AND WAGES:** Withholdings from salaries or wages of employees and officials 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 be paid

1-9A-3

1-9A-6

over to the state or federal agency designated by said laws or regulations. (2003 Code § 1-51)

1-9A-4: **RECORDS AND REPORTS:** The municipality shall keep such records and make such reports as may be required by applicable state or federal laws or regulations. (2003 Code § 1-52)

1-9A-5: **EMPLOYEES AND OFFICERS NOW COVERED BY OTHER RETIREMENT SYSTEMS:** There is hereby excluded from this article 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 municipality. (2003 Code § 1-53)

1-9A-6: **EXCLUDED EMPLOYEES AND OFFICERS:** There is hereby excluded from this article any authority to make any agreement with respect to any position, or any employee or official, compensation for whom is on a fee basis, or any position, or any official not authorized to be covered by applicable state or federal laws or regulations. (2003 Code § 1-54)

CHAPTER 9

EMPLOYEE RETIREMENT

ARTICLE B. FIREMEN'S PENSION

SECTION:

1-98-1: Board Of Trustees Of Firemen's Relief And Pension Fund
Created

1-98-2: Funds Operated According To Law

1-98-1: **BOARD OF TRUSTEES OF FIREMEN'S RELIEF AND PENSION FUND CREATED:** There is hereby created the board of trustees of the firemen's relief and pension fund of the town, with membership, organization, powers, duties and functions as prescribed by 11 Oklahoma Statutes section 49-103 et seq., and as may be provided by any later laws relating to said board. (2003 Code § 1-47)

1-98-2: **FUNDS OPERATED ACCORDING TO LAW:** The fireman's relief and pension fund shall be operated in accordance with state law relating to the fund, and pensions and other benefits shall be paid as provided by state law. The firemen's relief and pension fund shall not be enforced until a fire department is organized with equipment valued in excess of one thousand dollars (\$1,000.00). (2003 Code § 1-48)

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REVENUE, FINANCE AND BUSINESS

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CHAPTER 1

PURCHASES OF SUPPLIES, MATERIALS AND EQUIPMENT

SECTION:

- 2-1-1: Authority Of Board Of Trustees Prohibited Acts
- 2-1-2: By Board Of Trustees Purchases In Excess Of
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- 2-1-4:

2-1-1: **AUTHORITY OF BOARD OF TRUSTEES:** All purchases of supplies, materials, equipment and contractual services for the town, and any sales thereof by the town, shall be made by the board of trustees, or pursuant to authorization granted by it, and subject to its supervision and control. (2003 Code § 7-35)

2-1-2: **PROHIBITED ACTS BY BOARD OF TRUSTEES:**

- A. No member of the board of trustees may sell, or furnish for a consideration, any materials or supplies for use of the town; and any member of the board voting for, or consenting to, or being a party to, such contract or purchase is personally liable as provided by Oklahoma Statutes.
- B. The board of trustees shall not make any contract with any of its members, or in which any of its members shall be directly or indirectly interested, such contracts being prohibited by Oklahoma Statutes.
- C. No officer of the town may become directly or indirectly interested individually in any sale, lease or contract which he is authorized to make, such being prohibited by Oklahoma Statutes. (2003 Code § 7-34)

2-1-3: PURCHASES IN EXCESS OF FIVE HUNDRED DOLLARS:
No purchase in excess of five hundred dollars (\$500.00) shall be made to obligate the mayor and board of trustees until there shall have been obtained competitive quotations on prices or bids, which quotations of prices or bids shall be submitted to the next regular meeting of the board of trustees for consideration by said board. At said board meeting, or the next regular board meeting, the board shall act to either authorize the purchase, decline to approve the purchase, or request that new quotations or bids be obtained by the department deciding to make such purchase. (2003 Code § 7-36)

2-1-4: VIOLATION: Any officer, agent or employee who wilfully and knowingly violates the provisions of this chapter shall be guilty of misconduct and shall be subject to removal from his office or position therefor. (2003 Code § 7-37)

CHAPTER 2

BUDGET

SECTION:

2-2-1: Statement Of Condition And Needs; Appropriations

2-2-2: Transfer Of Appropriation Balances

2-2-1: STATEMENT OF CONDITION AND NEEDS; APPROPRIATIONS:

- A. Financial Statement: The board of trustees shall meet on the first Monday in July every year at seven thirty o'clock (7:30) P.M., unless it sets another hour of that day for the meeting; and shall make in writing a financial statement showing the true fiscal conditions of the town as of the close of the fiscal year on June 30, and an itemized statement of estimated needs and probable income from sources other than ad valorem tax for the current fiscal year. Said statements shall be made as provided by Oklahoma Statutes; and shall be filed with the county excise board on or before July 10. Said statements shall be published as required by law.
- B. Appropriations: The county excise board will then make appropriations for the town as provided by law.
- C. Supplemental Appropriations: Supplemental appropriations may be made as provided by Oklahoma Statutes and any other applicable provisions by law. (2003 Code§ 7-25)

2-2-2: TRANSFER OF APPROPRIATION BALANCES: Unencumbered appropriations balances of items of less immediately urgent need, or any part thereof, may be transferred to other items of appropriation to meet more immediately urgent needs by the county excise board, upon written request of the board of trustees as provided by Oklahoma Statutes. (2003 Code § 7-26)

CHAPTER 3

FUNDING AND ACCOUNTING

SECTION:

- 2-3-1: Funding And Accounting Generally
2-3-2: Sinking Fund

2-3-1: **FUNDING AND ACCOUNTING GENERALLY:** The revenues and other resources of the town shall be divided into funds as provided by 62 Oklahoma Statutes section 331, and other applicable provisions of law; and accounted for as provided thereby. (2003 Code § 7-27)

2-3-2: **SINKING FUND:** It shall be the duty of the officers of the town to handle, deposit, invest and use the money in the sinking fund of the town in the manner provided by 62 Oklahoma Statutes sections 431 through 451, and any other applicable provisions of law. The town clerk-treasurer shall deposit daily all uninvested sinking fund money in his hands in banks as provided by law. (2003 Code§ 7-28)

CHAPTER 4

DEPOSIT OF FUNDS

SECTION:

- 2-4-1: Deposit Policy Specified
- 2-4-2: Records Of Deposits
- 2-4-3: Monthly Bank Statements
- 2-4-4: Bonds Of Depositories

2-4-1: **DEPOSIT POLICY SPECIFIED:** The town clerk-treasurer shall deposit daily all the funds and monies of whatever kind that shall come into his possession by virtue of his office as such town clerk-treasurer, in his name as town clerk-treasurer, in one or more responsible banks located in this town and designated by the town board of trustees as such depositories; provided, that there shall not be deposited in any one bank at any one time a greater amount of such funds than the capital stock of such bank. Such bank or banks shall receive all monies, drafts or checks, at par, and pay interest on the average daily balance at such rates as may be agreed upon between such banks and the town board of trustees and shall credit the same monthly to the account of the town clerk-treasurer. (2003 Code § 7-30)

2-4-2: **RECORDS OF DEPOSITS:** The town clerk-treasurer shall, when making up his deposit for the banks, make duplicate tickets for such deposit, and it shall be the duty of the town clerk-treasurer to charge the bank designated as the depository of public monies with all monies deposited by the town clerk-treasurer, and credit the town clerk-treasurer with such amount deposited. (2003 Code § 7-31; amd. 2013 Code)

2-4-3: **MONTHLY BANK STATEMENTS:** Such bank or banks shall, at the end of each month, transmit to the town clerk-treasurer a statement of the amounts received from the town clerk-treasurer and the amounts paid out by it or them and for what purpose. (2003 Code§ 7-32)

2-4-4: BONDS OF DEPOSITORIES: The town depository or depositories shall secure the town for all deposits by giving a good and sufficient bond with some surety company or companies to be approved by the town board of trustees. Said bond shall be for double the sum of the probable maximum deposits of the town at any one time with said depository or depositories and a new bond may be exacted by the board of trustees at any time when the existing bond shall be deemed insufficient, but until such bond or bonds are given the town clerk-treasurer shall be liable on his bond for the loss of any money so deposited. (2003 Code§ 7-33)

CHAPTER 5

CLAIMS

SECTION:

2-5-1: Procedure For Claims

2-5-1: **PROCEDURE FOR CLAIMS:** Claims against the town shall be made and processed as provided by 62 Oklahoma Statutes section 310.2, and any other applicable provisions of law. (2003 Code§ 7-38; amd. 2013 Code)

CHAPTER 6

WARRANTS AND DISBURSEMENT OF FUNDS

SECTION:

2-6-1: Warrants And Disbursement Of Funds

2-6-1: **WARRANTS AND DISBURSEMENT OF FUNDS:** Warrants shall be issued and processed, and funds of the town disbursed only for legal purposes and in accordance with 62 Oklahoma Statutes sections 372, 471 through 485, and 551 through 555. (2003 Code § 7-39)

CHAPTER 7

BONDS

SECTION:

2-7-1: Issuance And Sale Of Bonds

2-7-1: **ISSUANCE AND SALE OF BONDS:** Bonds of the town shall be issued, sold, paid and handled in all respects as provided by 62 Oklahoma Statutes section 351 et seq., and other applicable provisions of law. (2003 Code § 7-40)

CHAPTER 8

EXAMINATION AND AUDIT OF BOOKS AND RECORDS

SECTION:

- 2-8-1: Statute Authority For Examination
- 2-8-2: Designation Of Public Accountant
- 2-8-3: Petition For Audit

2-8-1: **STATUTE AUTHORITY FOR EXAMINATION:** The books of the town clerk-treasurer shall be subject to examination by the board of trustees at all times, as provided by 11 Oklahoma Statutes sections 12-106 and 12-110. Likewise, the records of all other officers and employees of the town, shall be subject to inspection by the board of trustees at all times. (2003 Code § 7-41)

2-8-2: **DESIGNATION OF PUBLIC ACCOUNTANT:** The board of trustees shall designate a qualified public accountant to audit the financial records and transactions of the town clerk-treasurer and all other personnel of the town who keep financial records and make financial transactions, as of the end of every fiscal year at least; and such accountant shall make such audit and shall report to the board of trustees. (2003 Code§ 7-41)

2-8-3: **PETITION FOR AUDIT:** Upon petition of a number of voters of the town equal at least to one-fourth ($\frac{1}{4}$) of the number of people voting at the last general town election, the records of the town will be audited by the state examiner and inspector, as provided by 74 Oklahoma Statutes sections 212 and 215. (2003 Code§ 7-41)

CHAPTER 9
INSURANCE

SECTION:

2-9-1: Property, Vehicle Insurance

2-9-1: PROPERTY, VEHICLE INSURANCE:

- A. The board of trustees may insure property of the town as authorized by 11 Oklahoma Statutes section 23-101, and 19 Oklahoma Statutes section 627. Any money received as a result of destruction, damage or loss of such insured property shall be accounted for and used as provided by said 19 Oklahoma Statutes section 627.
- B. The board of trustees may purchase insurance to pay damage to persons sustaining injuries or damages to property as a result of negligent operation of motor vehicle or motorized equipment of the town, as authorized by Oklahoma Statutes. (2003 Code § 7-42; amd. 2013 Code)

CHAPTER 10

UNCLAIMED PROPERTY

SECTION:

2-10-1: Unclaimed Property

2-10-1: **UNCLAIMED PROPERTY:**

- A. Authority To Dispose: The chief of police is authorized to dispose of personal property or money or legal tender as provided in this section, which has come into the possession of the chief of police in any manner if:
1. The owner of the personal property or money or legal tender is unknown or has not claimed the property;
 2. The property or money or legal tender has been in the custody of the chief of police for at least ninety (90) days; and
 3. The property or money or legal tender or any part thereof is no longer needed to be held as evidence or for any other purpose in connection with any litigation.
- B. Application To District Court: The chief of police shall file an application in the county district court requesting the authority of the court to conduct a sale of the personal property which has a fair market value of more than its face value. The chief of police shall attach to the application a list describing the property, including any identifying numbers and marks, the date the property came into the possession of the chief of police, and the name of the owner and the person in last possession, if different, and the address of the person, 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.

- C. **Notice Requirements:** In any instance where the property has an actual or apparent value of more than two hundred fifty dollars (\$250.00), at least ten (10) days prior to the date of the hearing, written notice of the hearing shall be sent by first class mail, postage prepaid, to each owner at the address as listed in the application. If the owner of any property with an actual or apparent value exceeding five hundred dollars (\$500.00) is unable to be served written notice by first class mail, notice shall be provided by one publication in a newspaper of general circulation in the county where the property is in custody. The notice shall contain a brief description of the property of the owner and the place and date of the hearing. The notice shall be posted at the assigned place for the posting of municipal notices, and at two (2) other public places in the municipality.
- D. **Disposal:** If no owner appears and establishes ownership to the property at the hearing, the court shall enter an order authorizing the chief of police to dispose of the property as follows:
1. Donate the property having value of less than five hundred dollars (\$500.00) to a not for profit corporation as defined in 18 Oklahoma Statutes for use by needy families;
 2. Sell the personal property for cash to the highest bidder, after at least five (5) days' notice of the sale has been published;
 3. Transfer the property to a third party agent under contract with the governing body or the chief of police for sale by internet or other electronic means, regardless of whether the sale structure or distribution site is within the state; or
 4. By any other means as determined appropriate by the court, including, but not limited to, destruction.
- Regardless of the means of disposition, the chief of police shall make a return of the donation or sale and the order of the court confirming the donation or sale shall vest title to the property in the recipient or purchaser. After payment of court costs and other expenses, the remainder of money received from the sale of the personal property shall be deposited in the municipal general fund.
- E. **Legal Tender:** All money or legal tender which has come into the possession of the chief of police pursuant to the circumstances provided for in subsection A of this section shall be transferred by the chief of police to the town clerk-treasurer for deposit in the

municipal general fund. Prior to any transfer, the chief of police shall file an application in the district court requesting the court to enter an order authorizing the chief of police to transfer the money for deposit in the municipal general fund. The application shall describe the money or legal tender, the date the same came into the possession of the chief of police, and the name of the owner and the address of the owner, 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 municipal 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 municipal general fund as provided in this subsection.

- F. Exception For Prohibited Property: The provisions of this section shall not apply to any dangerous or deadly weapons, narcotics or poisonous drugs, explosives, or any property of any kind or character, which the possession of is prohibited by law. By order of the trial court, any property filed as an exhibit or held by the municipality shall be destroyed or sold or disposed of, pursuant to the conditions prescribed in the order.
- G. Procedure For Lost And Found Property: The municipality is hereby authorized to establish a procedure for the registration of "lost and found" property. The procedure shall give the finder of any property the option of relinquishing any future claim to found property at the time its possession is surrendered to the police or other agent of the municipality, or of retaining possession of the property after registering its description and the finder's identity with the police department or other agent of the municipality.
- H. Finder's Fee: The municipality may provide by ordinance that a percentage of the money or legal tender deposited in the municipal general fund as provided in subsection D or E of this section may be paid as a finder's fee for services rendered to any person who found the unclaimed personal property or money or legal tender and delivered it to, or registered it with, the chief of police or other agent of the municipality. (2013 Code)

CHAPTER 11

TAXES

ARTICLE A. SALES TAX

SECTION:

- 2-11A- 1: Citation
- 2-11A- 2: Definitions
- 2-11A- 3: Tax Collector Defined
- 2-11A- 4: Classification Of Taxpayers
- 2-11A- 5: Subsisting State Permits
- 2-11A- 6: Effective Date
- 2-11A- 7: Purpose Of Revenues
- 2-11A- 8: Tax Rate; Sales Subject To Tax
- 2-11A- 9: Exemptions
- 2-11A-10: Tax Due When; Returns; Records
- 2-11A-11: Payment Of Tax; Brackets
- 2-11A-12: Tax Constitutes Debt
- 2-11A-13: Vendor Duty To Collect Tax
- 2-11A-14: Returns And Remittances; Discounts
- 2-11A-15: Interest And Penalties; Delinquency
- 2-11A-16: Waiver Of Interest And Penalties
- 2-11A-17: Erroneous Payments; Claim For Refund
- 2-11A-18: Fraudulent Returns
- 2-11A-19: Records Confidential
- 2-11A-20: Amendments
- 2-11A-21: Provisions Cumulative

2-11A-1: CITATION: This article shall be known and may be cited as *TOWN OF POCOLA SALES TAX ORDINANCE*, as authorized in 68 Oklahoma Statutes section 2701. (2003 Code § 7-1)

2-11A-2: DEFINITIONS: The definitions of words, terms and phrases contained in the Oklahoma sales tax code, 68 Oklahoma Statutes, are hereby adopted by reference and made a part of this article. (2003 Code § 7-2)

2-11A-3: TAX COLLECTOR DEFINED: The term "tax collector", as used herein, means the department of the town 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. (2003 Code§ 7-3)

2-11A-4: CLASSIFICATION OF TAXPAYERS: For the purpose of this article, the classification of taxpayers hereunder shall be prescribed by state law for purposes of the Oklahoma sales tax code. (2003 Code§ 7-4)

2-11A-5: SUBSISTING STATE PERMITS: All valid and subsisting ~~permits to do business issued by the Oklahoma Tax Commis-~~ sion pursuant to the Oklahoma sales tax code are, for the purpose of this article, hereby ratified, confirmed and adopted in lieu of any requirement for an additional town permit for the same. (2003 Code§ 7-5)

2-11A-6: EFFECTIVE DATE: This amended article shall become and be effective subject to town approval. (2003 Code § 7-6)

2-11A-7: PURPOSE OF REVENUES: It is hereby declared to be the purpose of this article to provide revenues for the support of the functions of the municipal government of the town. (2003 Code § 7-7)

2-11A-8: 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 sales tax law of Oklahoma, as specified in 68 Oklahoma Statutes section 1354. (2003 Code§ 7-8; amd. 2013 Code)

2-11A-9: EXEMPTIONS: Exemptions from the sales tax levied herein shall be allowed pursuant to Oklahoma Statutes. (2003 Code § 7-9; amd. 2013 Code)

2-11A-10: TAX DUE WHEN; RETURNS; RECORDS: The tax levied by this article 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. (2003 Code§ 7-11)

2-11A-11: PAYMENT OF TAX; BRACKETS: The tax levied by this article shall be paid to the tax collector at the time and in the form and manner provided for payment of state sales tax under the state sales tax law. Such taxes, penalty and interest due under this article shall at all times constitute a prior, superior and paramount claim as against the claims of unsecured creditors, and may be collected by suit as any other debt. (2003 Code § 7-12)

2-11A-12: 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 such as any other debt. (2003 Code § 7-13)

2-11A-13: VENDOR DUTY TO COLLECT TAX:

- A. The tax levied under this article shall be paid by the consumer or user to the vendor, and it shall be the duty of each and every vendor in this town to collect from the consumer or user the full amount of the tax levied by this article, or an amount equal as nearly as possible or practicable to the average equivalent thereof.
- B. Vendors shall add the tax imposed hereunder, or the average equivalent thereof, to the sales price or charge and, when added, such tax constitutes a part of such price or charge, is a debt from the consumer or user to vendor until paid, and is recoverable at law in the same manner as other debts. (2003 Code§ 7-14)
- C. A vendor who wilfully or intentionally fails, neglects or refuses to collect the full amount of the tax levied by this article, or wilfully or intentionally fails, neglects or refuses to comply with the provisions or remits or rebates to a consumer or user, either directly or indirectly, and by whatsoever means, all or any part of the tax levied, or makes in any form of advertising verbally or otherwise, any statement which infers that he is absorbing the tax, or paying the tax for the consumer or user by an adjustment of prices or at a price including the tax, or in any manner whatsoever, shall be deemed guilty of an offense. (2003 Code§ 7-14; amd. 2013 Code)

2-11A-14: RETURNS AND REMITTANCES; DISCOUNTS: Returns and remittances of the tax levied and collected under this article shall be made to the tax collector at the time, and in the manner, form and amount as prescribed for returns and remittances required by the state sales tax code. Remittances of tax collected hereunder shall be subject to the same discount as may be allowed by said code for collection of state sales taxes. (2003 Code § 7-15)

2-11A-15: INTEREST AND PENALTIES; DELINQUENCY: 68 Oklahoma Statutes section 217 is hereby adopted and made a part of this article, and interest and penalties at the rates and in amounts as therein specified are hereby levied and shall be applicable in cases of delinquency in reporting and paying the tax levied by this article; provided, that the failure or refusal of any taxpayer to make and transmit the reports and remittances of tax in the time and manner required by this article shall cause such tax to be delinquent. In addition, if such delinquency continues for a period of five (5) days, the taxpayer shall forfeit his claim to any discount allowed under this article. (2003 Code § 7-16)

2-11A-16: WAIVER OF INTEREST AND PENALTIES: The interest or penalty, or any portion thereof, accruing by reason of a taxpayer's failure to pay the town tax herein levied may be waived or remitted in the same manner as provided for said waiver or remittance as applied in administration of the state sales tax provided in 68 Oklahoma Statutes section 220; and to accomplish the purposes of this section, the applicable provisions of said section 220 are hereby adopted by reference and made a part of this article. (2003 Code§ 7-17)

2-11A-17: ERRONEOUS PAYMENTS; CLAIM FOR REFUND: Refund of erroneous payment of the town sales tax herein levied may be made to any taxpayer making such erroneous payment in the same manner and procedure, and under the same limitations of time, as provided for administration of the state sales tax as set forth in 68 Oklahoma Statutes and to accomplish the purposes of this section. (2003 Code §7-18)

2-11A-18: FRAUDULENT RETURNS: In addition to all civil penalties provided by this article, the wilful failure or refusal of any taxpayer to make reports and remittances herein required, or the making of any false and fraudulent report for the purpose of avoiding or escaping

payment of any tax, or portion thereof, rightfully due under this article, shall be an offense and, upon conviction thereof, the offending taxpayer shall be subject to penalty as provided in section 1-4-1 of this code, including costs. (2003 Code§ 7-19; amd. 2013 Code)

2-11A-19: **RECORDS CONFIDENTIAL:** The confidential and privileged nature of the records and files concerning the administration of the town sales tax is legislatively recognized and declared and, to protect the same, the provisions of 68 Oklahoma Statutes of the sales tax code, and each subsection thereof, is hereby adopted by reference and made fully effective and applicable to administration of the town sales tax as if set forth in full. (2003 Code § 7-20)

2-11A-20: **AMENDMENTS:** The people of the town, by their approval of this article at the election herein provided, hereby authorize the board of trustees by ordinances duly enacted to make such administrative and technical changes or additions in the method and manner of administration and enforcing this article as may be necessary or proper for efficiency and fairness, except that the rate of the tax herein provided shall not be changed without approval of the qualified electors of the town as provided by law. (2003 Code § 7-21)

2-11A-21: **PROVISIONS CUMULATIVE:** The provisions hereof shall be cumulative, and in addition to any and all other taxing provisions of town ordinances. (2003 Code § 7-22)

TITLE 3

BUSINESS AND LICENSE REGULATIONS

Subject	Chapter
Business Licenses And Taxes; Penalty	1
General And Miscellaneous Provisions	2
Alcoholic Beverages	3
Low Point Beverages	4
Livestock Dealers	5
Junkyards	6
Sexually Oriented Businesses	7

CHAPTER 1

BUSINESS LICENSES AND TAXES; PENALTY

SECTION:

- 3-1-1: Payment Of License Tax Required
- 3-1-2: Tax Levied
- 3-1-3: Minimum And Maximum Tax; Determination
- 3-1-4: License Tax Due
- 3-1-5: Delinquency
- 3-1-6: Issuance Of License
- 3-1-7: Penalty

3-1-1: **PAYMENT OF LICENSE TAX REQUIRED:** It will be unlawful for any person, persons, firm or corporation to conduct any business within the incorporated town, who come within the terms of this chapter, to conduct such business without first having paid such license tax. (2003 Code § 5-5)

3-1-2: **TAX LEVIED:** There is hereby levied a license tax in such amount as established by resolution of the board of trustees. (2003 Code § 5-1; amd. 2013 Code)

3-1-3: **MINIMUM AND MAXIMUM TAX; DETERMINATION:** In each instance where a minimum annual tax and a maximum annual tax is provided, the determination as to the amount of such tax shall be made by the town clerk-treasurer, by and with the consent and approval of the board of trustees, and shall be adjusted and based upon the size, nature and extent of the separate business operation as the same compares to other like businesses located within the town. (2003 Code § 5-2)

3-1-4: **LICENSE TAX DUE:** The license tax shall become due and payable on July 1 in each year. (2003 Code § 5-3)

3-1-5: DELINQUENCY: Any person liable to pay such tax shall pay the same on or before July 1 in each year or said tax will become delinquent. All taxes delinquent shall have a penalty of one dollar (\$1.00) added. Any person liable to pay such tax and beginning business after July 1 in each year must pay such tax for such part of the year within thirty (30) days from the beginning of such period or become delinquent. (2003 Code § 5-4; amd. 2013 Code)

3-1-6: ISSUANCE OF LICENSE: Upon making proper application to the town clerk-treasurer, the payment of the license tax, and fulfillment of any other condition which may be prescribed by law and/or ordinance, the town clerk-treasurer shall issue a license therefor. (2003 Code§ 5-6)

3-1-7: PENALTY: Any person, firm or corporation who shall violate any provision of this chapter, by doing any act prohibited or declared to be unlawful thereby, or declared to be an offense or misdemeanor thereby, or who shall fail to do any act required by any such provision, or who shall fail to do any act when such provision declares such failure to be unlawful or to be an offense or misdemeanor, shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to penalty as provided in section 1-4-1 of this code. (2003 Code§ 5-23; amd. 2013 Code)

CHAPTER 2

GENERAL AND MISCELLANEOUS PROVISIONS

SECTION:

- 3-2-1: Businesses Producing Noise Prohibited In Specified Areas
3-2-2: Selling Merchandise In Prohibited Areas

3-2-1: **BUSINESSES PRODUCING NOISE PROHIBITED IN SPECIFIED AREAS:** It shall be unlawful for any person, persons, firm or corporation within the corporate limits of the town, and within fifty feet (50') of any residence, hotel, boarding house, rooming house or any other house business, to cause noise which will disturb the peace and quiet of the citizens within such residences, hotels, boarding houses, rooming houses or any other house where people are living. (2003 Code § 5-20)

3-2-2: **SELLING MERCHANDISE IN PROHIBITED AREAS:**

- A. Specified: It shall be unlawful for any person, persons, firm or corporation to sell or offer for sale any article of merchandise, automobile, motor truck or any other article on the streets or alleys within the business district of the town. (2003 Code § 5-21)
- B. Prima Facie Evidence: The parking of any automobile, truck or other vehicle upon the streets of the town having displayed upon such vehicle a sign showing the same is for sale shall be prima facie evidence of a violation of subsection A of this section. (2003 Code § 5-22)

CHAPTER 3

ALCOHOLIC BEVERAGES

SECTION:

- 3-3-1: Definitions
- 3-3-2: Application For Certificate; Investigation
- 3-3-3: Issuance Of Certificate Of Zoning And Certificate Of Compliance
- 3-3-4: Occupation Tax
- 3-3-5: Payment Required; Penalty
- 3-3-6: Annual Report
- 3-3-7: Retail Package Stores; Location; Premises Separated
- 3-3-8: Sale Or Delivery Of Alcoholic Beverages To Minors Or Intoxicated Persons Prohibited

3-3-1: **DEFINITIONS:** All of the terms and phrases used in this chapter shall be given the same use and meaning as defined by the Oklahoma alcoholic beverage control act. (2013 Code)

3-3-2: **APPLICATION FOR CERTIFICATE; INVESTIGATION:**

- A. **Application:** Every applicant for a certificate of compliance with zoning, fire, health and safety codes of the town required by 37 Oklahoma Statutes shall apply at the office of the town clerk-treasurer by:
 1. Filing a \Written application on forms prescribed by that office.
 2. Paying a verification and certification fee in the amount as established by resolution of the town board of trustees at the time of filing.
- B. **Investigation:** Upon receipt of an application for a certificate of compliance, the mayor shall cause an investigation to be made to determine whether the premises proposed for licensed operations

complies with provisions of the zoning ordinances and any health, fire, building and other safety codes applicable to it.

- C. Time Limit For Action By Town: The town shall act on all such applications within twenty (20) days of receipt thereof. (2013 Code)

3-3-3: ISSUANCE OF CERTIFICATE OF ZONING AND CERTIFICATE OF COMPLIANCE:

- A. Issuance: Upon finding that the premises of an applicant for a certificate is in compliance with all applicable zoning ordinances, a certificate of zoning shall be issued to the ABLE commission of the state.
8. Signature Required: The above certificates of compliance shall be signed by the mayor. (2013 Code)

3-3-4: OCCUPATION TAX:

- A. Levied: There is hereby levied and assessed an annual occupation tax on every business or occupation relating to alcoholic beverages as established by resolution of the town board of trustees.
- B. Exempt Organizations: The occupation tax for those service organizations which are exempt under section 501(c) of the internal revenue code for mixed or bottle club license shall be as established by resolution of the town board of trustees.
- C. Brewer Or Class B Wholesaler: If a brewer or a class B wholesaler also holds a license from the state to manufacture or wholesale any low point malt beverage, then the occupation tax for such brewer or class B wholesaler shall be reduced by seventy five percent (75%). (2013Code)

3-3-5: PAYMENT REQUIRED; PENALTY:

- A. Payment Required; When Due: Any state licensee originally entering upon any occupation herein listed shall pay the tax therefor at the office of the town clerk-treasurer on or before the date upon which he enters upon such occupation. Said licensee shall provide a copy of his current state license before payment of an occupation tax will

be accepted. Thereafter, the licensee shall pay the tax annually on or before April 1.

- B. Prorated For Beginning Operations: The occupation tax subject to this chapter shall be prorated on a monthly basis for the year in which an occupation begins operations.
- C. Receipt; Display: Upon payment of the said occupation tax, the town clerk-treasurer shall issue a receipt and a certificate to said state licensee, at least one of which said licensee shall post in a conspicuous place on the premises wherein he carries on his occupation.
- D. Penalty: Any person who engaged in any of the occupations taxed by this chapter without paying said occupation tax imposed therefor in advance of such operation, is guilty of an offense against the town and, upon a conviction thereof, shall be subject to penalty as provided in section 1-4-1 of this code. Each day of such violation shall constitute a separate offense. (2013 Code)

3-3-6: ANNUAL REPORT: The town clerk-treasurer shall make an annual report to the ABLE commission, covering the fiscal year, showing the number and class of licenses subject to the occupation tax and the amount of money collected from said tax. (2013 Code)

3-3-7: RETAIL PACKAGE STORES; LOCATION; PREMISES SEPARATED:

- A. The location of a retail package store is specifically prohibited within three hundred feet (300') from any church property primarily and regularly used for worship services and religious activities, or a public school; provided, that if any such church or school shall be established within three hundred feet (300') of any retail premises after such premises has been licensed, this shall not be a bar to the renewal of such license 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 such package store along the street right of way providing the nearest direct route usually traveled by pedestrians between such points. For the purpose 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 and school; provided, that a license shall not be issued for a location on any block where a school or church is located.

- B. The premises of a retail package store shall be separated from the premises on which any other goods, wares or merchandise are sold or services are rendered by nontransparent walls which may be broken by a passageway to which the public is not admitted. It is unlawful for any person to operate or maintain, or to assist in operation or maintenance of, any such store when the premises is not so separated. It is also unlawful for any person to take any alcoholic beverage from such store through said passageway to which the public is not admitted for the purpose of selling, reselling or delivering in connection with the sale of said alcoholic beverage. (2013 Code)

3-3-8: SALE OR DELIVERY OF ALCOHOLIC BEVERAGES TO MINORS OR INTOXICATED PERSONS PROHIBITED:

- A. It shall be unlawful for any person to sell, dispense or deliver any alcoholic beverage to any person under twenty one (21) years of age.
- B. It shall be unlawful for any person, owner, manager or operator of a place where alcoholic beverages are sold to sell or otherwise furnish such beverage to any intoxicated person.
- C. It shall be unlawful for any person to permit any person under twenty one (21) years of age to drink any alcoholic beverage. It shall be unlawful for a person under twenty one (21) years of age to resort to or loiter in such a place, to buy or otherwise secure such beverage therein, or to drink such beverage therein.
- D. No person shall lend or give his or her operator's or chauffeur's license or identification to any person or persons under the age of twenty one (21) years, or knowingly permit the use thereof by any person under the age of twenty one (21) years, when said operator's or chauffeur's license or identification is used for the purpose of purchasing alcoholic beverages. (2013 Code)

CHAPTER 4

LOW POINT BEVERAGES

SECTION:

- 3-4- 1: Definitions
- 3-4- 2: State License Required
- 3-4- 3: Town License Required
- 3-4- 4: Separate Licenses Required For Each Establishment
- 3-4- 5: Qualification Of Applicant And Licensee
- 3-4- 6: Application For License
- 3-4- 7: Fee For License
- 3-4- 8: Rebates
- 3-4- 9: Expiration Of License
- 3-4-10: Renewal Of License
- 3-4-11: Display Of License
- 3-4-12: Premises Location Restrictions Hours
- 3-4-13: During Which Sale Prohibited Employment
- 3-4-14: Of Persons Under Twenty One
- 3-4-15: Intoxicated Persons; Gambling; Disorderly Conduct
- 3-4-16: Minors
- 3-4-17: Misrepresentation Of Age
- 3-4-18: Drinking In Public
- 3-4-19: Sale Or Delivery To Minors Or Intoxicated Persons
- 3-4-20: Right Of Entry And Inspection
- 3-4-21: Rental Based On Percentage Of Profit Prohibited
- 3-4-22: Conduct In Premises; Signage Required
- 3-4-23: Revocation Of License
- 3-4-24: Penalty

3-4-1: **DEFINITIONS:** The following words and phrases used in this chapter shall have the following meanings, unless a different meaning clearly appears from the context:

LOW POINT BEVERAGES: All beverages containing more than one-half of one percent (0.5%) alcohol by volume, and not more than three and two-tenths percent (3.2%) alcohol by weight.

MINOR: Shall include all persons under the age of twenty one (21) years.

RETAIL DEALER: Any person, firm, corporation, association or concessionaire who sells, distributes or dispenses at retail, any low point beverage within the corporate limits of the town, without regard as to any place where such beverages may be consumed or used. (2013 Code)

3-4-2: STATE LICENSE REQUIRED: It is unlawful for any person, firm or corporation to engage in the business of selling, offering for sale or distributing any low point alcoholic beverages at retail, for consumption or use, without first having obtained a state license to do so. (2013 Code)

3-4-3: TOWN LICENSE REQUIRED: No association, person, firm or corporation shall maintain or operate any establishment wherein low point alcoholic beverages are sold, or sell any low point alcoholic beverages at retail within the town without first having obtained a license from the town clerk-treasurer and paying the fee therefor. (2013 Code)

3-4-4: SEPARATE LICENSES REQUIRED FOR EACH ESTABLISHMENT: Separate licenses must be obtained for each branch or separate establishment operated and selling low point alcoholic beverages at retail, and each license shall authorize the operation of an establishment for the sale of low point alcoholic beverages only at the location described in the license and in conformity with the ordinances of the town and the statutes of the state. No license shall be transferable to another person or to any other location; provided, that a licensed establishment may change its name upon approval of the town clerk-treasurer if its location remains the same. (2013 Code)

3-4-5: QUALIFICATION OF APPLICANT AND LICENSEE:

- A. No licensee, applicant or owner shall have been convicted of a felony or of violating any of the prohibitory liquor laws of the United States or the state, or any other states, within two (2) years immediately preceding the date of application.

- B. The applicant shall have the ownership or legal right to possession of the premises upon which the tavern is located. (2013 Code)

3-4-6: APPLICATION FOR LICENSE:

- A. Information Required: An applicant for a low point alcoholic beverage retail sales license shall deposit the required fee with the town clerk-treasurer and submit an application on the form provided, containing the following information:

1. The names of all persons interested in the business, together with their addresses and if a corporation, the name of the managing officer.

2. The location of the proposed business.

3. The date and number of the permits from the Oklahoma tax commission as required by law.

4. An affidavit stating the location and date of residence for the immediately preceding three (3) year period.

5. Sufficient evidence of ownership or right of possession to the premises on which the proposed business is to be located.

6. Any and all other information as may be requested by the town clerk-treasurer.

- B. False Information: Any person submitting false information in the application for a license shall be guilty of an offense and such an act shall be grounds for denial of the application. (2013 Code)

3-4-7: FEE FOR LICENSE:

- A. The annual license fee for a low point alcoholic beverage sales license under this chapter shall be in such amount as established by resolution of the town board of trustees.

- B. The sums have been determined by the town board of trustees to be consistent with the expense of inspecting and policing establishments which sell low point alcoholic beverages at retail. (2013 Code)

3-4-8: REBATES: No free licenses shall be granted, nor rebates allowed for any cause, nor any sum accepted less than the amounts herein specified, nor for a shorter period herein required; provided, that if the applicant is not successful in securing a license, the fee, less ten dollars (\$10.00), shall be refunded when the denial becomes final. (2013 Code)

3-4-9: EXPIRATION OF LICENSE: All licenses issued pursuant to the provisions of this chapter shall expire on June 30 of each year. (2013 Code)

3-4-10: RENEWAL OF LICENSE: Prior to June 30 of each year, each **applicant desiring a renewva! of license for the sale of low** point alcoholic beverages hereunder shall pay to the town clerk-treasurer the annual fee for such license in the amount herein specified. In the case of a renewal of a license, the applicant shall be required to refile the formal application and other documents herein mentioned, unless waived by the town clerk-treasurer. (2013 Code)

3-4-11: DISPLAY OF LICENSE: Every and all establishments engaged in the sale of low point alcoholic beverages at retail shall place and exhibit their license at all times in a conspicuous place on the premises. (2013 Code)

3-4-12: PREMISES LOCATION RESTRICTIONS:

- A. It shall be unlawful for any place licensed to sell low point beer, as defined in 37 Oklahoma Statutes section 163.2, for on premises consumption to be located within three hundred feet (300') from any church property primarily and regularly used for worship services and religious activities, or a public school; provided, that if any such church or school shall be established within three hundred feet (300') of any retail premises after such premises has been licensed, this shall not be a bar to the renewal of such license so long as there has not been a lapse of more than sixty (60) days.
- B. When any place which has a permit to sell low point beer for on premises consumption changes ownership and such change of the premises, the prohibition of this section shall not be a deterrent to

the issuance of a permit to the new owner, if otherwise qualified to sell low point beer for on premises consumption.

- C. The distance indicated in this section shall be measured from the nearest property line of such church or school to the nearest public entrance door of the premises of such package store along the street right of way providing the nearest direct route usually traveled by pedestrians between such points. For the purpose 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 and school. Provided further, the above restrictions shall not affect premises already licensed to sell low point beer for on premises consumption or premises which may presently or in the future be licensed to sell low point beer for on premises consumption even though a school or church is subsequently established within three hundred feet (300') of such licensed premises. (2013 Code)

3-4-13: **HOURS DURING WHICH SALE PROHIBITED:** It is unlawful for any place licensed to sell beverages containing more than one-half of one percent (0.5%) of alcohol by volume and not more than three and two-tenths percent (3.2%) of alcohol by weight, to sell, dispense or serve such beverages for consumption on the premises between the hours of two o'clock (2:00) A.M. and seven o'clock (7:00) A.M., or allow such beverages to be consumed on the premises between the hours of two o'clock (2:00) A.M. and seven o'clock (7:00) A.M., excepting Sunday mornings when such beverage may not be sold, dispensed, served or consumed on the premises between the hours of two o'clock (2:00) A.M. and twelve o'clock (12:00) noon on Sundays. (2013 Code)

3-4-14: **EMPLOYMENT OF PERSONS UNDER TWENTY ONE:**

- A. Prohibited: It is unlawful for any owner, manager or operator of a place where low point beverages are sold for consumption on the premises, to employ or allow any person less than twenty one (21) years of age to work in such place, except as provided in subsection B of this section.
- B. Exception: It shall be unlawful for any person under the age of majority to be employed or permitted to work, in any capacity whatsoever, in the separate or enclosed bar area of a place where the main purpose of the area is the sale or consumption of beverages containing more than one-half of one percent (0.5%) of

alcohol measured by volume and not more than three and two-tenths percent (3.2%) of alcohol measured by weight. The provisions of this subsection shall not apply to any area which has as its main purpose some objective other than the sale or serving of low point beverages, in which sales or serving of said beverages are incidental to the main purpose; however, the incidental service of food in the bar area shall not exempt a holder of a license to sell low point beverages for consumption on the premises from the provisions of this subsection.

- C. Parent Exception: A parent, as regards the employment of his own child or children, is excepted from the provisions of this section; provided, that such employment shall in no capacity whatsoever be related to the selling or dispensing of such beverages. (2013 Code)

3-4-15: INTOXICATED PERSONS; GAMBLING; DISORDERLY CONDUCT:

- A. It is unlawful for the owner, manager or operator of a place where low point beverages are sold for consumption on the premises to sell or otherwise furnish such beverage to an intoxicated person or to permit an intoxicated person to remain or loiter therein.
- B. It is unlawful for the owner, manager or operator of such a place to permit therein fighting, boxing, wrestling or other contests of physical strength; or for any person to fight, box, wrestle or engage in other contests of physical strength in such places.
- C. No licensed organization shall sell, serve or permit to be consumed any alcoholic beverage, as defined in 37 Oklahoma Statutes section 506, or low point beer, as defined in 37 Oklahoma Statutes section 163.2, in any room or outdoor area where and during the time a charity game is being conducted. (2013 Code)

3-4-16: MINORS:

- A. Prohibited From Entering Or Remaining In Bar Area:
1. If the premises of a holder of a license to sell low point beverages contains a separate or enclosed bar area which has as its main purpose the sale or serving of low point beverages for consumption on the premises, no person under twenty one (21) years of age shall enter, attempt to enter, or remain in said area. The provisions of this subsection shall not prohibit persons under twenty one (21) years of

age from entering or remaining in an area which has as its main purpose some objective other than the sale or serving of low point beverage, in which sales or serving of said beverage are incidental to the main purpose, as long as the persons under twenty one (21) years of age are not sold or served or do not consume low point beverages. The service of food in the bar shall not exempt persons under twenty one (21) years of age from the provision of this subsection.

- B. **Sale And Purchase Of Low Point Beverages:** It is unlawful for any person, firm or corporation to sell, offer for sale, give away, procure for, or otherwise dispense to, any minor any low point beverage; or for any minor to purchase, receive or procure any low point beverage.
- C. **Possession Of Low Point Alcoholic Beverage Prohibited:** It is unlawful for any person under the age of twenty one (21) years to be in possession of any low point beverage within the town. (2013 Code)

3-4-17: **MISREPRESENTATION OF AGE:** No person shall misrepresent his age in writing, orally or by presenting false documentation of age for the purpose of inducing any person or persons to sell him or her any low point alcoholic beverage. (2013 Code)

3-4-18: **DRINKING IN PUBLIC:** It is unlawful for any person, whether a minor or of age, to drink any low point beverage while such person is upon any public street, alley or other public highway, or in any public building or other public place, within the town; provided, this shall not prohibit a person who is of age from drinking such beverage in a place licensed to sell it for consumption on the premises. (2013 Code)

3-4-19: **SALE OR DELIVERY TO MINORS OR INTOXICATED PERSONS:**

- A. It shall be unlawful for any person to sell, dispense or deliver any low point beverage to any person less than twenty one (21) years of age.
- B. It shall be unlawful for any person, owner, manager or operator of a place where low point beverages are sold to sell or otherwise furnish such beverage to any intoxicated person.

- C. It shall be unlawful for the owner, manager, operator or person in charge of any tavern to permit any person under twenty one (21) years of age to resort to or loiter in such a place, or to drink any low point beverages therein. It shall be unlawful for a person under twenty one (21) years of age to resort to or loiter in such a place, to buy or otherwise secure such beverage therein, or to drink such beverage therein.
- D. No person shall lend or give his or her operator's or chauffeur's license or identification to any person or persons under the age of twenty one (21) years, or knowingly permit the use thereof by any person under the age of twenty one (21) years, when said operator's or chauffeur's license or identification is to be used for the purpose of purchasing low point alcoholic beverages or gaining admission to establishments wherein said low point alcoholic beverages are sold. (2013 Code)

3-4-20: **RIGHT OF ENTRY AND INSPECTION:** The right of entry and inspection of any premises, books and records subject to the control of any person, association or corporation, subject to the provisions of this chapter, by any officer or agent of any department charged with the enforcement of the provisions of this chapter by the town, shall be a condition on which every license shall be issued, and the application for and the acceptance of any license hereunder shall conclusively be deemed consent of the applicant and licensee to such entry and inspection. (2013 Code)

3-4-21: **RENTAL BASED ON PERCENTAGE OF PROFIT PROHIBITED:** No establishment licensed pursuant to the provisions of this chapter shall have or make any rental or lease agreement with any other person providing for any rental based upon any percentage of profit of the herein referred to establishment; but any rentals paid or to be paid shall be on a fixed basis without any relation to income, volume or profit of the establishment; provided, this section shall not be applicable to the rental or lease of amusement devices. (2013 Code)

3-4-22: **CONDUCT IN PREMISES; SIGNAGE REQUIRED:** Every person who sells low point beer at retail shall post conspicuously and keep so posted at the place of business a sign stating the following:

IT'S THE LAW. WE DO NOT SELL LOW POINT BEER TO PERSONS UNDER 21 YEARS OF AGE.

(2013 Code)

3-4-23: REVOCATION OF LICENSE: In addition to any other penalty provided herein, any violation under the provisions of this chapter shall be grounds for the municipal court to revoke any license issued hereunder, or to suspend any license for a period not to exceed thirty (30) days. (2013 Code)

3-4-24: PENALTY: Any person, individual, partnership, corporation or association, or officer, director, stockholder, owner, manager or persons having supervisory control over the premises of any public place that violates any provision of this chapter is guilty of a misdemeanor and, upon conviction thereof, shall be subject to penalty as provided in section 1-4-1 of this code. Each day upon which such violation continues shall constitute a separate misdemeanor. (2013 Code)

CHAPTER 5

LIVESTOCK DEALERS

SECTION:

3-5-1: License Required; Occupation Tax

3-5-2: Dealing In Prohibited Places

3-5-1: **LICENSE REQUIRED; OCCUPATION TAX:** There is hereby levied an occupation tax in such amount as established by resolution of the board of trustees upon each person, firm or corporation who deals in horses, mules or any other manner or form of stock in the town. The word "deal" to mean sell, trade or otherwise dispose of said stock. (2003 Code § 5-10; amd. 2013 Code)

3-5-2: **DEALING IN PROHIBITED PLACES:** It shall be unlawful for any person, firm or corporation to deal or attempt to deal in horses, mules or any other manner of livestock, on any street or alley or other public property of the town. (2003 Code § 5-9)

CHAPTER 6

JUNKYARDS

SECTION:

- 3-6-1: Definitions
 3-6-2: License Required; Fee
 3-6-3: Regulations
 3-6-4: Notification Of Violations To State And Federal Officials
 3-6-5: Violation; Penalty

- 3-6-1: **DEFINITIONS:** As used in this chapter, the following terms shall be defined as:

AUTOMOBILE GRAVEYARD: Any establishment or place of business maintained, used or operated for storing, keeping, buying or selling wrecked, scrapped, ruined or dismantled motor vehicles or motor vehicle parts.

JUNK: Old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste or junked, dismantled or wrecked automobiles, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material.

JUNKYARD: An establishment or place of business maintained, operated or used for storing, keeping, buying or selling junk, or for the maintenance or operation of an automobile graveyard, and the term shall include garbage dumps and sanitary fills. (2003 Code§ 5-14)

- 3-6-2: **LICENSE REQUIRED; FEE:** No person, corporation or other form of business entity shall operate a junkyard in the town without first obtaining a license therefor. The license shall be issued upon

the approval of the applicant's application and the payment of a fee in such amount as established by resolution of the board of trustees, said fee being due at the time of approval and thereafter on January 1 of each succeeding year. (2003 Code§ 5-15; amd. 2013 Code)

3-6-3: REGULATIONS: No person shall carry on, operate, own, maintain, conduct or establish a junkyard unless he complies with the following requirements:

- A. The establishment shall be carried on, maintained, operated, conducted or established entirely inside an enclosed building or buildings, or upon premises with a fence that is at least seven feet (7') high of solid wood, masonry or corrugated metal construction. The fence must meet with the approval of the tmvn inspector; provided no fence shall be approved unless it is erected in a substantial manner so as to resist all wind pressure and to ensure public safety; is built of a good and substantial material as set forth above; and is a well finished piece of workmanship of good appearance for construction of its class. It is further provided, no fence shall be approved unless construction is:
1. On any side which adjoins or abuts a street, another landowner's property, a county road or a state highway.
 2. On any side to which there is an unrestricted view from the street, another's property, a county road or state highway.
 3. That portion of a side not abutting or adjoining a street, another's property, a county road or state highway which is within one thousand feet (1,000') of another's property, a county road, a street or a state highway.
- B. Fences and walls shall be maintained in a neat, substantial, safe condition, without advertising thereon.
- C. The density of motor vehicles on the junkyard shall not exceed one vehicle for each two hundred (200) square feet of land or floor space.
- D. The junk located in or on said premises shall be so arranged that reasonable inspection or access on all parts of the premises can be had at any time by the proper fire, health, police, safety and building authorities.

- E. Weeds and rank vegetation shall not be permitted on the premises.
- F. There shall be provided a sales or office building on the property to be used in conjunction with the junkyard.
- G. A receiving area for automobiles prior to storing shall be maintained in a minimum size of one thousand eight hundred (1,800) square feet per acre of salvage yard.
- H. A fire road shall be provided in a minimum width of twenty feet (20').
- I. There shall be maintained and filed with the town clerk-treasurer, and approved by the building inspector prior to filing, a junkyard layout plan showing:
 1. Location and size of the area involved.
 2. All improvements of surrounding property lying within one thousand feet (1,000') of the proposed junkyard.
 3. Location and type of fence.
 4. Location of storing area and sales office.
 5. Location of all utility outlets and facilities for utilities on the property.
 6. Specific layout of access for fire roads within the junkyard. (2003 Code§ 5-16)

3-6-4: NOTIFICATION OF VIOLATIONS TO STATE AND FEDERAL OFFICIALS: In addition to any remedies allowed the town set forth herein or by the laws of the state or of the federal government, the mayor, or his authorized representative, is empowered to contact the Oklahoma department of transportation and/or the federal secretary of transportation and relate to them the nature of any violations under this chapter and assist in the prosecution of same. (2003 Code § 5-18)

3-6-5: VIOLATION; PENALTY: When the board of trustees shall determine any junkyard is not fenced or screened as required by this chapter, or is not operating under the provisions established by this chapter, the person, corporation or business entity operating the junkyard

shall be notified of such violation and the manner in which compliance with this chapter is required. Such notice shall be in writing and require the person, corporation or business entity to comply with the provisions of this chapter within forty five (45) days from the date of receiving the notice. Any person, corporation or business entity failing to comply with the provisions of this chapter after the expiration of forty five (45) days from the date of receiving the notice shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to penalty as provided in section 1-4-1 of this code. (2003 Code§ 5-17; amd. 2013 Code)

CHAPTER 7

SEXUALLY ORIENTED BUSINESSES

SECTION:

- 3-7- 1: Purpose And Findings
- 3-7- 2: Definitions
- 3-7- 3: Classification Of Businesses
- 3-7- 4: License Requirements; Application
- 3-7- 5: Issuance Of License
- 3-7- 6: Fee For License
- 3-7- 7: Nontransferable License
- 3-7- 8: Location Restrictions
- 3-7- 9: Expiration Of License
- 3-7-10: Inspection Of Premises
- 3-7-11: Nonconforming Uses
- 3-7-12: Adult Motels
- 3-7-13: Escort Agencies
- 3-7-14: Nude Model Studios
- 3-7-15: Public Nudity
- 3-7-16: Exhibition Of Sexually Explicit Films, Videos And Live Performances
- 3-7-17: Exterior Portions Of Sexually Oriented Businesses
- 3-7-18: Signage
- 3-7-19: Alcoholic Beverages Prohibited
- 3-7-20: Minors Prohibited; Attendant Requirements
- 3-7-21: Massages Or Baths Administered By Persons Of Opposite Sex
- 3-7-22: Hours Of Operation
- 3-7-23: Notice Requirements
- 3-7-24: Suspension Of License
- 3-7-25: Revocation Of License
- 3-7-26: Judicial Review
- 3-7-27: Defense To Prosecution
- 3-7-28: Injunction; Penalty

3-7-1: PURPOSE AND FINDINGS:

- A. Purpose: It is the purpose of this chapter to regulate sexually oriented businesses and related activities to promote the health,

safety, morals and general welfare of the citizens of the town, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses with the town. The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the first amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this chapter to condone or legitimize the distribution of obscene materials.

- B. Findings: Based on evidence concerning the adverse secondary effects of adult uses on the community presented in hearings and in reports made to the board of trustees, and on findings incorporated in the cases of City Of Renton v. Playtime Theatres, Inc., 475 U.S. 41 (1986); Young v. American Mini Theatres, 427 U.S. 50 (1976); Barnes v. Glen Theatre, Inc., 501 U.S. 560 (1991); Arcara v. Cloud Books, Inc., 478 U.S. 697 (1986); California v. LaRue, 409 U.S. 109 (1972); Lacobucci v. City Of Newport, KY, 479 U.S. 92 (1986); United States v. O'Brien, 391 U.S. 367 (1968); DLS, Inc. v. City Of Chattanooga, 107 F.3d 403 (6th Cir.1997); Kev, Inc. v. Kitsap County, 793 F.2d 1053 (9th Cir.1986); Hang On, Inc. v. City Of Arlington, 65 F.3d 1248 (5th Cir.1995); and South Florida Free Beaches, Inc. v. City Of Miami, 734 F.2d 608 (11th Cir. 1984), as well as studies conducted in other cities, including, but not limited to, Oklahoma City, Oklahoma; Phoenix, Arizona; Minneapolis, Minnesota; Indianapolis, Indiana; Amarillo, Texas; Garden Grove, California; Whittier, California; and Seattle, Washington; and findings reported in the final report of the attorney general's commission on pornography (1986), the report of the attorney general's working group on the regulation of sexually oriented businesses (June 6, 1989, state of Minnesota), the board of trustees finds that:

1. Sexually oriented businesses lend themselves to ancillary unlawful and unhealthy activities that are uncontrolled by the operators of the establishments. Further, there is presently no mechanism to make owners of these establishments responsible for the activities that occur on their premises.

2. Crime statistics show that all types of crimes, especially sex related crimes, occur with more frequency in neighborhoods where sexually oriented businesses are located. See study of Indianapolis, Indiana.

3. Sexual acts, including masturbation, and oral and anal sex, occur at sexually oriented businesses, especially those which provide private or semiprivate booths or cubicles for viewing films, videos or live sex shows. See California v. LaRue, 409 U.S. 109, 111 (1972); see also final report of the attorney general's commission on pornography (1986) at 377.

4. Offering and providing such booths and/or cubicles encourage such activities, which creates unhealthy conditions. See final report of the attorney general's commission on pornography (1986) at 376-377.

5. Persons frequent certain adult theaters, adult arcades and other sexually oriented businesses for the purpose of engaging in sex within the premises of such sexually oriented businesses. See Arcara v. Cloud Books, Inc., 478 U.S. 697, 698 (1986); see also final report of the attorney general's commission on pornography (1986) at 376-377.

6. For the period ending December, 1996, the total number of reported cases of AIDS in the United States caused by the immunodeficiency virus (HIV) was 581,429. See statistics of the U.S. department of health and human services, centers for disease control and prevention.

7. The total number of cases of early (less than 1 year) syphilis in the United States reported during the ten (10) year period 1985-1995 was 367,796. See statistics of the U.S. department of health and human services, center for disease control and prevention.

8. The number of cases of gonorrhea in the United States reported annually remains at a high level, with a total of 1,256,297 cases reported during the period 1993-1995. See statistics of the U.S. department of health and human services, centers for disease control and prevention.

9. The surgeon general of the United States in his report of October 22, 1986, advised the American public that AIDS and HIV infection may be transmitted through sexual contact, intravenous drug use, exposure to infected blood and blood components, and from an infected mother to her newborn.

10. According to the best scientific evidence available, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally trans-

mitted by sexual acts. See findings of the U.S. department of health and human services, centers for disease control and prevention.

11. Sanitary conditions in some sexually oriented businesses are unhealthy, in part, because the activities conducted there are unhealthy, and, in part, because of the unregulated nature of the activities and the failure of the owners and the operators of the facilities to self-regulate those activities and maintain those facilities. See final report of the attorney general's commission on pornography (1986) at 377.

12. Numerous studies and reports have determined that bodily fluids, including semen and urine, are found in the areas of sexually oriented businesses where persons view adult oriented films. See **final report of the attorney general's commission on pornography** (1986) at 377.

13. Nude dancing in adult establishments encourages prostitution, increases sexual assaults and attracts other criminal activity. See *Barnes v. Glen Theatre*, 501 U.S. 560, 583 (1991).

14. Nude dancing in adult establishments increases the likelihood of drug dealing and drug use. See *Key, Inc. v. Kitsap County*, 793 F.2d 1053, 1056 (9th Cir. 1986).

15. The findings noted in subsections 81 through 814 of this section raise substantial governmental concerns.

16. Sexually oriented businesses have operational characteristics which should be reasonably regulated in order to protect those substantial governmental concerns.

17. A reasonable licensing procedure is an appropriate mechanism to place the burden of that reasonable regulation on the owners and the operators of the sexually oriented businesses. Further, such a licensing procedure will place an incentive on the operators to see that the sexually oriented business is run in a manner consistent with the health, safety and welfare of its patrons and employees, as well as the citizens of the town. It is appropriate to require reasonable assurance that the licensee is the actual operator of the sexually oriented business, fully in possession and control of the premises and activities occurring therein.

18. Removal of doors on adult booths and requiring sufficient lighting on the premises with adult booths advances a substantial govern-

mental interest in curbing the illegal and unsanitary sexual activity occurring in adult establishments.

19. The disclosure of certain information by those persons ultimately responsible for the day to day operation and maintenance of the sexually oriented business, where such information is substantially related to the significant governmental interest in the operation of such uses, will aid in preventing the spread of sexually transmitted diseases and criminal activity.

20. It is desirable in the prevention of the spread of communicable diseases to obtain a limited amount of information regarding certain employees who may engage in the conduct this chapter is designed to prevent or who are likely to be witnesses to such activity.

21. The fact that an applicant for a sexually oriented business license has been convicted of a sex related crime leads to the rational assumption that the applicant may engage in that conduct in contravention to this chapter.

22. The barring of such individuals from operation or employment in sexually oriented businesses for a period of five (5) years for a previous felony conviction serves as a deterrent to and prevents conduct which leads to the transmission of sexually transmitted diseases.

23. The general welfare, health, morals and safety of the citizens of this town will be promoted by the enactment of this chapter. (Ord. 128-05, 2-11-2003)

3-7-2: DEFINITIONS: The following words and phrases used in this chapter shall have the following meanings, unless a different meaning clearly appears from the context:

ADULT ARCADE: Any place to which the public is permitted or invited wherein coin operated or slug operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors or other image producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distin-

guished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.

ADULT BOOKSTORE
OR ADULT VIDEO
STORE:

A commercial establishment that, as its principal business purpose, offers for sale or rental for any form of consideration any one or more of the following:

A. Books, magazines, periodicals or other printed matter, or photographs, slides, films, motion picture, videocassettes, videodisk, any other magnetic or electronic video reproductions, or any other visual representations that by **any form or medium depicts or describes specified sexual activities or specified anatomical areas**; or

B. Instruments, devices or paraphernalia that are designed for use in connection with specified sexual activities.

The determination of the principal business purpose of any establishment is based upon the visible inventory or commercial activity of the establishment.

ADULT CABARET:

A nightclub, bar, restaurant or similar commercial establishment that regularly features:

A. Persons who appear in a state of nudity or seminudity; or

B. Live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities; or

C. Films, motion pictures, videocassettes, slides or other photographic reproductions that are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

- ADULT MOTEL:** A hotel, motel or similar commercial establishment that:
- A. Offers accommodation to the public for any form of consideration and provides patrons with closed circuit television transmissions, films, motion pictures, videocassettes, slides or other photographic reproductions that are characterized by the depiction or description of specified sexual activities or specified anatomical areas; and has a sign visible from the public right of way that advertises the availability of this adult type of photographic reproductions; or
 - B. Offers a sleeping room for rent for a period of time that is less than twenty four (24) hours; or
 - C. Allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than twenty four (24) hours.
- ADULT MOTION PICTURE THEATER:** A commercial establishment where, for any form of consideration, films, motion pictures, videocassettes, slides or similar photographic reproductions are regularly shown that are characterized by the depiction or description of specified sexual activities or specified anatomical areas.
- ADULT THEATER:** A theater, concert hall, auditorium or similar commercial establishment that regularly features persons who appear, in person, in a state of nudity and/or seminudity, and/or live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities.
- DIRECTOR:** The chief of police of the town of Pocola, and such employees of the police department as he may designate to perform the duties of the director under this chapter.
- EMPLOYEE:** A person who performs any service on the premises of a sexually oriented business on a full time, part time, contract basis or independ-

TRANSFER OF
OWNERSHIP OR
CONTROL OF A
SEXUALLY ORIENTED
BUSINESS:

Means and includes any of the following:

- A. The sale, lease or sublease of the business;
- B. The transfer of securities that form a controlling interest in the business, whether by sale, exchange or similar means; or
- C. The establishment of a trust, gift or other similar legal devise that transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control. (Ord. 128-05, 2-11-2003)

3-7-3: CLASSIFICATION OF BUSINESSES: Sexually oriented businesses are classified as follows:

- A. Adult arcades;
- B. Adult bookstores or adult video stores;
- C. Adult cabarets;
- D. Adult motels;
- E. Adult motion picture theaters;
- F. Adult theaters;
- G. Escort agencies;
- H. Nude model studios; and
- I. Sexual encounter centers. (Ord. 128-05, 2-11-2003)

3-7-4: LICENSE REQUIREMENTS; APPLICATION:

- A. License Required: It shall be unlawful:
 1. For any person to operate a sexually oriented business without a valid sexually oriented business license issued by the director pursuant to this chapter;

2. For any person who operates a sexually oriented business to employ a person to work and/or perform services on the premises of the sexually oriented business, if such employee is not in possession of a valid sexually oriented business employee license issued to such employee by the director pursuant to this chapter;

3. For any person to obtain employment with a sexually oriented business if such person is not in possession of a valid sexually oriented business employee license issued to such person by the director pursuant to this chapter.

It shall be a defense to subsections A2 and A3 of this section if the employment is of limited duration and for the sole purpose of repair and/or maintenance of machinery, equipment or the premises.

B. Application For License:

1. **Business License; Sketch Of Premises:** An application for a sexually oriented business license must be made on a form provided by the town. The application must be accompanied by a sketch or a diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches ($\pm 6"$). Prior to issuance of a license, the premises must be inspected by the fire department and code enforcement department.

2. **Employee License:** An application for a sexually oriented business employee license must be made on a form provided by the town.

3. **Qualification Required:** All applicants for a license must be qualified according to the provisions of this chapter. The application may request, and the applicant shall provide, such information (including fingerprints) as to enable the town to determine whether the applicant meets the qualifications established under this chapter. The applicant has an affirmative duty to supplement an application with new information received subsequent to the date the application was deemed completed.

4. **Signatures Required On Application:** If a person who wishes to own or operate a sexually oriented business is an individual, he must sign the application for a business license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has a twenty percent (20%) or greater

interest in the business must sign the application for a business license as applicant. If a corporation, limited liability company, limited partnership or general partnership is listed as owner of a sexually oriented business or as the entity that wishes to operate such a business, each individual having a twenty percent (20%) or greater interest therein must sign the application for a business license as applicant.

5. Submission Of Application; Information Required: Applications for a business license, whether original or renewal, must be made to the director by the intended operator of the enterprise. Applications must be submitted to the office of the director or the director's designee during regular working hours. Application forms shall be supplied by the director. The following information shall be provided on the application form:

a. The name, street address (and mailing address if different) of the applicant;

b. A recent photograph of the applicant;

c. The applicant's driver's license number, social security number and/or his/her state or federally issued tax identification number;

d. The name under which the establishment is to be operated and a general description of the services to be provided;

e. If the applicant intends to operate the sexually oriented business under a name other than that of the applicant, he or she must state the sexually oriented business fictitious name;

f. Whether the applicant has been convicted, or is awaiting trial on pending charges, of a "specified criminal activity", as defined in section 3-7-2 of this chapter, and, if so, the specified criminal activity involved, the date, place and jurisdiction of each;

g. Whether the applicant has had a previous license under this chapter or other similar sexually oriented business ordinance from another city or county denied, suspended or revoked, including the name and location of the sexually oriented business for which the business license was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and whether the applicant is or has been a partner in a partnership or an officer, director or principal stockholder of a corporation or a member of a limited

liability company that is or was licensed under a sexually oriented business ordinance whose business license has previously been denied, suspended or revoked, including the name and location of the sexually oriented business for which the business license was denied, suspended or revoked, as well as the date of denial, suspension or revocation;

h. Whether the applicant holds any other licenses under this chapter or other similar sexually oriented business ordinance from another city or county and, if so, the names and locations of such other licensed businesses;

i. The single classification of license, as found in section 3-7-3 of this chapter, for which the applicant is filing;

j. The telephone number of the establishment;

k. The address and legal description of the tract of land on which the establishment is to be located;

l. If the establishment is in operation, the date on which the owner acquired the establishment for which the business license is sought, and the date on which the establishment began operations as a sexually oriented business at the location for which the business license is sought;

m. If the establishment is not in operation, the expected startup date (which shall be expressed in number of days from the date of issuance of the business license). If the expected startup date is to be more than ten (10) days following the date of issuance of the business license, then a detailed explanation of the construction, repair or remodeling work or other cause of the expected delay and a statement of the owner's time schedule and plan for accomplishing the same;

n. If an applicant wishes to operate a sexually oriented business, other than an adult motel, which shall exhibit on the premises, in a viewing room or booth of less than one hundred fifty (150) square feet of floor space, films, videocassettes, other video reproductions, or live entertainment which depict specified sexual activities or specified anatomical areas, then the applicant shall comply with the application requirements set forth in section 3-7-16 of this chapter.

6. Fee, Document Requirements: Each application for a business license shall be accompanied by the following:

a. Payment of the application fee in full;

b. If the establishment is an Oklahoma corporation, limited liability company or limited partnership, a certificate of good standing issued by the office of the secretary of state of Oklahoma;

c. If the establishment is a foreign corporation, a certified copy of the certificate of authority to transact business in this state;

d. A current certificate and straight line drawing prepared within thirty (30) days prior to application by a registered land surveyor depicting the property lines and the structures containing any existing sexually oriented businesses within one thousand feet (1,000') of the property to be certified; the property lines of any established **church; public or private elementary, secondary or postsecondary school; public park; licensed daycare center; and entertainment business that is oriented primarily towards children** within one thousand feet (1,000') of the property to be certified; and the property lines of any established residential district within one thousand feet (1,000') of the property to be certified. For purposes of this subsection, a use shall be considered existing or established if it is in existence at the time an application is submitted.

e. Any of the items in subsections 86b through 86d of this section shall not be required for a renewal application if the applicant states that the documents previously furnished the director with the original application or previous renewals thereof remain correct and current.

7. Employee License Application; Information Required:

a. Applications for an employee license to work and/or perform services in a sexually oriented business, whether original or renewal, must be made to the director by the person to whom the employee license shall issue. Each application for an employee license shall be accompanied by payment of the application fee in full. Application forms shall be supplied by the director. Applications must be submitted to the office of the director or the director's designee during regular working hours. Each applicant shall be required to give the following information on the application form:

(1) The applicant's given name, and any other names by which the applicant is or has been known, including "stage" names and/or aliases;

- (2) Age, and date and place of birth;
- (3) Height, weight, hair color and eye color;
- (4) Present residence address and telephone number;
- (5) Present business address and telephone number;
- (6) Date, issuing state and number of driver's license, or other identification card information;
- (7) Social security number; and
- (8) Proof that the individual is at least eighteen (18) years old.

b. Attached to the application form for a license shall be the following:

(1) A color photograph of the applicant clearly showing the applicant's face, and the applicant's fingerprints on a form provided by the police department. Any fees for the photographs and fingerprints shall be paid by the applicant.

(2) A statement detailing the license history of the applicant for the five (5) years immediately preceding the date of the filing of the application, including whether such applicant, in this or any other city, county, state or country, has ever had any license, permit or authorization to do business denied, revoked or suspended, or had any professional or vocational license or permit denied, revoked or suspended. In the event of any such denial, revocation or suspension, state the name under which the license was sought and/or issued, the name of the issuing or denying jurisdiction, and describe in full the reason for the denial, revocation or suspension. A copy of any order of denial, revocation or suspension shall be attached to the application.

(3) A statement whether the applicant has been convicted of a "specified criminal activity", as defined in section 3-7-2 of this chapter, and, if so, the specified criminal activity involved, the date, place and jurisdiction of each.

8. Oath Required: Every application for a license shall contain a statement under oath that:

a. The applicant has personal knowledge of the information contained in the application, and that the information contained therein and furnished therewith is true and correct; and

b. The applicant has read the provisions of this chapter.

9. Separate Application And License For Each Business: A separate application and business license shall be required for each sexually oriented business classification as set forth in section 3-7-3 of this chapter.

10. Other License Not Exempt: The fact that a person possesses other types of state or city permits and/or licenses does not exempt them from the requirement of obtaining a sexually oriented business license.

3-7-5: ISSUANCE OF LICENSE:

A. Employee License:

1. Upon the filing of an application for a sexually oriented business employee license, the director shall issue a temporary license to said applicant. The application shall then be referred to the appropriate city departments for investigation to be made on the information contained in the application. The application process shall be completed within thirty (30) days from the date of the completed application. After the investigation, the director shall issue an employee license, unless it is determined by a preponderance of the evidence that one or more of the following findings is true:

a. The applicant has failed to provide the information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form;

b. The applicant is under the age of eighteen (18) years;

c. The applicant has been convicted of a "specified criminal activity", as defined in section 3-7-2 of this chapter;

d. The sexually oriented business employee license is to be used for employment in a business prohibited by local or state law, statute, rule or regulation, or prohibited by a particular provision of this chapter; or

e. The applicant has had a sexually oriented business employee license revoked by the town within two (2) years of the date of the current application.

2. If the sexually oriented business employee license is denied, the temporary license previously issued is immediately deemed null and void. Denial, suspension or revocation of a license issued pursuant to this subsection shall be subject to appeal as set forth in subsection C of this section.

3. A license issued pursuant to subsection A1 of this section, if granted, shall state on its face the name of the person to whom it is granted, the expiration date, and the address of the sexually oriented business. The employee shall keep the license available for inspection upon lawful request at all times while engaged in employment or performing services on the sexually oriented business premises.

4. A license issued pursuant to subsection A1 of this section shall be subject to annual renewal upon the written application of the applicant and a finding by the director that the applicant has not been convicted of any "specified criminal activity", as defined in section 3-7-2 of this chapter, or committed any act during the existence of the previous license which would be grounds to deny the initial license application. The decision whether to renew a license shall be made within thirty (30) days of the completed application. The renewal of a license shall be subject to the fee as set forth in section 3-7-6 of this chapter.

B. Business License:

1. If application is made for a sexually oriented business license, the director shall approve or deny issuance of the license within forty five (45) days of receipt of the completed application. The director shall issue a license to an applicant unless it is determined by a preponderance of the evidence that one or more of the following findings is true:

a. An applicant has failed to provide the information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form;

b. An applicant is under the age of eighteen (18) years;

c. An applicant has been denied a license by the town to operate a sexually oriented business within the preceding twelve

(12) months, or whose license to operate a sexually oriented business has been revoked within the preceding twelve (12) months;

d. An applicant is overdue in payment to the city in taxes, fees, fines or penalties assessed against or imposed upon him/her in relation to any business;

e. An applicant has been convicted of a "specified criminal activity", as defined in section 3-7-2 of this chapter;

f. The premises to be used for the sexually oriented business has not been approved by the fire department and the code enforcement department as being in compliance with applicable laws and ordinances;

g. The license fee required under this chapter has not been paid;

h. An applicant of the proposed establishment is in violation of or is not in compliance with one or more of the provisions of this chapter.

2. A license issued pursuant to subsection B1 of this section, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, the address of the sexually oriented business, and the classification as set forth in section 3-7-3 of this chapter for which the license is issued. The license shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be easily read at any time.

3. The fire department and code enforcement department shall complete their certification that the premises is in compliance or not in compliance within twenty (20) days of receipt of the completed application by the director. The certification shall be promptly presented to the director.

4. A sexually oriented business license shall issue for only one classification, as set forth in section 3-7-3 of this chapter.

5. In the event that the director determines that an applicant is not eligible for a license, the applicant shall be given notice in writing of the reasons for the denial within forty five (45) days of the receipt of the completed application by the director; provided, that the applicant may request, in writing at any time before the notice is issued, that such period be extended for an additional period of not

more than ten (10) days in order to make modifications necessary to comply with this chapter.

6. A license issued pursuant to subsection 81 of this section shall be subject to annual renewal upon the written application of the applicant and a finding by the director that the applicant has not been convicted of any "specified criminal activity", as defined in section 3-7-2 of this chapter, or committed any act during the existence of the previous license which would be grounds to deny the initial license application. The decision whether to renew a license shall be made within forty five (45) days of the completed application. The renewal of a license shall be subject to the fee as set forth in section 3-7-6 of this chapter.

- C. Appeal: An applicant may appeal the decision of the director regarding a denial to the board of trustees by filing a written notice of appeal with the town clerk-treasurer within fifteen (15) days after service of notice upon the applicant of the director's decision. The notice of appeal shall be accompanied by a memorandum or other writing setting out fully the grounds for such appeal and all arguments in support thereof. The director may, within fifteen (15) days of service upon him of the applicant's memorandum, submit a memorandum in response to the memorandum filed by the applicant on appeal to the board of trustees. After reviewing such memoranda, as well as the director's written decision, if any, and exhibits submitted to the director, the board of trustees shall vote either to uphold or overrule the director's decision. Such vote shall be taken within twenty one (21) calendar days after the date on which the town clerk-treasurer receives the notice of appeal. However, all parties shall be required to comply with the director's decision during the pendency of the appeal. Judicial review of a denial by the director and board of trustees may be made pursuant to section 3-7-26 of this chapter. (Ord. 128-05, 2-11-2003)

3-7-6: FEE FOR LICENSE: The annual fee for a sexually oriented business license, whether new or renewal, shall be in such amount as established by resolution of the board of trustees. These fees are to be used to pay for the cost of the administration and enforcement of this chapter. (Ord. 128-05, 2-11-2003; amd. 2013 Code)

3-7-7: NONTRANSFERABLE LICENSE: A licensee shall not transfer his/her license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place

other than the address designated in the application. (Ord. 128-05, 2-11-2003)

3-7-8: LOCATION RESTRICTIONS: Sexually oriented businesses shall be permitted only in the industrial district, one thousand feet (1,000') south of the south right of way of Interstate 540, subject to the following:

- A. Distance Requirements: The sexually oriented business may not be operated within:
1. One thousand feet (1,000') of a church;
 2. **One thousand feet (1,000')** of a **public or private elementary, secondary or postelementary school;**
 3. One thousand feet (1,000') of a public school;
 4. One thousand feet (1,000') of a licensed daycare center;
 5. One thousand feet (1,000') of the location of a club, organization, facility or business that is oriented primarily towards children or youth;
 6. One thousand feet (1,000') of a boundary of any residential district; or
 7. One thousand feet (1,000') of another sexually oriented business.
- B. Businesses In Same Building Prohibited: A sexually oriented business may not be operated in the same building or structure, or portion thereof, containing another sexually oriented business classified pursuant to section 3-7-3 of this chapter.
- C. Measurement: For the purpose of this section, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest property of the premises where the sexually oriented business is conducted, to the nearest property line of a church; public or private elementary, secondary or post-secondary school; public park; licensed daycare center; the location of a club, organization, facility or business that is oriented primarily towards children or youth; or the boundary of any residential district or other sexually oriented business. (Ord. 128-05, 2-11-2003)

3-7-9: EXPIRATION OF LICENSE:

- A. Each license shall expire one year from the date of issuance and may be renewed only by making application as provided in section 3-7-4 of this chapter. Application for renewal should be made at least forty five (45) days before the expiration date; when made less than forty five (45) days before the expiration date, the expiration of the license will not be affected.
- B. When the director denies renewal of a license, the applicant shall not be issued a license for one year from the date of denial. (Ord. 128-05, 2-11-2003)

3-7-10: INSPECTION OF PREMISES:

- A. An applicant or licensee shall permit representatives of the police department, fire department, code enforcement department, building department, or other town or state departments or agencies, to inspect the premises of a sexually oriented business for the purpose of ensuring compliance with the law, at any time it is open for business.
- B. No person who operates a sexually oriented business nor his agents or employees shall refuse to promptly permit such lawful inspection of the premises. (Ord. 128-05, 2-11-2003; amd. 2013 Code)

3-7-11: NONCONFORMING USES:

- A. Any business lawfully operating on the effective date hereof that is in violation of the location or structural configuration or signage requirements of this chapter shall be deemed a nonconforming use. The nonconforming use will be permitted to continue for a period not to exceed two (2) years, unless sooner terminated for any reason or voluntarily discontinued for a period of thirty (30) days or more. Such nonconforming use shall not be increased, enlarged, extended or altered except that the use may be changed to a conforming use. If two (2) or more sexually oriented businesses are within one thousand feet (1,000') of one another and otherwise in a permissible location, the sexually oriented business that was first established and continually operated at a particular location is the conforming use and the later established business is nonconforming.

- B. A sexually oriented business lawfully operating as a conforming use is not rendered a nonconforming use by the location, subsequent to the grant or renewal of the sexually oriented business license, of a church, public or private elementary, secondary or postsecondary school, licensed daycare center, public park, the location of a club, organization, facility or business oriented primarily toward children or youth within one thousand feet (1,000') of the sexually oriented business or residential district within one thousand feet (1,000') of the sexually oriented business. This provision applies only to the renewal of a valid business license, and does not apply when an application for a business license is submitted after a business license has expired or has been revoked. (Ord. 128-05, 2-11-2003)

3-7-12: ADULT MOTELS:

- A. **Presumption Of Adult Motel:** Evidence that a sleeping room in a hotel, motel or a similar commercial enterprise has been rented and vacated two (2) or more times in a period of time that is less than ten (10) hours creates a rebuttable presumption that the enterprise is an "adult motel", as that term is defined in section 3-7-2 of this chapter.
- B. **Prohibited Rental Or Subrental Without License:** A person in control of a sleeping room in a hotel, motel or similar commercial enterprise that does not have a sexually oriented business license shall not rent or subrent a sleeping room to a person and, within ten (10) hours from the time the room is rented, rent or subrent the same sleeping room again.
- C. **Rent, Subrent Defined:** For purposes of subsection B of this section, the terms "rent" or "subrent" mean the act of permitting a room to be occupied for any form of consideration. (Ord. 128-05, 2-11-2003; amd. 2013 Code)

3-7-13: ESCORT AGENCIES:

- A. **Employment Of Minors:** An escort agency shall not employ any person under the age of eighteen (18) years.
- B. **Conducting Business With Minor:** A person shall not act as an escort or agree to act as an escort for any person under the age of eighteen (18) years. (Ord. 128-05, 2-11-2003; amd. 2013 Code)

3-7-14: NUDE MODEL STUDIOS:

- A. Employment Of Minors: A nude model studio shall not employ any person under the age of eighteen (18) years.
- B. Appearance By Minors: A person under the age of eighteen (18) years shall not appear seminude or in a state of nudity in or on the premises of a nude model studio. It is a defense to prosecution under this subsection if the person under eighteen (18) years was in a restroom not open to the public view or visible by any other person.
- C. Public View Prohibited: A person shall not appear in a state of nudity, or with knowledge, allow another to appear in a state of nudity in an area of a nude model studio premises which can be viewed from the public right of way.
- D. Bed Or Sofa Prohibited: A nude model studio shall not place or permit a bed, sofa or mattress in any room on the premises, except that a sofa may be placed in a reception room open to the public. (Ord. 128-05, 2-11-2003; amd. 2013 Code)

3-7-15: PUBLIC NUDITY:

- A. Nude Appearance Prohibited: A person shall not, with knowledge and intent, appear in person in a state of nudity in a sexually oriented business, or depict specified sexual activities in a sexually oriented business.
- B. Seminude Appearance; Conditions: A person shall not, with knowledge and intent, appear in person in a seminude condition in a sexually oriented business, unless the person is an employee who, while seminude, is at least six feet (6') from any patron or customer and on a stage at least two feet (2') from the floor.
- C. Soliciting Patrons: An employee shall not, while seminude in a sexually oriented business, solicit any pay or gratuity from any patron or customer. A patron or customer shall not pay or give any gratuity to any employee, while said employee is seminude in the sexually oriented business.
- D. Touching Patrons: An employee, while seminude, shall not touch a patron or customer or the clothing of a patron or customer. A patron

or customer shall not touch a seminude employee or the clothing of a seminude employee. (Ord. 128-05, 2-11-2003; amd. 2013 Code)

3-7-16: EXHIBITION OF SEXUALLY EXPLICIT FILMS, VIDEOS AND LIVE PERFORMANCES: A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than one hundred (100) square feet of floor space, a film, videocassette, other video reproduction, or live performance that depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:

- A. Diagram Of Premises: Upon application for a sexually oriented business license, the application shall be accompanied by a diagram **of the premises showing a plan thereof, specifying the location of** one or more manager's stations and the location of all overhead lighting fixtures, and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed thirty two (32) square feet of floor area. The diagram shall also designate the place at which the business license will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches ($\pm 6''$). The director may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.
- B. Application Sworn As To Correctness: The application shall be sworn to be true and correct by the applicant.
- C. Alteration Requires Approval: No alteration in the configuration or location of a manager's station may be made without the prior approval of the director or his designee.
- D. Minimum Number Of Employees: It is the duty of the owner and operator of the premises to ensure that at least one employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.

E. Unobstructed View Required:

1. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of the entire area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two (2) or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of the entire area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.

2. It shall be the duty of the operator, and it shall also be the duty of any agents and employees present in the premises, to ensure that the view area specified in subsection E1 of this section remains unobstructed by any doors, walls, merchandise, display racks or other materials at all times and to ensure that no patron is permitted access to any area of the premises that has been designated as an area in which patrons will not be permitted, as designated in the application filed pursuant to this section.

F. View Room Occupancy Limited: No viewing room may be occupied by more than one person at a time.

G. Lighting:

1. The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five (5) foot-candles as measured at the floor level.

2. It shall be the duty of the operator, and it shall also be the duty of any agents and employees present in the premises, to ensure that the illumination described in subsection G1 of this section is maintained at all times that any patron is present in the premises.

H. Openings In Booths Or Rooms:

1. No licensee shall allow an opening of any kind to exist between viewing rooms or booths.

2. No person shall make any attempt to make an opening of any kind between the viewing booths or rooms.

3. The operator of the sexually oriented business shall, during each business day, inspect the walls between the viewing booths to determine if any openings or holes exist.

- I. Floor Coverings: The operator of the sexually oriented business shall cause all floor coverings in viewing booths to be nonporous, easily cleanable surfaces, with no rugs or carpeting.
- J. Wall And Ceiling Surfaces: The operator of the sexually oriented business shall cause all wall surfaces and ceiling surfaces in viewing booths to be constructed of, or permanently covered by, nonporous, easily cleanable material. No wood, plywood, composition board or other porous material shall be used within forty eight inches (48") of the floor. (Ord. 128-05, 2-11-2003; amd. 2013 Code)

3-7-17: EXTERIOR PORTIONS OF SEXUALLY ORIENTED BUSINESSES:

- A. Visibility From Outside Prohibited: No owner or operator of a sexually oriented business shall allow the merchandise or activities of the establishment to be visible from a point outside the establishment.
- B. Signage: No owner or operator of a sexually oriented business shall allow the exterior portion of the sexually oriented business to have flashing lights, or any words, lettering, photographs, silhouettes, drawings, or pictorial representations of any manner, except to the extent permitted by the provisions of this chapter.
- C. Building Color:
 - 1. No owner or operator of a sexually oriented business shall allow exterior portions of the establishment to be painted any color other than a single achromatic color. This provision shall not apply to a sexually oriented business if the following conditions are met:
 - a. The establishment is a part of a commercial multi-unit center; and
 - b. The exterior portions of each individual unit in the commercial multi-unit center, including the exterior portions of the business, are painted the same color as one another or are painted in such a way as to be a component of the overall architectural style or pattern of the commercial multi-unit center.

2. Nothing in this section shall be construed to require the painting of an otherwise unpainted exterior portion of a sexually oriented business. (Ord. 128-05, 2-11-2003; amd. 2013 Code)

3-7-18: SIGNAGE:

A. Limitation: Notwithstanding any other town ordinance, code or regulation to the contrary, the operator of any sexually oriented business or any other person shall not erect, construct or maintain any sign for the sexually oriented business other than the one primary sign and one secondary sign, as provided herein.

B. Primary Sign:

1. Primary signs shall have no more than two (2) display surfaces. Each such display surface shall:

- a. Not contain any flashing lights;
- b. Be a flat plane, rectangular in shape;
- c. Not exceed seventy five (75) square feet in area; and
- d. Not exceed ten feet (10') in height or ten feet (10') in length.

2. Primary signs shall contain no photographs, silhouettes, drawings or pictorial representations in any manner, and may contain only the name of the enterprise.

3. Each letter forming a word on a primary sign shall be of solid color, and each such letter shall be the same print type, size and color. The background behind such lettering on the display surface of a primary sign shall be of a uniform and solid color.

C. Secondary Signs:

1. Secondary signs shall have only one display surface. Such display surface shall:

- a. Be a flat plane, rectangular in shape;
- b. Not exceed twenty (20) square feet in area;

c. Not exceed five feet (5') in height and four feet (4') in width;
and

d. Be affixed or attached to any wall or door of the enterprise.

2. The provisions of subsections B1a, B2 and B3 of this section shall also apply to secondary signs. (Ord. 128-05, 2-11-2003; amd. 2013 Code)

3-7-19: **ALCOHOLIC BEVERAGES PROHIBITED:** The sale, use or consumption of alcoholic beverages on the premises of a sexually oriented business is prohibited. (Ord. 128-05, 2-11-2003; amd. 2013 Code)

3-7-20: **MINORS PROHIBITED; ATTENDANT REQUIREMENTS:**

A. No person shall allow a person who is younger than eighteen (18) years of age to enter or be on the premises of a sexually oriented business at any time the sexually oriented business is open for business.

B. It shall be the duty of the operator of each sexually oriented business to ensure that an attendant is stationed at each public entrance to the sexually oriented business at all times during such sexually oriented business' regular business hours. It shall be the duty of the attendant to prohibit any person under the age of eighteen (18) years from entering the sexually oriented business. It shall be presumed that an attendant knew a person was under the age of eighteen (18) unless such attendant asked for and was furnished:

1. A valid operator, commercial operator or chauffeur's driver's license; or

2. A valid personal identification certificate issued by any state reflecting that such person is eighteen (18) years of age or older. (Ord. 128-05, 2-11-2003; amd. 2013 Code)

3-7-21: **MASSAGES OR BATHS ADMINISTERED BY PERSONS OF OPPOSITE SEX:** It shall be unlawful for any sexually oriented business, regardless of whether in a private facility, to operate as a

massage salon, massage parlor or any similar type business where any physical contact with the recipient of such services is provided by a person of the opposite sex. (Ord. 128-05, 2-11-2003; amd. 2013 Code)

3-7-22: HOURS OF OPERATION: No sexually oriented business, except for an adult motel, may remain open at any time between the hours of one o'clock (1:00) A.M. and eight o'clock (8:00) A.M. on weekdays and Saturdays, and one o'clock (1:00) A.M. and twelve o'clock (12:00) noon on Sundays. (Ord. 128-05, 2-11-2003)

3-7-23: NOTICE REQUIREMENTS:

- A. Sexually Oriented Business: Any notice required or permitted to be given by the director or any other town office, division, department or other agency under this chapter to any applicant, operator or owner of a sexually oriented business may be given either by personal delivery or by certified United States mail, postage prepaid, return receipt requested, addressed to the most recent address as specified in the application for the license, or any notice of address change that has been received by the director. Notices mailed as above shall be deemed given upon their deposit in the United States mail. In the event that any notice given by mail is returned by the postal service, the director or his designee shall cause it to be posted at the principal entrance to the establishment.
- B. Director: Any notice required or permitted to be given to the director by any person under this chapter shall not be deemed given until and unless it is received in the office of the director.
- C. Changes In License Application: It shall be the duty of each owner who is designated on the license application and each operator to furnish notice to the director in writing of any change of residence or mailing address. (Ord. 128-05, 2-11-2003)

3-7-24: SUSPENSION OF LICENSE: The director shall suspend a license for a period not to exceed thirty (30) days if he determines that licensee or an employee of licensee has:

- A. Violations: Violated or is not in compliance with any section of this chapter;

- B. Intoxication: Operated or performed services in a sexually oriented business while intoxicated by the use of alcoholic beverages or controlled substances;
- C. Refusal To Allow Inspection: Refused to allow prompt inspection of the sexually oriented business premises as authorized by this chapter;
- D. Permitting Gambling: With knowledge, permitted gambling by any person on the sexually oriented business premises. (Ord. 128-05, 2-11-2003)

3-7-25: REVOCATION OF LICENSE:

- A. The director shall revoke a license if a cause of suspension in section 3-7-24 of this chapter occurs and the license has been suspended within the preceding twelve (12) months.
- B. The director shall revoke a license if he determines that:
 1. A licensee gave false or misleading information in the material submitted during the application process;
 2. A licensee was convicted of a specified criminal activity on a charge that was pending prior to the issuance of the license;
 3. A licensee has, with knowledge, permitted the possession, use or sale of controlled substances on the premises;
 4. A licensee has, with knowledge, permitted the sale, use or consumption of alcoholic beverages on the premises;
 5. A licensee has, with knowledge, permitted prostitution on the premises;
 6. A licensee has, with knowledge, operated the sexually oriented business during a period of time when the licensee's license was suspended;
 7. A licensee has, with knowledge, permitted any act of sexual intercourse, sodomy, oral copulation, masturbation or other sexual conduct to occur in or on the licensed premises;

8. A licensee is delinquent in payment to the town or state of any taxes or fees;

9. A licensee has, with knowledge, permitted a person under eighteen (18) years of age to enter the establishment; or

10. A licensee has attempted to sell his business license, or has sold, assigned or transferred ownership or control of the sexually oriented business to a nonlicensee.

C. When the director revokes a license, the revocation shall continue for one year from the date the revocation became effective. (Ord. 128-05, 2-11-2003)

3-7-26: JUDICIAL REVIEW: After denial of an initial or renewal application by the director and board of trustees, or suspension or revocation of a license by the director, the applicant or licensee may seek prompt judicial review of such administrative action in any court of competent jurisdiction. The administrative action shall be promptly reviewed by the court. (Ord. 128-05, 2-11-2003)

3-7-27: DEFENSE TO PROSECUTION: It is a defense to prosecution under this chapter that a person appearing in a state of nudity did so in a modeling class operated:

A. By a proprietary school, licensed by the state, a college, junior college or university supported entirely or partly by taxation;

B. By a private college or university that maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation. (Ord. 128-05, 2-11-2003)

3-7-28: INJUNCTION; PENALTY: A person who operates or causes to be operated a sexually oriented business without a valid business license or in violation of any provision of section 3-7-8 of this chapter is subject to a suit for injunction, as well as prosecution for criminal violations. Each day a sexually oriented business so operates is a separate offense or violation. A violation of any provision of this chapter shall be punishable as a misdemeanor and subject to penalty as provided in section 1-4-1 of this code. (Ord. 128-05, 2-11-2003; amd. 2013 Code)

TITLE 4
HEALTH AND SANITATION

Subject	Chapter
Garbage And Refuse	1
Nuisances	2
Motor Vehicle Racing Facilities	2A
Food Service Sanitation	3

CHAPTER 1

GARBAGE AND REFUSE

SECTION:

- 4-1- 1: Definitions
- 4-1- 2: Enforcement Official; Permit Requirements
- 4-1- 3: Duties Of Owners And Occupants For Removal
- 4-1- 4: Schedule Of Fees And Rates
- 4-1- 5: Payment For Collection
- 4-1- 6: Scheduled Pick Up And Rates For Return Pick Up
- 4-1- 7: Entry On Private Property Prohibited
- 4-1- 8: Depositing Rubbish Unlawful
- 4-1- 9: Removal Of Refuse
- 4-1-10: Dead Animal Removal
- 4-1-11: Prohibited Acts And Activities Generally
- 4-1-12: Penalty

4-1-1: **DEFINITIONS:** The following words and phrases used in this chapter shall have the following meanings, unless a different meaning clearly appears from the context:

GARBAGE: Every accumulation of animal or vegetable matter, or both; that is the refuse matter from kitchens, pantries, dining rooms or other parts of hotels, restaurants, dwelling houses, market houses, stores, and all refuse matter from butcher shops, poultry stores or vegetable racks (or other like establishments).

RUBBISH: Ashes, cinders, paper, broken ware, discarded shoes, tin cans, grass trimmings, shrubbery trimmings, tree trimmings, broken limbs and such refuse as may be termed the natural accumulation of resident families or businesses. (2003 Code § 9-1)

4-1-2: ENFORCEMENT OFFICIAL; PERMIT REQUIREMENTS:

The town engineer shall be ex officio chief sanitary officer and head of the sanitation department. The sanitation department shall supervise and direct the removal and disposal of all garbage and rubbish, and the town board of trustees may issue permits to engage in the business of handling and disposing of garbage and rubbish under the direction and supervision of the sanitation department. Each person to whom such permit is issued shall be required to keep on file in the office of the town clerk-treasurer a surety bond in the amount of five thousand dollars (\$5,000.00) to indemnify the town against all actions of any kind or character that may be filed by reason of his activities or negligence as such garbage collector. The number of permits that shall be issued in any one year shall be determined by the town board of trustees for failure on the part of the person holding the same to comply with all town rules and regulations or ordinances relating to the removal, storage and disposal of garbage and rubbish in the disposal place designated by the town board of trustees. (2003 Code § 9-7)

4-1-3: DUTIES OF OWNERS AND OCCUPANTS FOR REMOVAL:

The owners or occupants of all premises within the town limits shall place all garbage in watertight containers that must be of sufficient size to hold not less than ten (10) gallons, to be placed adjacent to the alley or if the alley is unaccessible or unavailable, then at some convenient place upon the front of the lot or premises near the street curb, for easy access to the same, so that it may be removed from the premises at scheduled times, and to pay the fees and charges therefor hereinafter fixed, or which may be from time to time prescribed by the town board of trustees. (2003 Code § 9-2; amd. 2013 Code)

4-1-4: SCHEDULE OF FEES AND RATES: The town clerk-treasurer, through the sanitation department, shall collect from the owner or occupant of any premises in this town from which garbage is removed, the following charges:

- A. Residential: Residential garbage pick up shall be made once each week, at a rate established by resolution of the town board of trustees.
- B. Commercial: Commercial garbage pick up shall be made twice each week, at a rate established by resolution of the town board of trustees. (2003 Code § 9-4)

4-1-5: **PAYMENT FOR COLLECTION:** It shall be the duty of the owners or occupants to pay the charges established in section 4-1-4 of this chapter to the sanitation department on or before the fifteenth day of each month. (2003 Code § 9-5; amd. 2013 Code)

4-1-6: **SCHEDULED PICK UP AND RATES FOR RETURN PICK UP:** Garbage and rubbish pick up and collection shall be on a regular schedule, prescribed by the sanitation department. All garbage and refuse will be in containers and in place for collection at the regularly scheduled time. (2003 Code§ 9-6; amd. 2013 Code)

4-1-7: **ENTRY ON PRIVATE PROPERTY PROHIBITED:** Agents, servants and employees of the town engaged in the collection of garbage and rubbish are specifically prohibited from going upon private property for the purpose of collecting garbage and rubbish. (2003 Code § 9-3)

4-1-8: **DEPOSITING RUBBISH UNLAWFUL:** It shall be unlawful for any person to throw, place or deposit any rubbish, slop, garbage, filthy substance, grass, weeds, trees, brush, or any other refuse or waste matter in any street, avenue, alley, or in any ditch or watercourse, or upon the premises of another, or upon any public ground in this town. (2003 Code§ 9-8)

4-1-9: **REMOVAL OF REFUSE:** It shall be the duty of any person, owner, lessee or agent of the owner or lessee, or person having the charge and control of any premises in this town on which there is located any water closet, privy, stable, cow shed, or stock pen or lot, or other place where refuse shall accumulate, to clean the same and to remove any excrement, filth, manure, decayed, foul or offensive matter therefrom to some place not less than one mile outside the limits of the town; and failure so to do shall constitute a misdemeanor. (2003 Code § 9-9)

4-1-10: **DEAD ANIMAL REMOVAL:** The owner or any person having charge of any animal dying in this town shall, within twenty four (24) hours after the death of such animal, remove its carcass to some place not less than one mile outside the limits of this town; and failure so to do shall constitute a misdemeanor. (2003 Code § 9-10)

4-1-11: PROHIBITED ACTS AND ACTIVITIES GENERALLY:

- A. Operating Without Permit: It shall be unlawful and an offense for any person without a permit to remove or cause to be removed, any garbage or rubbish of any kind within the town limits or to transport the same upon any of the streets or alleys of the town.
- B. Failure To Provide Container: It shall be unlawful and an offense for the owner or occupant of any premises to fail or refuse to properly provide the garbage and/or rubbish container as herein specified.
- C. Failure To Pay Collection Fees: It shall be unlawful and an offense for any person to fail to pay the fees provided for herein for the collection of garbage and/or rubbish. (2003 Code § 9-11)

4-1-12: PENALTY: Any person guilty of an "offense", as defined herein, by failing or refusing to furnish the receptacles as specified herein, or for failure to pay the fees as herein provided, or for the removal or transporting of garbage as herein provided, shall be deemed guilty of an offense and, upon conviction, shall be subject to penalty as provided in section 1-4-1 of this code. (2003 Code § 9-12; amd. 2013 Code)

CHAPTER 2

NUISANCES

SECTION:

- 4-2-1: Nuisances In General
- 4-2-1-1: Authority To Define And Abate
- 4-2-1-2: Nuisances Unlawful
- 4-2-1-3: Nuisances Defined; Public And Private Nuisances
- 4-2-1-4: Specific Public Nuisances Defined
- 4-2-1-5: Persons Responsible Time
- 4-2-1-6: Does Not Legalize Remedies
- 4-2-1-7: Against Nuisances Summary
- 4-2-1-8: Abatement
- 4-2-1-9: Abatement By Suit In District Court
- 4-2-2: Weeds And Trash
- 4-2-3: Public Health Nuisances
- 4-2-4: Drainage Ditches
- 4-2-5: Congregations And Littering
- 4-2-6: Political Advertising
- 4-2-7: Abatement Procedures Cumulative
- 4-2-8: Penalty

4-2-1: NUISANCES IN GENERAL:

4-2-1-1: **AUTHORITY TO DEFINE AND ABATE:** As provided in 50 Oklahoma Statutes, the town has the power to determine what is and what shall constitute a nuisance within its corporate limits and, for the protection of the public health, the public parks and the public water supply, outside of its corporate limits. Whenever it is practical to do so, the town has 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. (2003 Code§ 13-6)

4-2-1-2: NUISANCES UNLAWFUL: It is unlawful for any person (owner, lessee or other) to create or maintain a nuisance within the town, or to permit a nuisance to remain on premises under his control within the town. (2003 Code § 13-1 0)

4-2-1-3: NUISANCES DEFINED; PUBLIC AND PRIVATE NUISANCES:

- A. Nuisance: A nuisance is unlawfully doing an act, or omitting to perform a duty, or is a thing or condition which either:
1. Annoys, injures or endangers the comfort, repose, health or safety of others;
 2. Offends decency;
 3. Unlawfully interferes with, obstructs or tends to obstruct, or renders dangerous for passage, any lake or navigable river, stream, canal or basin, or any public park, square, street or other public property; or
 4. In any way renders other persons insecure in life or in the use of property; provided, this section shall not apply to preexisting agricultural activities.
- B. Public Nuisance: A public nuisance is one which affects at the same time, an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon the individuals may be unequal.
- C. Private Nuisance: Every nuisance not included in subsection B of this section is a private nuisance. (2003 Code § 13-1)

4-2-1-4: SPECIFIC 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 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 town; or the keeping in violation of the state law or ordinances of the town.
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 or punchboards, or otherwise.
5. The keeping of a place where prostitution, illicit sexual intercourse or other immoral acts are practiced.
6. The keeping of a place where activities in violation of state law or ordinance are practiced or carried on.
7. The conduct or holding of public dances in violation of the ordinances of the town; or the keeping of a place where such dances are held.
8. The public exposure of a person having a contagious disease.
9. The continued making of loud or unusual noises which annoy persons of ordinary sensibilities; or the keeping of an animal which makes such noises.
10. The operation or use of any electrical apparatus or machine which materially or unduly interferes with radio or television reception by others.
11. Any use of a street or sidewalk, or a place adjacent thereto, which causes crowds of people to gather so as to obstruct traffic on such street or sidewalk, or which otherwise obstructs traffic thereon, except as may be authorized by law or ordinances.
12. Permitting water or other liquid to flow or fall, or ice or snow to fall from any building or structure upon any street or sidewalk.
13. All wells, pools, cisterns, bodies or containers of water in which mosquitoes breed or are likely to breed, or which are so constructed, formed, conditioned or situated as to endanger the public safety.

14. Rank weeds or grass, carcasses, accumulations of manure, refuse or other things which are, or are likely to be, breeding places for flies, mosquitoes, vermin or disease germs; and the premises on which such exist.

15. Any building or structure which is dangerous to the public health or safety because of damage, decay or other condition.

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

17. Any fire or explosion hazard which endangers the public safety.

18. Any occupation or activity which endangers the public peace, health, morals, safety or welfare.

19. Any motor vehicle (whether in operating condition or not) or any trailer without a current vehicle plate as required by law for vehicles used on the public highways, when stored or kept in a residential district.

20. Any stable or other place where animals are kept that may become obnoxious or annoying to any resident of this town, by reason of any noise or noises made by the animal therein, or by reason of lack of sanitation.

21. The keeping of any dog kennels within this town 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 town.

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 town.

26. Any green or unsalted hides of any animal kept in any exposed or open place within the town limits.

27. Any unclean, foul, leaking or broken or defective ditch, drain, gutter, slop, garbage or manure barrel, box, or other receptacle in this town.

28. Every building or other structure that shall become unsafe and dangerous from fire, decay or construction, location or other cause shall be detrimental to the health, safety or welfare of this town or its inhabitants from any cause. (2003 Code § 13-7)

29. The owner or occupant of a residential building, structure or property to utilize the premises of such property for the open storage of any abandoned motor vehicle, household appliance or household furniture (regardless of working condition), glass, building material, building rubbish or similar items. Additionally, it shall be the duty and responsibility of every such owner and occupant to keep the premises of such property clean and to remove from such premises all such items as listed above, including, but not limited to, weeds, dead trees, trash and garbage, upon written notice from a building official. For the purpose of this subsection, an "abandoned motor vehicle" is defined as one that is in a state of disrepair and incapable of being moved under its own power. For the purpose of this subsection, "household appliance" or "household furniture" is defined as any appliance or furniture item which is not expressly designed to be used in an outdoor environment. (Ord. 134-04, 3-9-2004)

- B. The above enumeration 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. (2003 Code § 13-7)

4-2-1-5: **PERSONS RESPONSIBLE:** 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 one who first created it. (2003 Code § 13-2)

4-2-1-6: **TIME DOES NOT LEGALIZE:** No lapse of time can legalize a public nuisance amounting to an actual obstruction of public right. (2003 Code § 13-3)

4-2-1-7: REMEDIES AGAINST NUISANCES:

- A. Public Nuisances: The remedies against public nuisances are:
1. Prosecution on complaint before the municipal court.
 2. Prosecution on information or indictment before another appropriate court.
 3. Civil action.
 4. Abatement:
 - a. By a person injured as provided in 50 Oklahoma Statutes.
 - b. By the town in accordance with law or ordinance. (2003 Code § 13-4)
- B. Private Nuisances: The remedies against a private nuisance are:
1. Civil action.
 2. Abatement:
 - a. By a person injured as provided in 50 Oklahoma Statutes.
 - b. By the town in accordance with law or ordinance. (2003 Code § 13-5)

4-2-1-8: SUMMARY ABATEMENT:

- A. Immediate Action: 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 mayor or other appropriate officer or agency of the town government to take immediate and proper action summarily to abate such nuisances, or to reduce or suspend the danger until more deliberate action can be taken toward such abatement.
- B. Statement Of Nuisance: The chief of the fire department, the chief of police, the town attorney, the building inspector, the electrical inspector, the plumbing inspector, or any other officer subordinate to the town board of trustees, may submit, through or with the consent

of the board of trustees to the board of trustees, a statement as to the existence of a "nuisance", as defined by the ordinances of the town or law, and a request or recommendation that it be abated. The board of trustees, the health officer, any trustee or any resident or residents of the town, may submit such a statement and request or recommendation to the board of trustees. (2003 Code § 13-8; amd. 2013 Code)

- C. Notice; Hearing: The board of trustees shall determine whether or not the alleged nuisance is a nuisance in fact. For the purposes of gathering evidence on the subject, the board shall have power to subpoena and examine witnesses, books, papers and other effects. Before proceeding to abate the nuisance or have it abated, the board shall give notice of a hearing on the proposed abatement to the owner of any property concerned and to any other person alleged, opportunity to be heard, if such notice and opportunity for a hearing can be given. Such notice to the owner and other persons concerned shall be given in writing by mail or service by a police officer if their names and addresses are known; but, if the names or addresses are not known and the peace, health, safety, morals or welfare of the person or persons or public adversely affected would not be unduly jeopardized by the necessary delay, a notice of the hearing shall be published in a paper of general circulation within the town.
- D. Abatement; Costs: If the board of trustees finds that a nuisance does in fact exist, it shall direct the owner and/or other person responsible for or causing the nuisance to abate it within a specified time if the peace, health, safety, morals or welfare of the person or persons or public adversely affected would not be unduly jeopardized by the consequent delay. If such peace, health, safety, morals or welfare would be jeopardized by the consequent delay, or if the owner or other persons responsible for or causing the nuisance do not abate the nuisance or to have it abated, if summary abatement is practical, as authorized by 50 Oklahoma Statutes. The town clerk-treasurer shall send a statement of the cost of such summary abatement to the owner and/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 town collectible as other debts of the town may be collected. (2003 Code § 13-8)

4-2-1-9: ABATEMENT BY SUIT IN DISTRICT COURT: In cases where it is deemed impractical summarily to abate a nuisance, the town may bring suit in the district court of the county where

the nuisance is located, as provided in 50 Oklahoma Statutes. (2003 Code § 13-9)

4-2-2: WEEDS AND TRASH:

- A. Legislative Intent: It is hereby declared the legislative intent of the board of trustees to conform hereby to the provisions of 11 Oklahoma Statutes section 22-111, and hereby to repeal any and all ordinances of this town in conflict herewith. (2003 Code § 13-11; amd. 2013 Code)
- B. Trash Defined: As used in this section, the word "trash" extends to the widest sense of that term, and includes, but without limitation upon any other meaning, refuse, litter, ashes, leaves, debris, papers, combustible materials, offal, rubbish, waste and useless or unused or uncared for matter of all kinds, whether solid or liquid in form. (2003 Code § 13-20)
- C. Report Of Nuisance To Be Made: Any officer or employee of the town who discovers an accumulation of trash or the growth of grass and weeds, or both these conditions, upon any premises within the limits of the town by reason of which such premises appears to him 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 the danger of property; or
 4. Any two {2} or more of such results in combination, shall report such condition to the town clerk-treasurer. (2003 Code § 13-12)
- D. Hearing And Consideration By Board: Upon receiving the report prescribed by subsection C of this section, or upon receipt of equivalent information from any reliable source, the mayor shall place upon the agenda of the board of trustees, for hearing and consideration at an appropriate date of meeting thereof, such as will permit giving the notices prescribed by statutory law, the question whether such premises, by reason of the conditions specified, is detrimental to the health, benefit and welfare of the public and community, or a hazard to traffic, or a fire hazard to the danger of

property, or any two (2) or more of such results in combination. (2003 Code § 13-13)

- E. Notice Of Hearing: Forthwith, and at least fifteen (15) days prior to the hearing, the mayor shall give written notice of such hearing by posting upon the premises and by forwarding a copy thereof by certified mail, with return receipt requested, to the owner of such property at the address shown by the current year's tax rolls in the office of the county treasurer of the county in which such property is located. (2003 Code § 13-14)
- F. Hearing By Board; Order To Clean Property: Upon the date specified in such notice, the board of trustees shall hear the matter and shall receive information thereon, including anything which may be presented by the owner of the premises, personally or by agent or attorney. If it determines that the conditions specified in subsection C of this section exist upon such premises, it shall order the property to be cleaned of trash or the weeds and grass cut or mowed, or both cleaning and cutting and mowing if necessary, to abate the conditions found to exist. (2003 Code § 13-15)
- G. Work Done By Town Or By Contract: The work ordered to be performed under subsection F of this section may be done by employees of this town under supervision of the mayor, or it may be let by contract to the lowest and best bidder, after appropriate notice, in the manner for letting other contracts by public bid. (2003 Code § 13-16)
- H. Costs Determined; Statement Of Costs: The board of trustees shall determine the actual cost of abatement, including the cost of notice and mailing. The town clerk-treasurer shall forward to the owner a statement and demand for payment thereof by certified mail, with return receipt requested. If the cleaning and mowing are done by the town, the cost to the property owner for said 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. (2003 Code § 13-17)
- I. Service Of Notice: The service of all notices prescribed by this section shall be evidenced by the return of the officer making such service, certified in his official capacity, and filed in the office of the town clerk-treasurer. (2003 Code § 13-18)

- J. Failure To Pay Costs; Costs Certified To County: If the cost of the work performed under this section is not paid within six (6) months from the date of mailing the notice prescribed by subsection H of this section, the town clerk-treasurer shall forward a certified statement of the amount of such costs to the county treasurer of the county in which the property upon which the work was done is located, to be levied upon the property and to be collected by the county treasurer in the manner prescribed by the law of this state. (2003 Code § 13-19)

4-2-3: PUBLIC HEALTH NUISANCES:

- A. Order For Abatement: Pursuant to authority granted by 63 Oklahoma Statutes section 1-1011, the health officer shall have authority to order the owner or occupant of any private premises in the town to remove from such premises, at his own expense, any source of filth, cause of sickness, condition conducive to the breeding of insects or rodents that might contribute to the transmission of disease, or any other condition adversely affecting the public health, within twenty four (24) hours, or within such other time as may be reasonable, and a failure to do so shall constitute an offense. Such order shall be in writing and may be served personally on the owner or occupant of the premises, or authorized agent thereof, by the health officer or by a police officer, or a copy thereof may be left at the last usual place of abode of the owner, occupant or agent, if known and within the state. If the premises is unoccupied and the residence of the owner, occupant or agent is unknown or is without the state, the order may be served by posting a copy thereof on the premises, or by publication in at least one issue of a newspaper having a general circulation in the town.
- B. Failure To Comply: If the order is not complied with, the health officer may cause the order to be executed and complied with, and the cost thereof shall be certified to the town clerk-treasurer, and the cost thereof shall be added to the water bill or other town utility bill of the owner or occupant if he is a user of water from the town water system, or such other utility service. The cost shall be treated as a part of such utility bill to which it is added, and shall become due and payable and be subject to the same regulations relating to delinquency in payment, as the utility bill itself. If such owner or occupant is not a user of any town utility service, such cost, after certification to the town clerk-treasurer, may be collected in any manner in which any other debt due the town may be collected. (2003 Code § 13-21)

4-2-4: DRAINAGE DITCHES:

- A. **Obstacle Impeding Drainage:** Any culvert, driveway, pipe or other obstacle upon or in the dedicated streets, alleys or ways of the town which impedes the flow of water through drainage ditches now constructed or which might hereafter be constructed by the town for the purpose of proper drainage of water falling from any rainfalls, which might reasonably be anticipated, shall be and are hereby declared to be public nuisances endangering and interfering with travel upon and the repair and maintenance of town streets and annoying, injuring and endangering the comfort, repose, health and safety of the citizens of the town. (2003 Code § 13-22)
- B. **Notice To Abate; Service:** Notice shall be in writing directing the owner or occupant of premises adjoining such nuisance to abate the same by removing such obstacles impeding drainage, and shall be given by mailing to the owner or occupant of such adjoining premises at his or their last known post office address, or to both, if their names and post office addresses can be ascertained with reasonable diligence, by registered or certified mail or by delivery of such notice to such owner or occupant personally by any officer, employee or agent of the town, or by posting such notice at some conspicuous place upon such premises if the name or mailing address of the owner or occupant of said premises cannot be ascertained with reasonable diligence. (2003 Code § 13-24)
- C. **Failure To Comply:** All public nuisances existing contrary to the provisions of this section not abated by the owners or occupants of adjoining premises or their agents within ten (10) days after they shall be given notice as provided herein, shall be abated by the street commissioner or other officer or employee of the town, designated by motion or resolution of the town board of trustees and acting under the direction of the board of trustees by digging up, breaking, if necessary or not reasonably avoidable, and removing such culvert, driveway, pipe or other obstacle and opening up such drainage ditch, and leaving the same open. (2003 Code § 13-32)

4-2-5: CONGREGATIONS AND LITTERING:

- A. **Congregations And Littering Declared Nuisance:**
1. Any assembly or congregation of two (2) or more persons loitering or spending their time idly after dark upon public or private streets, alleys, driveways, parking lots, or other property within public view or

hearing, where some member or members of such assembly, congregation or group cannot be identified by the town police or who are not promptly identified to the town police, are engaged or contemporaneously have engaged in disturbing the peace, offending public decency, using vile or profane language, annoying, injuring or endangering the comfort, repose, health or safety of others, or littering public or private property by throwing, dropping, laying or leaving cans, bottles, wastepaper, trash or other refuse upon such public or private property, is hereby declared to be a public nuisance. (2003 Code § 13-25)

2. It is further declared to be unlawful for any person to litter any public or private street, alley, driveway, parking lot or other property not his own, by throwing, dropping, laying or leaving bottles, cans, wastepaper, trash or other refuse in or upon such public or private property. (2003 Code § 13-28)

- B. Abatement By Chief Of Police: When any such public nuisance is in existence within the presence or personal knowledge of the chief of police, or any member of the police department, or upon written complaint of the existence of such "public nuisance", as herein defined, by any citizen of this town, such chief of police or member of the police department may abate such nuisance by ordering all members of such assembly, congregation or group to disperse and to cease and desist for the remainder of such night from loitering or spending their time idly at any public place or place open to the public or within public view within the limits of this town, and may order minors under the age of majority in such assembly, congregation or group to go to their respective homes or places of abode. (2003 Code § 13-26)
- C. Refusal To Comply: Any person who refuses to comply with or violates any order of the chief of police, or any member of the police department, pursuant to this section shall be guilty of an offense against this town, unless at the time of the giving of such order by the chief of police, or any member of the police department, such persons show justifiable cause to remain temporarily upon the streets or other public place within the town for some limited time to accomplish some lawful and legitimate purpose, in which event he may be granted permission to be or remain upon such street or other public place for the limited time necessary to accomplish such lawful and legitimate purpose. (2003 Code § 13-27)

4-2-6: POLITICAL ADVERTISING:

- A. Political Advertising Sign Defined: A "political advertising sign" is defined as any sign, poster or placard printed, painted, made or designed for the purpose of furthering or advertising the candidacy of any person who is or intends to become or may be a candidate for the election to any public office, whether such public office be in the local, state or federal government, or any subdivision thereof. (2003 Code § 13-29)
- B. Prohibited Placement Of Political Advertising Signs:
1. Streets And Easements: No person, firm or corporation shall erect or display any political advertising sign on any street or alley right of way, or upon any public utility easement within this town. (2003 Code § 13-30)
 2. Telephone, Telegraph, Electric Or Street Lighting Pole: No person, firm or corporation shall place, tack, nail, staple or glue any political advertising sign on any telephone, telegraph, electric or street lighting pole within this town. (2003 Code § 13-31)
- C. Public Nuisance Declared: Any political advertising sign erected, placed or displayed in violation of the provisions of this section shall be a public nuisance. No property right shall exist in such sign erected, placed or displayed in violation of the provisions hereof, and such sign may be removed and destroyed by any person. (2003 Code § 13-32)

4-2-7: ABATEMENT PROCEDURES CUMULATIVE: The various procedures for abating nuisances prescribed by this chapter, and by other provisions of law and ordinance, shall be cumulative one to the other; and the town may elect to follow any such procedure which is applicable in abating any particular nuisance. (2003 Code § 13-33)

4-2-8: PENALTY: Any person who violates any provision of this chapter, by doing an act prohibited or declared to be unlawful thereby, or declared to be a nuisance, an offense or misdemeanor thereby, or who fails to do any act required by any such provision, or who fails to do any act when such provision declares such failure to be unlawful or to be an offense or misdemeanor, or who violates any legal order or regulation made pursuant to this chapter, or who maintains any "nuisance", as defined

in this chapter, is guilty of an offense and, upon conviction thereof, shall be subject to penalty as provided in section 1-4-1 of this code. (2003 Code § 13-34; amd. 2013 Code)

CHAPTER 2

NUISANCES

ARTICLE A. MOTOR VEHICLE RACING FACILITIES

SECTION:

- 4-2A-1: Findings Of Nuisance And Need For Abatement
- 4-2A-2: Definitions
- 4-2A-3: Regulations Specified
- 4-2A-4: Injunctions
- 4-2A-5: Violations; Penalty

4-2A-1: **FINDINGS OF NUISANCE AND NEED FOR ABATEMENT:**
 The town council determines and finds that the operation of a motor vehicle racing facility is a nuisance to the citizens and the town if operated or used other than as prescribed in section 4-2A-3 of this article, and therefor, should be abated by the reasonable regulations required by this article. (Ord. 133-03, 12-9-2003)

4-2A-2: **DEFINITIONS:**

- A. "Motor vehicle racing facility", for purposes of this article, shall mean any facility designed or used for practicing or for competitive racing by automobiles or trucks which are modified for racing, or practice of competitive racing by motorcycles or other motor vehicles.
- B. "Motor vehicle racing facility" does not include facilities such as locations which only allows its customers to operate its own low powered and quiet vehicles and operate in such a way that it is not a nuisance. (Ord. 133-03, 12-9-2003)

4-2A-3: **REGULATIONS SPECIFIED:**

- A. Hours Of Operation: All motor vehicle racing facilities shall only be allowed to operate during the period of ten o'clock (10:00) A.M. until eleven o'clock (11:00) P.M.

- B. Days, Number Of Events Permitted: Except for any makeup races allowed in subsection C of this section, and any special two (2) day racing events allowed in subsection D of this section, all motor vehicle racing facilities will be allowed to operate one day per week and only during the racing session (within the months of March through October).
- C. Makeup Race Days: If a regularly scheduled race day is rained out or otherwise cannot be held, a makeup race day may be held within the following six (6) days, with Sunday being the exception.
- D. Special Two Day Events: Special two (2) day racing events may be held up to seven (7) times per racing season in place of the normal one racing day that week. (Ord. 133-03, 12-9-2003)

4-2A-4: INJUNCTIONS: Nothing in this article removes or reduces a property owner's right to sue or seek an injunction against any owner or operator of a motor vehicle racing facility if such a facility constitutes a private or public nuisance to that property owner. (Ord. 133-03, 12-9-2003)

4-2A-5: VIOLATIONS; PENALTY:

- A. Operators Of Facility: Any owner, lesser or lessee of real property upon which is located a motor vehicle racing facility and any operator, manager or promoter of such facility, shall ensure such facility is operated within the limits of this article and shall be guilty of a misdemeanor for any violations of the requirements of this article.
- B. Drivers: Any driver or operator of a motor vehicle upon a motor vehicle racing facility shall be guilty of a misdemeanor if the driver or operator operates his motorized vehicle in violation of any of the terms of this article. (Ord. 133-03, 12-9-2003)
- C. Penalty: Each hour or part thereof in violation of the operational hour limitations of this article shall constitute a separate violation to this article, and shall be subject to penalty as provided in section 1-4-1 of this code. (Ord. 133-03, 12-9-2003; amd. 2013 Code)

CHAPTER 3

FOOD SERVICE SANITATION

SECTION:

4-3-1: Food Service Sanitation Ordinance Adopted By Reference

4-3-1: **FOOD SERVICE SANITATION ORDINANCE ADOPTED BY REFERENCE:** The United States public health service food service sanitation ordinance and code, the latest edition thereof, is hereby adopted and incorporated herein by reference. The ordinance shall govern positions on the definitions, the inspection of food service establishments, the issuance, suspension and revocation of permits to operate food service establishments, the prohibiting of the sale of adulterated or misbranded food or drink, and the enforcement of this chapter. At least three (3) copies of the food service sanitation ordinance shall be on file in the office of the town clerk-treasurer. (2013 Code)

TITLE 5
PUBLIC SAFETY

Subject	Chapter
Police Department	1
Fire Department	2
Emergency Management	3
Animals And Fowl	4
General Provisions	4A
Domestic Animals Other Than Dogs And Cats	48
Dogs	4C
Cats	4D
Rabies Vaccination And Registration	4E
Rabies Regulations	4F
Prohibited Animals And Pit Bull Dogs Regulated	4G
Vicious Animals	4H
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Crimes And Offenses	6
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Offenses Against Decency, Morality And Public Policy	68
Offenses Against Peace	6C
Offenses Against Persons	6D
Offenses Against Property	6E
Offenses Against Public Authority	6F

CHAPTER 1

POLICE DEPARTMENT

SECTION:

5-1-1: Chief Of Police

5-1-2: Police Officers

5-1-1: CHIEF OF POLICE:

- A. Appointment; Term: There shall be a police department, the head of which shall be the police chief. In accordance with 11 Oklahoma Statutes section 12-111, the board of trustees shall appoint the police chief, and may remove him at pleasure. The police chief shall serve until the terms of the trustees expire and until his successor is appointed by the board and qualifies, unless his services are sooner terminated by death, resignation, removal by the board or other legal manner.
- B. Appointment Of Officers: In accordance with 11 Oklahoma Statutes section 12-111, the police chief shall have authority to appoint one or more police officers, subject to confirmation by the board of trustees. Police officers may be removed either by the police chief or by the board of trustees at a regular meeting.
- C. Supervision And Control Of Department: The police chief shall have the supervision and control of the police department, subject to the supervision and control of the board of trustees. (2003 Code § 1-11)

5-1-2: POLICE OFFICERS:

- A. Chief Declared Officer: The police chief is a police officer and shall have the powers and liabilities of sheriffs in executing orders of the board of trustees and enforcing the ordinances of the town, as provided by 11 Oklahoma Statutes sections 12-111 and 34-101.

B. Authority And Duties Generally:

1. It shall be the duty of the police department to apprehend and arrest on view or on warrant and bring to justice all violators of the ordinances of the town; to suppress all riots, affrays and unlawful assemblies which may come to their knowledge, and generally to keep the peace; to serve all warrants, writs, executions and other processes properly directed and delivered to them; to apprehend and arrest persons violating federal or state law as provided by law, and to turn them over to proper authorities; and in all respects to perform all duties pertaining to the offices of police officers.

2. It is hereby declared to be the purpose of this chapter to allow law enforcement officers of the town to enforce all state laws and town ordinances with all fines therefrom flowing from actions in the municipal court being allowed to be channeled into the coffers of the town treasury.

3. It is hereby declared that a municipal police officer employed by the town and acting within the scope of his employment shall, at times while on duty, have the power and authority to make or order an arrest for any offense against the criminal, traffic or juvenile laws of the state, or of the ordinances of the town. Upon a police officer making an arrest for any of the aforesaid offenses and causing the same to be filed in the municipal court, all fines collected from convictions of said offenses shall be deposited into the town treasury as provided. (2003 Code§ 1-12)

CHAPTER 2

FIRE DEPARTMENT

SECTION:

- 5-2- 1: Fire Department Established
- 5-2- 2: Fire Chief
- 5-2- 3: Assistant Fire Chief
- 5-2- 4: Company Officers
- 5-2- 5: Secretary-Treasurer
- 5-2- 6: New Members
- 5-2- 7: Departmental Rules And Regulations
- 5-2- 8: Powers And Duties Of Department And Chief
- 5-2- 9: Changes In Regulations
- 5-2-10: Fire Protection Outside Town

5-2-1: FIRE DEPARTMENT ESTABLISHED:

- A. The fire department of the town is a volunteer fire department, which has in its employ not more than two (2) full time salaried firefighters, and that it shall be comprised of not less than twelve (12) nor more than twenty five (25) volunteer firefighters.
- B. For the purpose of this chapter, a volunteer firefighter shall be considered as one who is enrolled as a member of the fire department and who serves in said capacity without receiving a regular salary. (2003 Code§ 1-13; amd. 2013 Code)

5-2-2: FIRE CHIEF:

- A. The chief shall be at the head of the department, subject to the laws of the state, ordinances of this town, and rules and regulations herein adopted.
- B. The chief shall be held responsible for the general condition and efficient operation of the department, the training of members and the performance of all other duties imposed upon him.

- C. The chief may inspect or cause to be inspected by members of the department, the fire hydrants, cisterns and other sources of water supply at least twice each year.
- D. The chief shall maintain a library or file of publications on fire prevention and fire protection and shall make use of it to the best advantage of all members.
- E. The chief shall make every effort to attend all fires and direct the officers and members in the performance of their duties.
- F. The chief shall see that the citizens are kept informed on fire hazards in the community and on activities of the department.
- G. The chief shall see that each fire is carefully investigated to determine its cause, and in the case of suspicion of incendiarism, shall notify proper authorities and secure and preserve all possible evidence for future use in the case. (2003 Code § 1-14)
- H. The chief of the fire department shall have supervision and control of the fire department, subject to the supervision and control of the board of trustees. The chief may assign duties to other members of the department. (2003 Code § 1-20)

5-2-3: ASSISTANT FIRE CHIEF: In the absence of the chief, the assistant chief on duty shall command the department and be held responsible therefor in all respect with the full powers and responsibilities of the chief. (2003 Code § 1-15)

5-2-4: COMPANY OFFICERS: The company officers shall be selected upon their ability to meet the following requirements:

- A. Their knowledge of firefighting;
- B. Their leadership ability; and
- C. Their knowledge of firefighting equipment. (2003 Code § 1-16)

5-2-5: SECRETARY-TREASURER: One member elected by the fire department shall be secretary-treasurer. His duties shall consist of the following:

- A. Calling the roll at the opening of each meeting;
- B. Keeping the minutes of each meeting;
- C. Collecting the money due the department by the members. {2003 Code§ 1-17)

5-2-6: NEW MEMBERS:

- A. Probation: All new members shall be on probation for one year after their appointment.
- B. Approval Required: New volunteer members, upon completion of their probation period, must be approved by the majority of the fire department. (2003 Code§ 1-18; amd. 2013 Code)

5-2-7: DEPARTMENTAL RULES AND REGULATIONS: The volunteer fire department shall be subject to the following:

- A. Respond To Emergencies: All volunteer firefighters are required, when notified, to respond to all alarms of fire and other emergencies;
- B. Presence At Meetings: All volunteer firefighters are required to be present at all regular meetings, call meetings and schools presented for the benefit of the firefighters;
- C. Monthly Meetings: There shall be at least one regular business meeting each month;
- D. Unexcused Absences: Any volunteer firefighter 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;
- E. Leaving Town: Volunteer firefighters leaving town for an extended period of time will be required to notify the chief;
- F. Training Classes: Any volunteer firefighter refusing to attend training classes provided for him will be dropped;
- G. Offenses: Any volunteer member of the fire department shall be expelled from the rolls for the following offenses:

1. Conduct unbecoming a firefighter;
2. Any act of insubordination;
3. Neglect of duty;
4. Any violation of rules and regulations governing the fire department;
5. Conviction of a felony. (2003 Code § 1-19)

5-2-8: POWERS AND DUTIES OF DEPARTMENT AND CHIEF:

- A. Generally: It shall be the duty of the fire department, among others, to extinguish fires; to rescue persons endangered by fire; to resuscitate, and to administer first aid to, persons injured in or about burning structures, or elsewhere in case of an emergency; to promote fire prevention; and unless otherwise provided, to enforce all ordinances relating to fires, fire prevention and safety of persons from fire in theaters, stores, and other public buildings.
- B. Information To Board: The chief shall keep the board informed regarding the fire department and its needs, and shall make such reports as the board may require. (2003 Code § 1-21)
- C. Fire Investigations: The chief is hereby required to assist the proper authorities in suppressing the crime of arson by investigating or causing to be investigated the cause, origin and circumstances of all fires. (2003 Code § 1-23)
- D. Entry Of Buildings And Premises: The chief is hereby empowered to enter any and all buildings and premises at any reasonable hour for the purpose of making inspections and to serve written notice upon the owner or occupant to abate, within a specified time, any and all fire hazards that may be found. Any person so served with a notice to abate any fire hazard or hazards shall comply therewith and promptly notify the chief. (2003 Code § 1-24)
- E. Submit Records And Reports: The chief shall see that complete records are kept of all fires, inspections, apparatus and equipment, personnel, and other information about the work of the department, and shall make such reports as the board of trustees may require. (2003 Code § 1-25)

- F. Chief To Have Charge At Fires: The chief of the fire department, or the person acting in his absence, shall have full power, control and command over all persons whomsoever present at fires; and he shall direct the use of all fire equipment and apparatus, and measures as may be necessary in the preservation and protection of property and the extinguishing of fires. (2003 Code § 1-26)
- G. Right Of Way: All motor equipment and all personal cars of the department members shall have right of way over all other traffic when responding to an alarm. (2003 Code § 1-27)

5-2-9: CHANGES IN REGULATIONS: The board of trustees, by motion or resolution, may adopt and change regulations relating to the fire department, its organization and operation. The chief may recommend such regulations and changes therein to the board at any time. (2003 Code § 1-22)

5-2-10: FIRE PROTECTION OUTSIDE TOWN:

- A. In order to protect the property within said town against fire hazards, the fire chief and fire department are hereby directed to answer fire calls outside the town limits to any property located within a five (5) mile distance of the town limits. Persons accepting such fire protection waive any rights or claims against said town for breaking and entering without permission, claims for loss or damage to buildings or contents done by firefighters, and for failure to extinguish the fire and for slow response to any calls. The fire chief shall use discretion in answering such calls, making the same subject to prior calls within the town limits and subject to the public highways being passable and open to the public and subject to the use by the fire department; and that the fire chief and firefighters in answering the calls as herein set forth, shall charge and the property owner or his agent shall pay a minimum fee in such amount as established by resolution of the board of trustees.
- B. In addition, the fire department is hereby authorized to answer emergency calls outside of the area described above which arise as a result of any mutual aid adjustment with other communities. (2003 Code § 8-17; amd. 2013 Code)

CHAPTER 3

EMERGENCY MANAGEMENT

SECTION:

- 5-3-1: Purpose; Duty
- 5-3-2: Emergency Management Department Established
- 5-3-3: Director Of Emergency Management
- 5-3-4: Compensation; Liability

5-3-1: PURPOSE; DUTY: The purpose of this chapter is to create an emergency management organization for the town to be prepared for, and to function in the event of, emergencies endangering the lives and property of the people of the town. The duty of the emergency management organization shall be the protection of the lives and health of the citizens of the town and of property rights, both private and public, and to perform all functions necessary and incident thereto. (2003 Code § 1-30; amd. 2013 Code)

5-3-2: EMERGENCY MANAGEMENT DEPARTMENT ESTABLISHED: The board of trustees, by resolution, may establish under the executive branch of the government of the town, a department of emergency management, which shall consist of:

- A. Director; Appointment: A director of emergency management, who shall be appointed by the board of trustees and serve at their pleasure.
- B. Advisory Committee: An emergency management advisory committee. This committee shall consist of the mayor of the board of trustees as chairperson, and five (5) members appointed by the chairperson of the board and serving at his pleasure. The committee shall select from its members a vice chairperson and secretary. It shall hold such meetings as are directed by the chairperson of the board. Its functions shall be to act in an advisory capacity as needed

or requested by the chairperson of the board or the director of emergency management. (2003 Code § 1-31; amd. 2013 Code)

5-3-3: DIRECTOR OF EMERGENCY MANAGEMENT:

- A. Powers And Duties Generally: The director of emergency management shall be the executive head of the department of emergency management, and shall be responsible for carrying out the emergency management program of the town. He shall serve without compensation, but may be reimbursed for expenses incurred in the performance of his duties. It is the duty of the director of emergency management, as soon as practicable after his appointment, to perfect an organization to carry out the purposes set forth in this chapter, and he shall have all the necessary power and authority to form committees or other bodies and to appoint and designate the chairperson or chief officer of such bodies as may be necessary to perfect such an organization. He shall have such further duty and responsibility to cooperate with all emergency management agencies of other governmental units, including the state and the federal government. (2003 Code § 1-32; amd. 2013 Code)
- B. Formulate Plans And Gather Information: The director of emergency management is further authorized to formulate written plans and gather information and keep written record thereof to govern the functions of the emergency management organization. (2003 Code § 1-33; amd. 2013 Code)
- C. Duties Of Director During Emergencies: In the event an enemy caused emergency or emergency resulting from natural causes, the director of emergency management, after due authorization from the mayor, shall have the power and authority to take control of transportation, communications, stocks of fuel, food, clothing, medicine and public transportation, for the purpose of protecting the civilian population. He shall cooperate in every way with the activities of other governmental agencies or emergency management organizations; and, if required by the mayor, shall have control over any and all funds allocated from any source for the purpose of alleviating distress conditions in town. (2003 Code § 1-34; amd. 2013 Code)
- D. Enforce Laws And Ordinances: The director of emergency management and other members of the emergency management organization created by him shall have the power and authority to enforce the laws of the state and ordinances of the town during the period of

5-3-3

5-3-4

emergency, and shall at such time have the further power to make arrests for violations of such laws or ordinances. (2003 Code § 1-35; amd. 2013 Code)

5-3-4: **COMPENSATION; LIABILITY:** All members of the emergency management organization created hereunder shall serve without compensation. The town shall not be liable for any personal injury received by any member of such organization while acting in the line of duty. (2003 Code § 1-36; amd. 2013 Code)

CHAPTER 4

ANIMALS AND FOWL

ARTICLE A. GENERAL PROVISIONS

SECTION:

- 5-4A-1: Definitions
- 5-4A-2: Sales Of Pets And Small Animals
- 5-4A-3: Confinement On Premises
- 5-4A-4: Bird Sanctuaries
- 5-4A-5: Cruelty To Animals; Abandonment
- 5-4A-6: Dangerous And Diseased Animals
- 5-4A-7: Notice Of Dead And Found Animals
- 5-4A-8: Inspection Of Premises Authorized
- 5-4A-9: Penalty

5-4A-1: **DEFINITIONS:** As used in this chapter, the following words and terms shall have the meanings respectively ascribed as follows:

ANIMAL: Any live, vertebrate creature, domestic or wild.

ANIMAL SHELTER: Any facility operated by a humane society, or municipal agency or its authorized agents for the purpose of impounding or caring for animals held under the authority of this chapter or state law.

ANIMALS OR POULTRY: As specifically named herein, by whatever other name they might be called, includes every age and sex of each of the species of animals or poultry referred to herein.

AREA OF ENCLOSURE: That area, large or small, in which animals are confined. Residences shall be excluded in computing the area of the enclosure.

AT LARGE:	Off of the premises of the owner and not under the restraint of the owner or a member of his immediate family, either by leash, cord, chain or otherwise. Not under restraint or confined on premises.
AUCTIONS:	Any place or facility where animals are regularly bought, sold or traded, except for those facilities otherwise defined in this chapter. This definition does not apply to individual sale of animals by owners.
CAT:	Any cat, male or female, and every other animal of feline species.
CIRCUS:	A commercial variety show featuring animal acts for public entertainment.
COMMERCIAL ANIMAL ESTABLISHMENT:	Any pet shop, grooming shop, auction, riding school or stable, zoological park, circus, performing animal exhibition or kennel.
CONFINED ON THE PREMISES:	That condition in which a dog is securely and physically confined and restrained on and within the premises of the owner by means of walls or fences of such strength and size as physically to prevent the dog from leaving the premises.
DOG:	Any dog, male or female, and every other animal of canine species.
GROOMING SHOP:	A commercial establishment where animals are bathed, clipped, plucked or otherwise groomed.
KEEPER:	Any person who engages in the business of boarding, breeding, buying, letting for hire, training for a fee, or selling dogs or cats.
KENNEL:	Any premises wherein any person engages in the business of boarding, breeding, buying, letting for hire, training for a fee, or selling dogs or cats, or any structure or premises on which three (3) or more dogs over four (4) months of age are kept.

LARGE ANIMALS:	Horses, mules, donkeys, cattle, goats, sheep or any other animal of similar size or stature.
NUISANCE:	Doing any act or omitting to perform a duty, which act or omission either annoys, injures or endangers the comfort, repose, health or safety of others, as defined by the statutes of the state and the ordinances of the town.
OWNER:	The owner of an animal and also every other person having the care or custody of, harboring, keeping or maintaining any animal.
PERFORMING ANIMAL EXHIBITION:	Any spectacle, display, act or event, other than circuses, in which performing animals are used.
PET:	Any animal kept for pleasure rather than utility.
PET SHOP:	Any person, partnership or corporation, whether operated separately or in connection with another business enterprise, except for a licensed kennel, that buys, sells or boards any species of animal.
RABIES SUSPECTED ANIMAL:	Any dog which shall have bitten a human being, or which shall have been bitten by any animal suspected of having rabies or any infection associated therewith.
RATPROOF:	A state of being constructed so as to effectively prevent entry of rodents and vectors.
RESTRAINT:	Any animal physically secured by a leash or lead, not to exceed six feet (6') in length, and under the control of a responsible person or within the real property limits of its owner.
RIDING SCHOOL OR STABLE:	Any place which has available for hire, boarding and/or riding instruction, any horse, pony, donkey, mule or burro.
SANITARY:	Any condition of good order and cleanliness which precludes the probability of disease transmission.

SMALL ANIMALS:	Rabbits, hares, guinea pigs, chickens, turkeys, guineas, geese, ducks, hamsters, pigeons or any other animal or fowl of similar size or stature.
VETERINARY HOSPITAL:	Any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis and treatment of diseases and injuries of animals.
VICIOUS ANIMAL:	One not only of disposition to attack every person or animal it may meet, but it includes as well a natural fierceness or disposition to mischief, as may occasionally lead it to attack human beings or animals 'vwithout provocation.
WILD ANIMAL:	Any live animal, including, but not limited to, monkey (nonhuman primate), raccoon, skunk, fox, poisonous or constricting snake, leopard, panther, tiger, lion, lynx, bear or other animal which can normally be found in the wild state or recognized by state and federal game and fish departments.
ZOOLOGICAL PARK:	Any facility, other than a pet shop or kennel, displaying or exhibiting one or more species of nondomesticated animals operated by a person, partnership, corporation or government agency. (2013 Code)

5-4A-2: SALES OF PETS AND SMALL ANIMALS:

- A. Weaning Ages Defined: It shall be unlawful for any person to sell, trade or barter small animals to the general public as pets prior to the proper weaning age of such animal. Proper weaning ages of small animals shall be as follows:
1. Dogs, cats, ferrets: Six (6) weeks;
 2. Hamsters: Twenty five (25) days;
 3. Rabbits: Forty two (42) to fifty six (56) days;

4. Gerbils, guinea pigs: Fourteen (14) to twenty one (21) days;
 5. Mice, rats: Twenty one (21) days or attained weight of one hundred sixty grams (160 g);
 6. For animals not above defined, the proper weaning age shall be determined by using the current standards established in the practice of veterinary medicine.
- B. Chickens, Ducklings: Chickens or ducklings younger than eight (8) weeks of age may not be sold in quantities of less than twenty five (25) to a single purchaser.
- C. Using Animals As Prizes Prohibited: No person shall give away any live animal, fish, reptile or bird as a prize for, or as an inducement to enter a place of, amusement; or offer such vertebrate as an incentive to enter into any business agreement whereby the offer was for the purpose of attracting trade. (2013 Code)

5-4A-3: **CONFINEMENT ON PREMISES:** No person shall permit any 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 said animal. Such animal may not be leashed to inanimate objects such as trees, posts, buildings, etc. (2013 Code)

5-4A-4: **BIRD SANCTUARIES:**

- A. Area Designated: The entire area of all public parks and public lands belonging to the town is hereby designated a bird sanctuary.
- B. Acts Prohibited; Exception:
1. It shall be unlawful to trap, hunt, shoot or attempt to shoot, or molest in any manner, any bird or wildfowl, or to rob wild birds' nests or wildfowls' nests.
 2. If starlings or similar birds are found to be congregating in such numbers in a particular locality that they constitute a nuisance or menace to health or property, in the opinion of the proper health authorities of the town, county or state, then the health authorities shall meet with representatives of the Audubon Society, Bird Club, Garden Club or Humane Society, or as many of said clubs as are found to exist in the town, after having given at least three (3) days'

actual notice of the time and place of the meeting to the representatives of the clubs, or required public notice. If, as a result of the meeting, no satisfactory alternative is found to abate such nuisance, then such birds may be destroyed in such numbers and in such manner as is deemed advisable by the health authorities under the supervision of the town. (2013 Code)

5-4A-5: CRUELTY TO ANIMALS; ABANDONMENT:

- A. Abuse: No person shall cruelly beat or otherwise cruelly maltreat any dumb animal in this city; or wilfully and wantonly kill, maim, wound, poison or disfigure any horse, ass, mule, cattle, sheep, goat, swine, dog or other domesticated animal or bird, or beast of any kind; or **mutilate, cruelly kill, overdrive, override, overload, unnecessarily confine**, or in any manner oppress the same; or unnecessarily fail to provide the same with proper food, drink or shelter; or drive, work or use the same if such animal is maimed, wounded, sick, lame or otherwise unfit for labor; or wilfully abandon the same to die; or carry, or cause the same to be carried, hauled or forced along in a cruel or inhumane manner; or leave any animal tied up or confined anywhere, day and night, exposed to inclement weather; or without properly feeding, watering and caring for the same.
- B. Outdoor Shelter Required: Natural or artificial shelter appropriate to the local climatic conditions for the species concerned shall be provided for all animals kept outdoors to afford them protection from all elements and to prevent discomfort of such animals. When sunlight is likely to cause overheating or discomfort of the animals, sufficient shade by natural or artificial means shall be provided to allow all animals kept outdoors to protect themselves from direct sunlight. A suitable method of drainage shall comply with applicable federal, state and local laws and regulations relating to pollution control or the protection of the environment. Every person having custody of animals which are kept outdoors or in an unheated enclosure shall provide such animal with the following minimum standards of shelter:
1. The shelter for small animals or pets shall include a moistureproof and windproof structure of suitable size to accommodate the animal and allow retention of body heat and shall be made of durable material. The opening shall face away from the prevailing winds or be covered by a flexible windproof material or a self-closing swinging door.

2. The shelter for livestock shall be at least a three (3) sided, roofed structure made of durable material. The opening shall face away from the prevailing winds.

- C. Lawful Killing Of Animals: This subsection shall not be construed as preventing police officers or other persons from killing animals when lawfully entitled to do so.
- D. Transporting Dogs In Vehicles: Dogs shall be transported in an enclosure which shall prevent escape. The dog shall not be tethered, roped or chained or restrained in a manner which will cause or is likely to cause physical injury or suffering.
- E. Animal Poisoning: No person shall expose any known poisonous substance, whether mixed with food or not, so that the same shall be liable to be eaten by any animal, except that poisonous substances for the control of vermin of significance to public health may be used under the direction of the town, county or state health departments.
- F. Abandonment Of Animals: It is unlawful for any person owning, harboring or having care, custody or control over any animal to abandon any animal within the town.
- G. Animal Fights: It is unlawful for any person to promote, permit, stage, hold, manage, conduct, carry on or attend any game, exhibition, contest or fight in which one or more animals, fowl or birds are exhibited for the purpose of injuring, killing, maiming or destroying themselves or any other animals.
- H. Hobbling Livestock Or Animals: It is unlawful for any person to hobble livestock or other animals by any means which may cause injury or damage to any animal. (2013 Code)

5-4A-6: DANGEROUS AND DISEASED ANIMALS:

- A. Prohibited: No person shall keep any animal which is known or believed by him to be infected with a dangerous or communicable disease.
- B. Exception: Subsection A of this section shall not apply to any licensed veterinary hospital, zoo, ranch or other place where such animals are adequately cared for with due regard for public health and safety. (2013 Code)

5-4A-7: NOTICE OF DEAD AND FOUND ANIMALS:

- A. The owner or keeper, other than a veterinarian, of any animal which dies within the town limits, or the owner, occupant or person having control of any premises within the town on which any animal dies or is found dead, shall give immediate notice to the town, unless arrangements are made for disposal of said animal within twenty four (24) hours. The owner of any animal which dies shall bear the responsibility for disposing of said animal.
- B. No person shall, without the knowledge and consent of the owner, have in his possession for more than twenty four (24) hours, any animal which he or she does not own without first reporting to the town the following: the name, address and telephone number of the person in possession of the animal and a complete description of the animal and the circumstances under which the animal came into their possession. No penalty shall be incurred for failure to follow this subsection. (2013 Code)

5-4A-8: INSPECTION OF PREMISES AUTHORIZED: Subject to constitutional limitations, the chief of police or other town official may inspect any property, pet store, kennel, pen or enclosure covered by this chapter at any reasonable hour during the day. Obstructing the inspection covered by this section shall be a violation. (2013 Code)

5-4A-9: PENALTY: Any person violating any provision of this article shall be guilty of an offense. Each day that any violation hereof continues to exist or is maintained shall be and constitutes a separate offense. Penalties are outlined in section 1-4-1 of this code and shall apply for each offense. (2013 Code)

CHAPTER 4

ANIMALS AND FOWL

**ARTICLE B. DOMESTIC ANIMALS OTHER
THAN DOGS AND CATS**

SECTION:

- 5-48-1: Applicability
- 5-48-2: Area, Enclosure And Location
- 5-48-3: Fence Requirements
- 5-48-4: Sanitation Standards
- 5-48-5: Swine Prohibited
- 5-48-6: Running At Large
- 5-48-7: Tethering On Right Of Way
- 5-48-8: Penalty

5-48-1: **APPLICABILITY:** It shall be unlawful for any person to keep, maintain or have in his possession any animals or fowl, domestic or wild, large or small, except as herein provided. It is and shall be unlawful for any person to keep, own, maintain or have in his possession any animals or fowl, domesticated or wild, large or small, within the corporate limits of the town, except that domestic animals or fowl, large or small, may be kept under the conditions hereinafter set forth, provided a permit is first obtained as hereinafter provided. This article shall not apply to the keeping of dogs or cats as set out in articles C and D of this chapter. (2013 Code)

5-48-2: **AREA, ENCLOSURE AND LOCATION:**

- A. Large Animals, Except Swine: Horses, mules, donkeys, goats, sheep, cattle and other similar size large animals, except swine, may not be kept on any parcel of land containing less than five thousand (5,000) square feet in area for the first large animal; providing one additional large animal may be quartered for each additional two thousand (2,000) square feet of area in excess of the first five

thousand (5,000) square feet. Said large animals shall be confined in an enclosure, provided such enclosure prevents them from being quartered within forty feet (40') of the exterior limits of a church, business, school or residence, including the residence of the owner.

B. Small Animals, Except Dogs And Cats:

1. Ducks, geese, chickens, hamsters, chinchillas, guineas, pigeons and other similar size small animals or fowl, except dogs and cats, or any combination of twelve (12) or more such animals or fowl, may not be kept on any parcel of land containing less than two thousand (2,000) square feet in area; provided twelve (12) or fewer additional small animals or fowl may be quartered for each additional one thousand (1,000) square feet of area in excess of the first two thousand (2,000) square feet. Such small animals or fowl shall be confined in an enclosure, provided such enclosure prevents the small animals or fowl from being quartered within forty feet (40') of the exterior limits of a church, school, business or residence, including the residence of the owner.

2. It is unlawful for any person to confine any wild or domestic fowl or birds, unless provisions are made by each person for the proper feeding and the furnishing of water to such fowl or birds at intervals not longer than twelve (12) hours. No person shall impound any wild or domestic fowl or birds in a crate box or other enclosure, which crate box or other enclosure does not permit each fowl or bird impounded therein to stand in a naturally erect position and make normal postural adjustments. (2013 Code)

5-48-3: FENCE REQUIREMENTS: Any owner of any animal or animals who builds a fence in the town for the purpose of keeping an animal or animals is hereby required to build such fence so that it will conform to the buildings on the premises and the immediate surroundings in neatness and appearance. The enclosure shall be sufficient to prevent the animals from escaping therefrom and running at large. (2013 Code)

5-48-4: SANITATION STANDARDS:

A. Generally:

1. It shall be the duty of the holder of any permit provided for in this article where animals or fowl are kept, to maintain and operate the

housing and premises in such a manner as not to create a health nuisance.

2. Each pen or enclosure shall be sprayed with a suitable residual spray as often as necessary to control flies and other insects as determined by the chief of police.

3. It is unlawful to dump or place any manure or other wastes from such pens or enclosures in the garbage cans serviced by the sanitation department of the town.

4. Exterior limits of animal or fowl enclosures shall be at least fifty feet (50') from any private water well.

5. The failure of any keeper of animals or fowl to comply with the sanitation standards shall be cause for the revocation of permits.

B. Pigeons: The standards of sanitation for the keeping of pigeons as established by the chief of police shall be followed. (2013 Code)

5-48-5: SWINE PROHIBITED: It shall be unlawful and an offense for any person to rear or keep swine within the town. (2013 Code)

5-48-6: RUNNING AT LARGE: It shall be unlawful to permit the running at large of domestic fowl, cattle, hogs, horses, mules, sheep, goats and other animals within the town. (2013 Code)

5-48-7: TETHERING ON RIGHT OF WAY: It shall be an offense for any person to tether animals for grazing purposes on any road or street right of way within the town. (2013 Code)

5-48-8: PENALTY:

A. Any person who shall violate any of the provisions of this article, or fail to comply therewith with any of the requirements thereof, shall be deemed guilty of an offense and each day such violation is permitted to exist shall constitute a separate offense. Any person who assists in the commission of any such violation shall be deemed guilty of a

separate offense. Penalties are outlined in section 1-4-1 of this code and shall apply for each such offense.

- B. In addition to the remedies otherwise provided, the city shall institute any proper legal proceedings in the name of the town to abatement of any nuisance or other violations. (2013 Code)

CHAPTER 4

ANIMALS AND FOWL

ARTICLE C. DOGS

SECTION:

- 5-4C-1: Authority To Seize, Impound
- 5-4C-2: Running At Large
- 5-4C-3: Failure To Surrender Violator
- 5-4C-4: Nuisance Dogs
- 5-4C-5: Animal Waste
- 5-4C-6: Vaccination And Licensing
- 5-4C-7: Reclaiming
- 5-4C-8: Unreclaimed
- 5-4C-9: Penalty

5-4C-1: **AUTHORITY TO SEIZE, IMPOUND:** It is the duty of the chief of police or persons designated by him, to seize and impound, for the times and under the conditions hereinafter stated, every abandoned dog, every vicious dog, every rabies suspected dog, every dog which is a nuisance as hereinafter provided, and every dog, either licensed or unlicensed, which is found running at large upon the streets, alleys or public places, or upon private premises not under the control of the owner of such dog, and every dog, the keeping or harboring of which is declared to be an offense. (2013 Code)

5-4C-2: **RUNNING AT LARGE:** It shall be unlawful for any person to allow any dog owned, possessed, kept or harbored by him to run at large on the streets, alleys or public places, or on any private premises not under the control of such person, within any area zoned for residential, commercial or industrial use, whether such dog is licensed or unlicensed. (2013 Code)

5-4C-3: **FAILURE TO SURRENDER VIOLATOR:** It shall be unlawful to fail or refuse to deliver to the chief of police or any person

designated by him, upon demand, any licensed or unlicensed dog, any vicious dog, any dog which is a nuisance, any rabies suspected dog or any dog, the keeping or harboring of which is declared to be an offense. (2013 Code)

5-4C-4: NUISANCE DOGS:

- A. Prohibited: It shall be unlawful for any person to harbor, keep or have possession of any dog which is a "nuisance", as defined in subsection B of this section.
- B. Nuisance Defined: A dog constitutes a public nuisance when such dog:
1. Molests passersby or passing vehicles;
 2. Attacks other animals;
 3. Trespasses on school grounds;
 4. Is repeatedly at large;
 5. Damages private or public property;
 6. Barks, whines or howls in an excessive, continuous or untimely fashion, or otherwise endangers or offends the well being of the public without cause;
 7. Overturns any garbage can or other vessel for waste products or scatters the contents of same.
- C. Procedure For Nuisance Dogs: It is the duty of the chief of police or persons designated by him, upon being notified that any person claiming that a dog is a nuisance, within the meaning of this article, has filed a verified complaint alleging that such dog is a "nuisance", as defined in subsection B of this section, to seize and impound the dog therein described. If the municipal court finds that no nuisance exists, it shall order the dog to be surrendered to the owner or owners thereof. If the municipal court finds that the nuisance exists without cause, it shall order the dog destroyed as in the case of a vicious dog; however, if the owner of such dog gives a good and sufficient bond in the sum of two hundred fifty dollars (\$250.00) with a surety to be approved by the judge of the municipal court conditioned that such owner shall abate and prevent such nuisance,

the municipal court shall order the return of such dog to the owner thereof upon payment of the impounding fees herein specified. Nothing in this section shall be construed to permit any dog to run or be at large, except as permitted under the town ordinances. No such dog shall be returned to the owner if the same is a vicious dog or in any event unless the same is vaccinated, registered and licensed as required by this article. (2013 Code)

5-4C-5: ANIMAL WASTE: The owner of every dog shall be responsible for the removal of any excreta deposited by his dog on public walks, recreation areas or private property. (2013 Code)

5-4C-6: VACCINATION AND LICENSING: All persons possessing a dog or dogs within the town limits shall comply with the provisions of article E of this chapter. (2013 Code)

5-4C-7: RECLAIMING:

- A. No person shall be entitled to reclaim any dog found to be a nuisance, except as herein provided, nor shall any person be entitled to reclaim any dog found to be rabid or vicious; but the owner may reclaim any dog seized under the terms of this chapter within the times and under the conditions stated herein. After the expiration of the ten (10) day term as to every dog held under observation and not showing symptoms of rabies, and as to every other dog within forty eight (48) hours from the time of seizure, excluding Saturday, Sunday and all federal holidays, the owner may reclaim any dog seized hereunder by submitting proof, satisfactory to the chief of police or person designated by him, of his ownership of such dog and by paying any license fees then due for the current year in addition to any applicable impounding fee for any dog, plus the costs of providing care and maintenance of the dog for each day since the seizure thereof. In the event the dog reclaimed has not been vaccinated for rabies in accordance with the terms of this chapter, the person reclaiming it must have the dog properly vaccinated and submit proof of such vaccination to the chief of police or persons designated by him. Failure to submit such proof within three (3) days will constitute a violation of this article.
- B. No dog shall be released without satisfactory proof of ownership and without payment of the charges herein prescribed, nor shall the

payment thereof constitute any defense in any prosecution that may be instituted for violation of the terms of this article.

- C. No poundage shall be charged for any licensed dog surrendered to the owner on acquittal or dismissal of the charges of harboring such dog as a nuisance or as a vicious dog. (2013 Code)

5-4C-8: UNRECLAIMED: At the expiration of the time within which the owner may reclaim any dog seized under the provisions of this article, it is the duty of the humane society, chief of police or any other person designated by him, to destroy any dog not then reclaimed, and cause the body thereof to be disposed of; however, if in the judgment and discretion of the humane society, chief of police or officer designated by him, the unreclaimed animal should not be destroyed, then the humane society or chief of police may, after the time for reclaiming such dog has expired, sell and dispose of the dog for a sum equal to the total poundage, plus any license or registration fees then due. Before selling or disposing of any dog in this manner, all dogs must be vaccinated for rabies. (2013 Code)

5-4C-9: PENALTY: Any person who shall violate any provision of this article, or fail to comply therewith, shall be deemed guilty of an offense. Each day such violation exists shall be a separate offense. Penalties as outlined in section 1-4-1 of this code shall apply. (2013 Code)

CHAPTER 4
ANIMALS AND FOWL
ARTICLE D. CATS

SECTION:

- 5-40- 1: Authority To Seize, Impound
- 5-40- 2: Failure To Surrender Violator
- 5-40- 3: Nuisance Cats
- 5-40- 4: Animal Waste
- 5-40- 5: Vaccination And Licensing
- 5-40- 6: Isolation When Rabies Suspected
- 5-40- 7: Reclaiming
- 5-40- 8: Unreclaimed
- 5-40- 9: Release From Pound
- 5-40-10: Penalty

5-40-1: **AUTHORITY TO SEIZE, IMPOUND:** It is the duty of the chief of police, or his authorized representatives, to seize and impound, for the times and under the conditions hereinafter stated, every abandoned cat, every vicious cat, every rabies suspected cat, every cat which is a nuisance, as hereinafter provided, and every cat, either licensed or unlicensed, which is found running at large upon the streets, alleys or public places, or upon private premises not under the control of the owner of such cat, and every cat, the keeping or harboring of which is declared to be an offense. (2013 Code)

5-40-2: **FAILURE TO SURRENDER VIOLATOR:** It shall be unlawful to fail or refuse to deliver to the chief of police or his designated representative, upon demand, any licensed or unlicensed cat, any vicious cat, any cat which is a nuisance, any rabies suspected cat, or any cat, the keeping or harboring of which is declared to be an offense. (2013 Code)

5-4D-3: NUISANCE CATS:

- A. Prohibited: It shall be unlawful for any person to harbor, keep or have possession of any cat which is a "nuisance", as defined in subsection B of this section.
- B. Nuisance Defined: A cat constitutes a public nuisance when such cat:
1. Molests passersby or passing vehicles;
 2. Attacks other animals;
 3. Trespasses on school grounds;
 4. Is repeatedly at large;
 5. Damages private or public property;
 6. Meows, whines or howls in an excessive, continuous or untimely fashion, or otherwise endangers or offends the well being of the public without cause;
 7. Overturns any garbage can or other vessel for waste products or scatters the contents of same.
- C. Procedure For Nuisance Cats: It is the duty of the chief of police or persons designated by him, upon being notified that any person claiming that a cat is a nuisance, within the meaning of this article, has filed a verified complaint alleging that such cat is a "nuisance", as defined in subsection B of this section, to seize and impound the cat therein described. If the municipal court finds that no nuisance exists, it shall order the cat to be surrendered to the owner or owners thereof. If the court finds that the nuisance exists without cause, it shall order the cat destroyed as the case of a vicious cat; however, if the owner of such cat gives a good and sufficient bond in the sum of two hundred fifty dollars (\$250.00) with a surety to be approved by the judge of the municipal court conditioned that such owner shall abate and prevent such nuisance, the court shall order the return of such cat to the owner thereof upon payment of the impounding fees herein specified. Nothing in this section shall be construed to permit any cat to run or be at large, except as permitted under the town ordinances. No such cat shall be returned to the owner if the same is a vicious cat or in any event unless the same is

vaccinated, registered and licensed as required by this article. (2013 Code)

5-40-4: ANIMAL WASTE: The owner of every cat shall be responsible for the removal of any excreta deposited by his cat on public walks, recreation areas or private property. (2013 Code)

5-40-5: VACCINATION AND LICENSING: A person possessing a cat or cats within the town limits shall comply with the provisions of article E of this chapter. (2013 Code)

5-40-6: ISOLATION WHEN RABIES SUSPECTED: The chief of police or his designated representative may require or cause any cat which he has reason to believe may be infected with rabies to be confined in accordance with this chapter. (2013 Code)

5-40-7: RECLAIMING:

- A. No person shall be entitled to reclaim any cat found to be a nuisance, except as herein provided, nor shall any person be entitled to reclaim any cat found to be rabid or vicious; but the owner may reclaim any other cat seized under the terms of this article within the times and under the conditions stated herein. After the expiration of the ten (10) day terms as to every cat held under observation and not showing symptoms of rabies, and as to every other cat within forty eight (48) hours from the time of seizure, excluding Saturday, Sunday and all federal holidays, the owner may reclaim the cat seized hereunder by submitting proof, satisfactory to the chief of police or his designated representative, of his ownership of such cat and by paying any license fees then due for the current year in addition to any applicable impounding fee for any cat, plus the costs of providing care and maintenance of the cat for each day since the seizure thereof. In the event the cat reclaimed has not been vaccinated for rabies in accordance with the terms of this article, the person reclaiming it must have the cat properly vaccinated and submit proof of such vaccination to the chief of police or his designated representative. Failure to submit such proof within three (3) days will constitute a violation of this article.

- B. No poundage shall be charged for any licensed cat surrendered to the owner on acquittal or dismissal of the charges of harboring such cat as a nuisance or as a vicious cat. (2013 Code)

5-40-8: UNRECLAIMED: At the expiration of the time within which the owner may reclaim any cat seized under the provisions of this article, it is the duty of the humane society, chief of police or person designated by him, to destroy any cat not then reclaimed, and cause the body thereof to be disposed of; however, if in the judgment and discretion of the humane society, chief of police or person designated by him, the unreclaimed animal should not be destroyed, then the humane society or chief of police may, after the time for reclaiming such cat has expired, sell and dispose of the cat for a sum equal to the total poundage, plus any license or registration fees then due. Before selling or disposing of any cat in this manner, all cats must be vaccinated for rabies. (2013 Code)

5-40-9: RELEASE FROM POUND: Whenever a cat is impounded because the same is not licensed or because it is suspected of rabies, the cat shall not be released to the owner or person making claim thereto until the chief of police or his designated representative holding the cat shall be furnished with a certificate of vaccination from a veterinarian or other person legally authorized to immunize against rabies during the calendar year, and that any applicable impounding fee for any cat, plus the cost of providing care and maintenance of the cat for each day since the seizure thereof has been paid. (2013 Code)

5-40-10: PENALTY: Any person who shall violate any provision of this article or fail to comply therewith, shall be deemed guilty of an offense. Each day such violation exists shall be a separate offense. Penalties as outlined in section 1-4-1 of this code shall apply. (2013 Code)

CHAPTER 4

ANIMALS AND FOWL

ARTICLE E. RABIES VACCINATION AND REGISTRATION

SECTION:

- 5-4E-1: Rabies Vaccination, Registration, License Fee Required
- 5-4E-2: Certification Of Rabies Vaccination
- 5-4E-3: Frequency Of Rabies Vaccination
- 5-4E-4: Exemption For Transient Dogs Or Cats
- 5-4E-5: License And Registration Fees; Term
- 5-4E-6: Penalty

5-4E-1: **RABIES VACCINATION, REGISTRATION, LICENSE FEE REQUIRED:** It is a duty of every person owning or having in his charge or possession, within the town, any dog or cat over the age of six (6) months to cause the dog or cat to be vaccinated for rabies, and to register the dog or cat with the town clerk-treasurer or designee and to pay the license fee as hereinafter provided. (2013 Code)

5-4E-2: **CERTIFICATION OF RABIES VACCINATION:** Each veterinarian vaccinating dogs or cats for rabies shall issue to the owner of a rabies vaccinated dog or cat a certificate showing the name of the owner of the dog or cat, the date of rabies vaccination and a sufficient description of the dog or cat to identify the same as required for registration. (2013 Code)

5-4E-3: **FREQUENCY OF RABIES VACCINATION:** No vaccination against rabies shall be recognized or entitle the owner of the dog or cat to register it unless such vaccination shall have been within the calendar year for which the license is issued or within a period of sixty (60) days prior thereto. (2013 Code)

5-4E-4

5-4E-6

5-4E-4: EXEMPTION FOR TRANSIENT DOGS OR CATS: The requirement of an annual registration shall not apply to any dog or cat which may follow or be led by a nonresident or traveler through the city while such dog or cat is with its owner or keeper. The waiver of this provision for the dog or cat of a nonresident or traveler shall not exceed a period of thirty (30) days. (2013 Code)

5-4E-5: LICENSE AND REGISTRATION FEES; TERM: The license, registration fees and term shall be as provided by resolution of the board of trustees. (2013 Code)

5-4E-6: PENALTY: It shall be unlawful for any person to violate this **article. Each day such violation sha!! exist sha!! constitute a** separate offense. Penalties as outlined in section 1-4-1 of this code shall apply for each such offense. (2013 Code)

CHAPTER 4

ANIMALS AND FOWL

ARTICLE F. RABIES REGULATIONS

SECTION:

- 5-4F-1: Proclamation Of Rabies Epidemic
5-4F-2: Procedure When Rabies Suspected

5-4F-1: **PROCLAMATION OF RABIES EPIDEMIC:** If at any time the board of trustees finds that there is an epidemic of rabies within the town, or any part thereof, the mayor shall issue a proclamation proclaiming the existence of an epidemic of rabies, which proclamation shall be published two (2) times in a newspaper printed and published in the town, and which proclamation shall fix the dates and duration of the epidemic. During the time of the epidemic as above fixed, all animals within the town shall be confined on the premises of the owner or kept under leash. The existence of an unusual number of rabid animals in the city shall be deemed an epidemic of rabies under this article, and the finding as to an epidemic of rabies by the town board of trustees shall be prima facie evidence of that fact. (2013 Code)

5-4F-2: **PROCEDURE WHEN RABIES SUSPECTED:** Every animal seized for having bitten a human being, or being suspected of having rabies, or having been bitten by an animal having or suspected of having rabies or other infectious disease associated therewith, shall be immediately picked up by the chief of police or other persons designated by him and securely and separately confined for observation for a period of ten (10) days. If, within said period, the animal becomes rabid or shows symptoms or indications of rabies, it shall be the duty of the chief of police or persons designated by him to destroy the animal. If the animal is not rabid and is duly vaccinated and licensed and is neither a nuisance or vicious, it shall be surrendered to the owner on demand after the expiration of the ten (10) day period and upon paying the impounding fee as provided in this chapter. (2013 Code)

CHAPTER 4

ANIMALS AND FOWL

**ARTICLE G. PROHIBITED ANIMALS AND
PIT BULL DOGS REGULATED**

SECTION:

- 5-4G-1: Prohibited Animals
- 5-4G-2: Pit Bull Dogs Regulated
- 5-4G-3: Penalty

5-4G-1: **PROHIBITED ANIMALS:** It shall be unlawful to keep, harbor, own or in any way possess within the corporate limits of the town:

- A. Any warm blooded, carnivorous or omnivorous, wild or exotic animal, excluding fowl, ferrets and small rodents of varieties used for laboratory purposes and excluding exhibitions of animals maintained by a zoological park.
- B. Any animal having a poisonous bite.
- C. Any pit bull dog; provided, that pit bull dogs registered with the town within ten (10) days of the effective date hereof may be kept within the town subject to the provisions of section 5-4G-2 of this article. (2013 Code)

5-4G-2: **PIT BULL DOGS REGULATED:**

- A. Defined: A "pit bull dog" is defined as:
 1. The bull terrier breed of dog.
 2. The Staffordshire bull terrier breed of dog.

3. The American pit bull terrier breed of dog.
 4. The American Staffordshire bull terrier breed of dog.
- B. Keeping Of Registered Pit Bull Dogs: The prohibition of subsection 5-4G-1C of this article shall not apply to pit bull dogs registered within the town within ten (10) days of the effective date hereof. The keeping of such dog shall be subject to the following standards:
1. Leash And Muzzle: No person shall permit a registered pit bull dog to go outside its kennel or pen unless such dog is securely leashed with a leash no longer than four feet (4') in length. No person shall permit a pit bull dog 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 dogs may not be leashed to inanimate objects such as trees, posts, buildings, etc. In addition, all pit bull dogs on a leash outside the animal's kennel must be muzzled by a muzzling device sufficient to prevent such dog from biting persons or other animals.
 2. Confinement: All registered pit bull dogs shall be securely confined indoors or in a securely enclosed and locked pen or kennel, except when leashed and muzzled as provided in subsection B1 of this section. Such pen, kennel or structure must have secure sides and a secure top attached to the sides. All structures used to confine registered pit bull dogs must be locked with a key or combination lock when such animals are within the structure. Such structure must have a secure bottom or floor attached to the sides of the pen or the sides of the pen must be embedded in the ground no less than two feet (2'). All structures erected to house pit bull dogs must comply with all zoning and building regulations of the town. All such structures must be adequately lighted and ventilated and kept in a clean and sanitary condition.
 3. Confinement Indoors: No pit bull dog may be kept on a porch, patio or in any part of a house or structure that would allow the dog to exit such building on its own volition. In addition, no such animal may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacle preventing the dog from exiting the structure.
 4. Signs: All owners, keepers or harborers of registered pit bull dogs within the town shall, within ten (10) days of the effective date hereof, display in a prominent place on their premises a sign easily readable by the public using the words "Beware Of Dog". In addition,

a similar sign is required to be posted on the kennel or pen of such animal.

5. Insurance: All owners, keepers or harborers of registered pit bull dogs must, within ten (10) days of the effective date hereof, provide proof to the town clerk-treasurer of public liability insurance in a single incident amount of fifty thousand dollars (\$50,000.00) for bodily injury to or death of any person or persons, or for damage to property owned by any persons which may result from the ownership, keeping or maintenance of such animal. Such insurance policy shall provide that no cancellation of the policy will be made unless ten (10) days' written notice is first given to the town.

6. Identification Photographs: All owners, keepers or harborers of registered pit bull dogs must, within ten (10) days of the effective date hereof, provide to the town clerk-treasurer two (2) color photographs of the registered animal clearly showing the color and approximate size of the animal.

7. Reporting Requirements: All owners, keepers or harborers of registered pit bull dogs must, within ten (10) days of the incident, report the following information in writing to the town clerk-treasurer as required hereinafter:

a. The removal from the town or death of the registered pit bull dog;

b. The birth of offspring of a registered pit bull dog;

c. The new address of a registered pit bull dog owner should the owner move within the corporate town limits.

8. Sale Or Transfer Of Ownership: No person shall sell, barter or in any other way dispose of a pit bull dog registered with the town to any person within the town, unless the recipient person resides permanently in the same household and on the same premises as the registered owner of such dog; provided, that the registered owner of the pit bull dog may sell or otherwise dispose of a registered dog or the offspring of such dog to persons who do not reside within the town.

9. Animals Born Of Registered Dogs: All offspring born of pit bull dogs registered with the town must be removed from the town within six (6) weeks of the birth of such animal.

10. Registration: All pit bull dogs shall be registered by the owner with the town clerk-treasurer within ten (10) days of the effective date hereof. No pit bull dog shall be registered by the town clerk-treasurer if the requirements of subsections B5 and 86 of this section are not complied within at the time of application. In addition to the regular fees required by the town, an additional fee as established by resolution of the board of trustees shall be charged for each pit bull dog so registered.

- C. Irrebuttable Presumptions: There shall be an irrebuttable presumption that any dog registered with the town as a pit bull dog or any of those breeds prohibited by subsection 5-4G-1C of this article, is, in fact, a dog subject to the requirements of this section.
- D. Failure To Comply: It shall be unlawful for the owner, keeper or harbinger of a pit bull dog registered with the town to fail to comply with the requirements and conditions set forth in this article. Any dog found to be the subject of a violation of this article shall be subject to immediate seizure and impoundment. In addition, failure to comply will result in the revocation of the license of such animal, resulting in the immediate removal of the animal from the town. (2013 Code)

5-4G-3: PENALTY: Any person violating or permitting the violation of any provision of this article shall, upon conviction in municipal court, be subject to penalty as provided in section 1-4-1 of this code, plus costs. In the event the violation shall involve a registered pit bull dog or other animal covered by this article, the court shall order the registration of the subject pit bull dog revoked and the animal removed from the town. Should the defendant owners refuse to remove the animal from the town, the municipal court judge shall find the defendant owner in contempt and order the immediate confiscation and impoundment of the animal. If the owner shall continue to refuse to remove the animal from the town, the municipal court judge shall issue any other orders necessary to carry out the intent of this section. Each day that a violation of this article continues shall be deemed a separate offense. In addition to the foregoing penalties, any person who violates this section shall pay all expenses, including shelter, food, handling, veterinary care and testimony necessitated by the enforcement of this article. (2013 Code)

CHAPTER 4

ANIMALS AND FOWL

ARTICLE H. VICIOUS ANIMALS

SECTION:

5-4H-1:	Keeping Prohibited
5-4H-2:	Attacks Prohibited
5-4H-3:	Summons And Complaint
5-4H-4:	Impoundment
5-4H-5:	Hearing
5-4H-6:	Determination
5-4H-7:	Penalty

5-4H-1: **KEEPING PROHIBITED:** It is unlawful for any person, owner or possessor to keep a "vicious animal", as defined in section 5-4A-1 of this chapter. (2013 Code)

5-4H-2: **ATTACKS PROHIBITED:**

A. Attack Defined: For the purposes of this section, the word "attack" shall mean violent or aggressive physical contact.

B. Prohibited Acts:

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

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

- C. Exceptions: The provisions of this section shall not apply to any law enforcement officer who uses or employs an animal while engaged in law enforcement activities, nor to any owner, possessor or keeper whose animal attacks or bites a person engaged in physically attacking or striking said owner, possessor or keeper. (2013 Code)

5-4H-3: SUMMONS AND COMPLAINT:

- A. Any person who witnesses or has personal knowledge that an act or **acts made unlawful by this article have been committed** complaint against the alleged violator.
- B. Any police officer, animal welfare officer or code enforcement officer who is employed by the town is authorized to issue a summons and complaint when said officer personally observes a violation of this article.
- C. The complaint 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.
 6. Other facts and circumstances of the incident. (2013 Code)

5-4H-4: IMPOUNDMENT: It shall be the duty of the police department, upon receipt of a verified complaint as outlined in subsection 5-4H-3A or 8 of this article, to cause the animal involved to be impounded pending a determination as required by this chapter. Any and all

expenses associated with the impounding, including shelter, food, handling and veterinary care, shall be borne by the owner of such animal during the period of impoundment. (2013 Code)

5-4H-5: **HEARING:** The municipal judge shall hold a hearing to determine if the animal is vicious, as defined by section 5-4A-1 of this chapter. (2013 Code)

5-4H-6: **DETERMINATION:** The municipal judge shall be empowered to make one of the following determinations as a result of said hearing:

A. **Surrender To Owner:** The animal is in fact not vicious, in which event the chief of police shall cause it to be surrendered to the owner of the animal, upon payment by the owner of the expenses outlined in section 5-4H-4 of this article.

B. **Destruction:** The animal is in fact vicious and should be destroyed.

C. **Good Cause For Nondestruction:** The animal is vicious but that for good cause shown, the animal should not be destroyed, in which event the judge shall order one of the following:

1. **Removal From Town:** The animal be immediately removed from the corporate limits of the town and not to ever be again allowed within the corporate limits of the town and that the owner give a good and sufficient bond in the amount of two hundred fifty dollars (\$250.00) and pay all fees required by this article.

2. **Maintained Within Town:** The owner be allowed to maintain the vicious animal within the corporate limits of the town under the following conditions:

a. **Payment Of Fees:** Payment of all fees required by this chapter.

b. **Leash And Muzzle:** No person shall permit an animal covered by this subsection to go outside its kennel or pen unless such animal is securely leashed with a leash no longer than four feet (4') in length. No person shall permit said animal to be kept on a chain, rope or other type of leash outside its kennel or pen unless a person is in physical control of the leash. Such animal may not be leashed to inanimate objects, such as trees, posts, buildings, etc. In addition,

all animals on a leash outside the animal's kennel must be muzzled by a muzzling device sufficient to prevent such animal from biting persons or other animals.

c. Confinement: All animals covered by this subsection shall be securely confined indoors or in a securely enclosed and locked pen or kennel, except when leashed and muzzled as above provided. Such pen, kennel or structure must have secure sides and a secure top attached to the sides. All structures used to confine said animals must be locked with a key or combination lock when such animals are within the structure. Such structure must have a secure bottom or floor attached to the sides of the pen or the sides of the pen must be embedded in the ground no less than two feet (2'). All structures erected to house said animals must comply with all zoning and building regulations of the town. All such structures must be adequately lighted and ventilated and kept in a clean and sanitary condition.

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

e. Signs: All owners, keepers or harborers of animals covered by this subsection within the town shall display in a prominent place on their premises a sign easily readable by the public using the words "Beware Of Vicious Animal". In addition, a similar sign is required to be posted on the kennel or pen of such animal. (2013 Code)

5-4H-7: PENALTY: Any person violating or permitting the violation of any provision of this article shall, upon conviction, be subject to penalty as provided in section 1-4-1 of this code. (2013 Code)

CHAPTER 4

ANIMALS AND FOWL

ARTICLE I. IMPOUNDING

SECTION:

- 5-41- 1: Animal Pound
- 5-41- 2: Enforcement
- 5-41- 3: Impound, Reclaiming Fees
- 5-41- 4: Disposition Of Impounded Animals By Public Sale
- 5-41- 5: Notice Of Sale Of Impounded Animals
- 5-41- 6: Redemption Of Impounded Animals
- 5-41- 7: Monthly Report
- 5-41- 8: Obstruction Prohibited
- 5-41- 9: Breaking Open Pound
- 5-41-10: Penalty

5-41-1: ANIMAL POUND: There is hereby created within the town an animal pound, to be operated by the town by and through the chief of police. (2013 Code)

5-41-2: ENFORCEMENT:

- A. The chief of police, or his designee, shall be and is hereby authorized as the keeper of the pound, pen, building, enclosure or other place used and occupied for the impounding of animals.
- B. The chief of police shall take into his custody all animals, other than dogs and cats, found running at large in the town, and confine them in the place designated by the board of trustees. (2013 Code)

5-41-3: IMPOUND, RECLAIMING FEES: Impound and reclaiming fees shall be in such amounts as established by resolution of the board of trustees. (2013 Code)

5-41-4: DISPOSITION OF IMPOUNDED ANIMALS BY PUBLIC SALE:

- A. Any animal taken into custody and impounded shall not be advertised for public sale by the chief of police until after the expiration of five (5) days from the time of impounding.
- B. The chief of police, under the supervision and control by the town clerk-treasurer, or his designated representative, shall personally attend to the selling of all animals and shall give five (5) days' previous notice of the time and place of any sale by causing written notice thereof to be posted in three (3) public places in the town, giving a description of the property to be sold. The excess of monies arising from the sale after deducting the costs, charges and expenses allowed pursuant to this article shall be paid into the town treasury. (2013 Code)

5-41-5: NOTICE OF SALE OF IMPOUNDED ANIMALS:

- A. Prior to the public sale of impounded animals as provided in section 5-41-4 of this article, the town clerk-treasurer shall post notices of sale at three (3) public places for at least five (5) days prior to sale. The notice shall read as follows:

NOTICE OF SALE OF IMPOUNDED ANIMALS

Notice is hereby given that the following animals were found running at large contrary to the provisions of the laws of the town of Pocola and have been taken up and impounded in the stock pound of said town.

Unless redeemed within five (5) days of the date of this notice, said animals shall be sold at public auction for cash to the highest bidder at the town pound.

_____ at the hour of _____ o'clock on the day of _____; 20__ .

Such animals are described as follows: _____

Dated this ___ day of _____; 20__

*_____
Town clerk-treasurer of the town of Pocola*

- B. If the owner of the impounded animal is known, a copy of the notice shall be served on him by delivering the copy to the owner or by leaving a copy at his residence with some member of his family over the age of fourteen (14) years. (2013 Code)

5-41-6: REDEMPTION OF IMPOUNDED ANIMALS: If the owner of any animal applies to and pays the town clerk-treasurer his fees and charges at any time before the sale of his animal, the chief of police shall release the animal to the owner. (2013 Code)

5-41-7: MONTHLY REPORT: Upon the tenth day of every month, the chief of police shall render to the town clerk-treasurer a full statement on all animals received into the pound during the preceding month, describing the animals with the name of the owner, if known, the date all redeemed animals were received, the date of redemption of those sold and the time of sale. Forms for such reports shall be prescribed by the town clerk-treasurer. (2013 Code)

5-41-8: OBSTRUCTION PROHIBITED: No person shall hinder, delay or obstruct any person duly authorized to take animals into custody or to the town pound during the performance of his official duties. (2013 Code)

5-41-9: BREAKING OPEN POUND: No person shall break open or in any manner directly or indirectly aid or assist in, or counsel, or advise the breaking open of any town pound. (2013 Code)

5-41-10: PENALTY: Any person violating this article shall be guilty of an offense. Each day that any violation hereof continues to exist or is maintained shall be and constitutes a separate offense. Penalties as outlined in section 1-4-1 of this code shall apply for each such offense. (2013 Code)

CHAPTER 5

FIREWORKS

SECTION:

- 5-5-1: Selling Or Furnishing Fireworks
- 5-5-2: Discharging Fireworks
- 5-5-3: Penalty

5-5-1: **SELLING OR FURNISHING FIREWORKS:** Any person who sells, exposes for sale or otherwise furnishes to others any firecracker, or any other fireworks or species of fireworks, or explosive of any kind commonly referred to as class C, within the corporate limits of the town, shall comply with the requirements mandated in 68 Oklahoma Statutes sections 1621 through 1634 and the Oklahoma state fire marshal commission rules established in accordance with 68 Oklahoma Statutes section 1633. (2003 Code § 8-15; amd. 2013 Code)

5-5-2: **DISCHARGING FIREWORKS:** If any person shall shoot, discharge or explode any cannon cracker, firecracker, torpedo, skyrocket, or any other fireworks or species of fireworks, or any toy pistol or explosive of any kind within the corporate limits, he or she shall be guilty of an offense. (2003 Code § 8-16)

5-5-3: **PENALTY:** Any person, firm or corporation who violates any provision of this chapter, shall be guilty of an offense and, upon conviction, shall be subject to penalty as provided in section 1-4-1 of this code. (2003 Code § 8-18; amd. 2013 Code)

CHAPTER 6

CRIMES AND OFFENSES

ARTICLE A. GENERAL OFFENSES AND PENALTY

SECTION:

5-6A-1: Attempts To Commit An Offense

5-6A-2: Aiding In An Offense

5-6A-3: Penalty

5-6A-1: **ATTEMPTS TO COMMIT AN OFFENSE:** Every person who attempts to commit an offense against the ordinances of the town, and in such attempt does any act toward the commission of such offense, but fails or is prevented or intercepted in the perpetration thereof, is guilty of an offense, and shall be punished in the manner prescribed for the offense itself. (2003 Code § 14-3)

5-6A-2: **AIDING IN AN OFFENSE:** When no punishment for counseling, aiding or abetting in the commission of a particular offense is expressly prescribed by ordinance, every person who counsels, aids or abets another in the commission of such is guilty of an offense and punishable in the same manner as the principal offender. (2003 Code § 14-4)

5-6A-3: **PENALTY:** Any person who violates any provision of this chapter is guilty of an offense and, upon conviction, shall be subject to penalty as provided in section 1-4-1 of this code. (2003 Code § 14-55; amd. 2013 Code)

CHAPTER 6

CRIMES AND OFFENSES

**ARTICLE B. OFFENSES AGAINST DECENCY,
MORALITY AND PUBLIC POLICY**

SECTION:

- 5-6B- 1: Harmful Deception
- 5-6B- 2: False Or Bogus Checks
- 5-6B- 3: Begging
- 5-6B- 4: Loitering
- 5-6B- 5: Prostitution
- 5-6B- 6: Nudity, Improper Dress, Indecent Exposure
- 5-6B- 7: Loitering Around Residence To Watch Occupants
- 5-6B- 8: Intoxicating Liquors
- 5-6B- 9: Consuming Or Inhaling Intoxicants In Public Places
- 5-6B-10: Narcotics

5-6B-1: **HARMFUL DECEPTION:** Every person who, with intent to cheat and defraud, shall obtain or attempt to obtain from any person, firm or corporation any money, property or valuable thing, by means or by use of any trick or deception, or false or fraudulent representation or statement or pretense, or by any other means or instruments or device commonly called the "confidence game", or by means or use of any false or bogus checks, or by any other written or printed or engraved instrument or spurious coin, shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to penalty as provided in section 1-4-1 of this code. (2003 Code§ 14-7; amd. 2013 Code)

5-6B-2: **FALSE OR BOGUS CHECKS:** It is unlawful for any person to make, draw, utter or deliver any false or bogus checks, drafts or orders as specified in 21 Oklahoma Statutes section 1541.1 et seq. (2003 Code§ 14-8; amd. 2013 Code)

5-68-3: **BEGGING:** It is unlawful for any person to beg alms from any person, organization or agency, except an organization or agency, public or private, whose purpose or one of whose purposes is to aid persons in need. (2003 Code§ 14-11)

5-68-4: **LOITERING:**

- A. **Children Not To Loiter On Streets:** It is unlawful for any person under eighteen (18) years of age to loaf or loiter on any street, alley or other public place within the town between eleven o'clock (11:00) P.M. and six o'clock (6:00) A.M., except on any Friday and Saturday, then twelve o'clock (12:00) midnight to six o'clock (6:00) A.M. will be the prohibited time; or for any parent or guardian of any such person **to permit such person to loaf or loiter in such a place at such a time.** (2003 Code§ 14-12)
- B. **Loitering About Public Areas:** It is unlawful for a person to loiter on or about the premises of a public or private school, or in or about any public building, or in or about a depot of a public carrier. (2003 Code§ 14-13)

5-68-5: **PROSTITUTION:**

- A. **Definitions:** As used in this section, unless otherwise provided for by law:

ANAL INTERCOURSE:	Contact between human beings of the genital organs of one and the anus of another.
CHILD PROSTITUTION:	"Prostitution" or "lewdness", as defined in this section, with a person under sixteen (16) years of age, in exchange for money or any other thing of value.
CUNNILINGUS:	Any act of oral stimulation of the vulva or clitoris.
FELLATIO:	Any act of oral stimulation of the penis.
LEWDNESS:	1. Any lascivious, lustful or licentious conduct;

2. The giving or receiving of the body for indiscriminate sexual intercourse, fellatio, cunnilingus, masturbation, anal intercourse or lascivious, lustful or licentious conduct with any person not his or her spouse; or

3. Any act in furtherance of such conduct or any appointment or engagement for prostitution.

MASTURBATION: Stimulation of the genital organs by manual or other bodily contact exclusive of sexual intercourse.

PROSTITUTION: 1. The giving or receiving of the body for sexual intercourse, fellatio, cunnilingus, masturbation, anal intercourse or lewdness with any person not his or her spouse, in exchange for money or any other thing of value; or

2. The making of any appointment or engagement for sexual intercourse, fellatio, cunnilingus, masturbation, anal intercourse or lewdness with any person not his or her spouse, in exchange for money or any other thing of value.

B. Prohibited Acts And Activities:

1. It shall be unlawful in the town:

a. To keep, set up, maintain or operate any house, place, building, other structure, or part thereof, or vehicle, trailer, or other conveyance with the intent of committing an act of prostitution, lewdness or assignation;

b. To knowingly own any house, place, building, other structure, or part thereof, or vehicle, trailer, or other conveyance used with the intent of committing an act of lewdness, assignation or prostitution, or to let, lease or rent, or contract to let, lease or rent any such place, premises or conveyance, or part thereof, to another with knowledge or reasonable cause to believe that the intention of the lessee or renter is to use such place, premises or conveyance for prostitution, lewdness or assignation;

c. To offer, or to offer to secure, another with the intent of having such person commit an act of prostitution, or with the intent of having such person commit any other lewd or indecent act;

d. To receive or to offer or agree to receive any person into any house, place, building, other structure, vehicle, trailer or other conveyance with the intent of committing an act of prostitution, lewdness or assignation, or to permit any person to remain there with such intent;

e. To direct, take or transport, or to offer or agree to take or transport, or aid or assist in transporting, any person to any house, place, building, other structure, vehicle, trailer or other conveyance, or to any other person with knowledge or having reasonable cause to **believe that the intent of such directing, taking or transporting is** prostitution, lewdness or assignation;

f. To knowingly accept, receive, levy or appropriate any money or other thing of value without consideration from a prostitute or from the proceeds of any woman engaged in prostitution;

g. To knowingly abet the crime of prostitution by allowing a house, place, building or parking lot to be used or occupied by a person who is soliciting, inducing, enticing or procuring another to commit an act of lewdness, assignation or prostitution, or who is engaging in prostitution, lewdness or assignation on the premises of the house, place, building or parking lot.

2. It shall further be unlawful:

a. To engage in prostitution, lewdness or assignation;

b. To solicit, induce, entice or procure another to commit an act of lewdness, assignation or prostitution, with himself or herself;

c. To reside in, enter or remain in any house, place, building or other structure, or to enter or remain in any vehicle, trailer or other conveyance with the intent of committing an act of prostitution, lewdness or assignation; or

d. To aid, abet or participate in the doing of any of the acts prohibited in subsections B2a through B2c of this section.

- C. Child Prostitution Unlawful: Any prohibited act described in subsection 82 of this section committed with a person under sixteen (16) years of age shall be deemed child prostitution. (2013 Code)

5-68-6: NUDITY, IMPROPER DRESS, INDECENT EXPOSURE: It is unlawful for any person to appear in any public place in the town in a state of nudity, or to make an indecent public exposure of his or her person. (2003 Code§ 14-20; amd. 2013 Code)

5-68-7: LOITERING AROUND RESIDENCE TO WATCH OCCUPANTS:

- A. Definition: As used in this section, the phrase "private area of the person" means the naked or undergarment clad genitals, pubic area, buttocks or any portion of the areola of the female breast of that individual.

- B. Prohibited Acts And Activities:

1. Every person who hides, waits or otherwise loiters in the vicinity of any private dwelling house, apartment building, any other place of residence, or in the vicinity of any locker room, dressing room, restroom or any other place where a person has a right to a reasonable expectation of privacy, with the unlawful and wilful intent to watch, gaze or look upon any person in a clandestine manner shall, upon conviction, be guilty of a misdemeanor. The violator shall be subject to penalty as provided in section 1-4-1 of this code.

2. Every person who uses photographic, electronic or video equipment in a clandestine manner for any illegal, illegitimate, prurient, lewd or lascivious purpose with the unlawful and wilful intent to view, watch, gaze or look upon any person without the knowledge and consent of such person when the person viewed is in a place where there is a right to a reasonable expectation of privacy, or who publishes or distributes any image obtained from such act, shall be subject to penalty as provided in section 1-4-1 of this code.

3. Every person who uses photographic, electronic or video equipment in a clandestine manner for any illegal, illegitimate, prurient, lewd or lascivious purpose with the unlawful and wilful intent to view, watch, gaze or look upon any person and capture an image of a private area of a person without the knowledge and consent of such person and knowingly does so under circumstances in which a

reasonable person would believe that the private area of the person would not be visible to the public, regardless of whether the person is in a public or private place, shall be subject to penalty as provided in section 1-4-1 of this code. (2013 Code)

5-68-8: INTOXICATING LIQUORS:

- A. **Manufacture, Sale:** It is unlawful for any person to barter, sell, give away or otherwise furnish to another any intoxicating liquor or beverage of any kind, except as permitted by law. (2003 Code§ 14-22)
- B. **Possession Of Intoxicating Liquors:** It is unlawful for any person to have in his possession or under this control any intoxicating liquor or **beverage of any kind, except as permitted by law, or to transport or** in any manner convey from place to place within the town any such intoxicating liquor or beverage except as permitted by law. (2003 Code § 14-23)
- C. **Loitering Where Intoxicating Liquor Sold Contrary To Law:** It is unlawful for any person to loiter in any place where intoxicating liquor or beverage of any kind is bartered, sold, given away or otherwise furnished contrary to law. (2003 Code § 14-24)
- D. **Maintaining Place Where Intoxicating Liquor Sold Contrary To Law:** It is unlawful for any person, or any agent or employee thereof, to keep, maintain or aid or abet in keeping or maintaining a place where intoxicating liquor is sold, bartered, given away or otherwise furnished in violation of law or the ordinances of the town. (2003 Code§ 14-25)

5-68-9: CONSUMING OR INHALING INTOXICANTS IN PUBLIC PLACES: Any person who shall, in any public place, or in or upon any passenger coach, streetcar, or in or upon any other vehicle commonly used for the transportation of passengers, or in or about any depot, platform, waiting station or room, drink or otherwise consume any intoxicating liquor, unless authorized by the Oklahoma alcoholic beverage control act, intoxicating substance or intoxicating compound of any kind, or inhale glue, paint or other intoxicating substance, or if any person shall be drunk or intoxicated in any public or private road, or in any passenger coach, streetcar, or any public place or building, or at any public gathering, from drinking or consuming such intoxicating liquor, intoxicating substance or intoxicating compound or from inhalation of glue, paint or other intoxi-

eating substance, or if any person shall be drunk or intoxicated from any cause and shall disturb the peace of any person, he shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to penalty as provided in section 1-4-1 of this code. (2013 Code)

5-68-10: NARCOTICS:

- A. Definition: The term "controlled dangerous drug" shall have the meaning prescribed by 63 Oklahoma Statutes section 2-101 for "controlled dangerous substance".
- B. Prohibitions: It is unlawful for any person:
1. To appear or be upon or in any street, alley, place of business or other public place while under the influence of marijuana, opium, narcotics or controlled dangerous drugs;
 2. To use, have or possess marijuana, opium, narcotics or controlled dangerous drugs upon or in any street, alley, place of business, or other public place within the town;
 3. To use marijuana, opium, narcotics or controlled dangerous drugs in any place within the town except as legally prescribed by a physician licensed to practice in the state;
 4. To loiter about a place where marijuana, opium, narcotics or controlled dangerous drugs are sold or furnished illegally; or
 5. To sell or furnish illegally to another person marijuana, opium, narcotics or controlled dangerous drugs. (2003 Code § 14-27; amd. 2013 Code)

CHAPTER 6

CRIMES AND OFFENSES

ARTICLE C. OFFENSES AGAINST PEACE

SECTION:

- 5-6C-1: Concealed Weapons
- 5-6C-2: Discharging Firearms, Air Rifles, BB Guns
- 5-6C-3: Unlawful Assembly
- 5-6C-4: Disturbance By Loud Or Unusual Noise, Or Abusive, Violent, Obscene, Profane Or Threatening Language
- 5-6C-5: Preventing, Disturbing And Acts Constituting Disturbance Of Religious Worship
- 5-6C-6: Penalty For Disturbing Assembly Or Meeting
- 5-6C-7: Displaying Insulting Signs
- 5-6C-8: Literature Or Language Ridiculing Deity

5-6C-1: **CONCEALED WEAPONS:** It is unlawful for any person to carry concealed upon or about his person any pistol, revolver, bowie knife, dirk, dagger, metal knuckle, switchblade knife, or other dangerous or deadly weapon or instrument, except when doing so in line of duty or as may be permitted by law. (2003 Code§ 14-28)

5-6C-2: **DISCHARGING FIREARMS, AIR RIFLES, BB GUNS:**

A. It is unlawful for any person to discharge a firearm within the town limits, except in areas zoned as agricultural, in the line of duty, when lawfully doing so in defense of oneself, or another person, or of property, or when otherwise authorized by law or ordinance.

B. It shall be unlawful for any person to fire, shoot or discharge any air rifle, air gun, pellet weapon or CO² cartridge within the limits of the town except areas zoned as agricultural. (2003 Code§ 14-29)

5-6C-3: **UNLAWFUL ASSEMBLY:** It is unlawful and constitutes unlawful assembly for three (3) or more persons to assemble with the intent or with means and preparations to do an unlawful act which would be a riot if actually committed, but do not act toward the commission thereof, or whenever such persons assemble without authority of law, and in such a manner as is adopted to disturb the public peace or excite public alarm. (2003 Code§ 14-30)

5-6C-4: **DISTURBANCE BY LOUD OR UNUSUAL NOISE, OR ABUSIVE, VIOLENT, OBSCENE, PROFANE OR THREATENING LANGUAGE:** If any person shall wilfully or maliciously disturb, either by day or night, the peace and quiet of the town, or any village, neighborhood, family or person by loud or unusual noise, or by abusive, violent, obscene or profane language, whether addressed to the party so disturbed or some other person, or by threatening to kill, do bodily harm or injury, destroy property, fight or by quarreling or challenging to fight, or fighting, or shooting off any firearms, or brandishing the same, or by running any horse at unusual speed along any street, alley, highway or public road, he shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be subject to penalty as provided in section 1-4-1 of this code. (2003 Code § 14-31; amd. 2013 Code)

5-6C-5: **PREVENTING, DISTURBING AND ACTS CONSTITUTING DISTURBANCE OF RELIGIOUS WORSHIP:**

- A. **Preventing Religious Acts By Threat Or Violence:** Every person who wilfully prevents, by threats or violence, another person from performing any lawful act enjoined upon or recommended to such person by the religion which he professes, is guilty of a misdemeanor.
- B. **Disturbing Religious Worship:** Every person who wilfully disturbs, interrupts or disquiets any assemblage of people met for religious worship, by any of the acts or things hereinafter enumerated, is guilty of a misdemeanor.
- C. **Acts Constituting Disturbance:** The following are the acts deemed to constitute disturbance of a religious meeting:
 - 1. Uttering any profane discourse, committing any rude or indecent act, or making any unnecessary noise, either within the place where

such meeting is held, or so near it as to disturb the order and solemnity of the meeting.

2. Exhibiting, within one mile, any shows or plays without a license by the proper authority.

3. Engaging in, or aiding or promoting within the like distance, any racing of animals or gaming of any description.

4. Obstructing in any manner, without authority of law, within the like distance, the free passage along any highway to the place of such meeting. (2003 Code§ 14-32; amd. 2013 Code)

5-6C-6: PENALTY FOR DISTURBING ASSEMBLY OR MEETING:
Every person who, without authority of law, wilfully disturbs or breaks up any assembly or meeting, not unlawful in its character, is guilty of a misdemeanor. (2003 Code§ 14-33; amd. 2013 Code)

5-6C-7: DISPLAYING INSULTING SIGNS: It is unlawful for any person to display any sign, emblem, badge, flag or device which in its common acceptance is insulting, profane or abusive to the citizens of the town, and which is calculated or of which the natural consequence is, to cause a breach of the peace or an assault. (2003 Code § 14-35)

5-6C-8: LITERATURE OR LANGUAGE RIDICULING DEITY: It is unlawful for any person to circulate any literature or use any language within the corporate limits of the town, that casts profane ridicule on any deity or religion, which in its common acceptance is calculated to cause a breach of the peace or assault. (2003 Code § 14-36)

CHAPTER 6

CRIMES AND OFFENSES

ARTICLE D. OFFENSES AGAINST PERSONS

SECTION:

5-6D-1: Assault And Battery

5-6D-1: ASSAULT AND BATTERY:

- A. Assault Defined: An assault is any wilful and unlawful attempt or offer with force or violence to do corporal hurt to another.
- B. Battery Defined: A battery is any wilful and unlawful use of force or violence upon the person of another.
- C. Prohibition: It is unlawful to commit an assault or an assault and battery within the town, and any person committing an assault or an assault and battery within the town is guilty of an offense. (2003 Code § 14-37)

CHAPTER 6

CRIMES AND OFFENSES

ARTICLE E. OFFENSES AGAINST PROPERTY

SECTION:

- 5-6E-1: Larceny
- 5-6E-2: Automobile Or Motor Vehicle, Loitering In, Injuring Or Molesting
- 5-6E-3: Destroying, Injuring Or Molesting Buildings And Other Property
- 5-6E-4: Placing Signs On Property Of Another
- 5-6E-5: Discharging Firearm
- 5-6E-6: Unlawful Consumption Of Gas
- 5-6E-7: Unlawful Intrusion Upon Land
- 5-6E-8: Unlawful Entrance

5-6E-1: LARCENY:

- A. Defined: Larceny is the taking of personal property accomplished by fraud or stealth, and with intent to deprive another thereof.
- B. Unlawful: Larceny is unlawful, and any person who commits larceny is guilty of an offense. (2003 Code§ 14-38; amd. 2013 Code)

5-6E-2: **AUTOMOBILE OR MOTOR VEHICLE, LOITERING IN, INJURING OR MOLESTING:** From and after the effective date hereof, it shall be unlawful for any person or persons to loiter in or upon any automobile or motor vehicle, or to deface or injure such automobile or motor vehicle, or to molest, drive or attempt to drive any automobile for joyriding or any other purpose, or to manipulate or meddle with any machinery or appliances thereof, without the consent of the owner of such automobile or motor vehicle. (2003 Code§ 14-39; amd. 2013 Code)

5-6E-3: **DESTROYING, INJURING OR MOLESTING BUILDINGS AND OTHER PROPERTY:** It is unlawful for any person to destroy, injure, deface, besmear or molest any structure, building, out-building, fence or any other property, real or personal, public or private, belonging to another; or to use any such property wrongfully to the detriment of the owner or other person entitled to its use; or to interfere wrongfully with the use of any such property by its owner or any other person entitled to its use. (2003 Code§ 14-40)

5-6E-4: **PLACING SIGNS ON PROPERTY OF ANOTHER:** It is unlawful for any person to place, stick, tack, paste, post, paint, mark, write or print any sign, poster, picture, announcement, advertisement, bill, placard, device or inscription upon any public or private building, fence, sidewalk, bridge, viaduct, post, automobile, other vehicle or other property of another, without the consent of the owner or persons in charge thereof. (2003 Code § 14-41)

5-6E-5: **DISCHARGING FIREARM:** Every person who wilfully discharges any pistol, rifle, shotgun, air gun or other weapon, or throws any other missile in any public place, or in any place where there is any person to be endangered thereby, although no injury to any person shall ensue, is guilty of a misdemeanor. (2013 Code)

5-6E-6: **UNLAWFUL CONSUMPTION OF GAS:** Every person who, with intent to defraud, makes or causes to be made, any pipe or other instrument or contrivance, and connects the same, or causes it to be connected, with any pipe laid for conducting illuminating gas, so as to conduct gas to a point where the same may be consumed without its passing through the meter providing for registering the quantity consumed, or in any other manner so as to evade paying therefor, and every person who with like intent injures or alters any gas meter, or obstructs its action, is guilty of a misdemeanor. (2013 Code)

5-6E-7: **UNLAWFUL INTRUSION UPON LAND:** Every person who intrudes or squats upon any lot or piece of land within the town without license or authority from the owner thereof, or who erects or occupies thereon any hut, hovel, shanty or other structure without such license or authority, and every person who places, erects or occupies within the bounds of any street, alley or avenue of the town, any hut, hovel, shanty or other structure whatever is guilty of an offense. (2003 Code§ 14-44)

5-6E-8: UNLAWFUL ENTRANCE: It is unlawful for any person to enter the property of another or into an area or structure on such property (whether such property, area or structure is public or private), when such entrance is plainly forbidden by signs or otherwise, or when the property, area or structure is enclosed, except when such entrance is in line of duty, or with the expressed or tacit consent of the owner or person in charge, or otherwise by authority of law or ordinance. (2003 Code § 14-45)

CHAPTER 6

CRIMES AND OFFENSES

ARTICLE F. OFFENSES AGAINST PUBLIC AUTHORITY

SECTION:

- 5-6F-1: Refusal To Aid Officer In Arrest
- 5-6F-2: Resisting Officers
- 5-6F-3: Rescuing Prisoners; Assisting To Escape; Giving Weapons,
Alcoholic Beverages Or Narcotics
- 5-6F-4: Escape Or Attempt To Escape From Arrest Or Detention
- 5-6F-5: Impersonating Officer Or Employee
- 5-6F-6: False Fire Alarm
- 5-6F-7: False Representation To Officer
- 5-6F-8: Removal Of Barricades

5-6F-1: **REFUSAL TO AID OFFICER IN ARREST:** Every person who, after having been lawfully commanded to aid any officer in arresting any person or in retaking any person who has escaped from legal custody, or in executing any legal process, wilfully neglects or refuses to aid such officer, is guilty of a misdemeanor. (2003 Code § 14-46; amd. 2013 Code)

5-6F-2: **RESISTING OFFICERS:** It is unlawful for any person knowingly or wilfully to resist, oppose or obstruct the chief of police, any other police officer, the municipal judge, or other officer or employee of the town in the discharge of his official duties; or by threats or otherwise, to intimidate or attempt to intimidate any such officer or employee from the discharge of his official duties; or to assault or beat or revile, abuse, be disrespectful to, use abusive or indecent language toward or about, any such officer or employee while such officer or employee is in the discharge of his official duties. (2003 Code § 14-47)

5-6F-3: **RESCUING PRISONERS; ASSISTING TO ESCAPE; GIVING WEAPONS, ALCOHOLIC BEVERAGES OR NARCOTICS:** It is unlawful for any person, in any unlawful manner, to set at liberty, rescue, or attempt to set at liberty or rescue, any prisoner or prisoners, from any officer or employee of the town having legal custody of the same or from the town jail or other place of confinement by the town, or to assist such prisoner with any weapon or object which might be used as a weapon or instrument to assist him in escape, or to give such prisoner any alcoholic beverage or narcotics. (2003 Code § 14-48)

5-6F-4: **ESCAPE OR ATTEMPT TO ESCAPE FROM ARREST OR DETENTION:** It is unlawful for any person, after being lawfully arrested or detained by a peace officer, to escape or attempt to escape from such peace officer. (2003 Code § 14-49)

5-6F-5: **IMPERSONATING OFFICER OR EMPLOYEE:** It is unlawful for any person to impersonate any officer or employee of the town, falsely represent himself to be an officer or employee of the town, or exercise or attempt to exercise any of the duties, functions or powers of an officer or employee of the town without being duly authorized to do so. (2003 Code § 14-50)

5-6F-6: **FALSE FIRE ALARM:** It is unlawful for any person to turn in a false fire alarm, or in any manner to deceive or attempt to deceive the fire department or any officer or employee thereof with any fire alarm or reported fire, or knowingly to cause the fire department or its officers or employees to make a useless run. (2003 Code § 14-51)

5-6F-7: **FALSE REPRESENTATION TO OFFICER:** It is unlawful for any person, or any agent or employee thereof, knowingly to make any material misrepresentation of any officer, employee or agency of the town government in any official application to, or official dealing or negotiation with, such officer or agency; or to commit perjury before any tribunal or officer of the town. (2003 Code § 14-52)

5-6F-8: **REMOVAL OF BARRICADES:** It is unlawful for any person, except by proper authority, to remove any barricade or obstruction placed by authority of the town to keep traffic off any pavement, street, curb, sidewalk or other area. (2003 Code § 15-54)

TITLE 6
MOTOR VEHICLES AND TRAFFIC

Subject	Chapter
State Traffic Code; General Provisions	1
Administration And Enforcement	2
Rules Of The Road	3
Parking Regulations	4
Bicycles	5
Impounded Vehicles	6

CHAPTER 1

STATE TRAFFIC CODE; GENERAL PROVISIONS

SECTION:

- 6-1- 1: State Traffic Code Adopted
- 6-1- 2: Definitions
- 6-1- 3: State Vehicle License Required
- 6-1- 4: Traffic Control Devices
- 6-1- 5: One-Way Streets And Alleys
- 6-1- 6: Obstructed Intersection
- 6-1- 7: Driving On Sidewalk
- 6-1- 8: Riding Regulations
- 6-1- 9: Parades And Funeral Processions
- 6-1-10: Driving Or Parking In Parks
- 6-1-11: Vehicles Prohibited Or Restricted; Exceptions Coasters,
- 6-1-12: Roller Skates And Similar Devices Motorcycles,
- 6-1-13: Minibikes, Motorized Bicycles And Scooters Prohibited
- 6-1-14: Vehicle Sound Amplification Systems

6-1-1: STATE TRAFFIC CODE ADOPTED:

- A. Code Adopted: The Oklahoma highway traffic safety code, 47 Oklahoma Statutes, as amended, and every ten (10) years' recodification thereof, is hereby adopted and incorporated in this title, as if set out at length herein, for the purpose of establishing locally appropriate rules and regulations for the control of traffic within the town.
- B. Definitions: The definitions of words used in this title shall be the same as those definitions in 47 Oklahoma Statutes section 1-101 et seq., as amended.
- C. Copy On File: The office of the town clerk-treasurer shall maintain at least one copy of the current Oklahoma highway traffic safety code adopted by this section on file in the office of said town clerk-treasurer. (2013 Code)

6-1-2: DEFINITIONS: The following words, terms and phrases, when used in this title, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

HANDICAPPED PARKING SPACE: A parking space designated with an official traffic control device and is reserved for the exclusive use of vehicles transporting handicapped persons.

OFFICIAL TIME STANDARD: Whenever certain hours are named herein, they shall mean standard time or daylight saving time as may be in current use in the town. (2013 Code)

6-1-3: **STATE VEHICLE LICENSE REQUIRED:** It is unlawful to operate a vehicle of any kind upon a street of the town without a state vehicle license as may be required by law, or to fail to display the state vehicle license as may be required by law. (2013 Code)

6-1-4: **TRAFFIC CONTROL DEVICES:**

- A. **Authority To Install:** The town shall place and maintain official traffic control devices when and as required under the traffic ordinances of the town to make effective the provisions of ordinances, and may place and maintain such additional official traffic control devices as may be deemed necessary to regulate, warn or guide traffic under the traffic ordinances of the town or the state vehicle code.
- B. **Specifications:** All traffic control signs, signals and devices shall conform to the manual and specifications approved by the state highway department. All signs and signals required under this title for a particular purpose shall, so far as practicable, be uniform as to type and location throughout the town. All traffic control devices so erected and not inconsistent with the provisions of state law or this title shall be official traffic control devices.
- C. **Presumption Of Legality:**
 - 1. Whenever official traffic control devices are placed in position approximately conforming to the requirements of this section, such devices shall be presumed to have been so placed by the official act

or direction of lawful authority, unless the contrary shall be established by competent evidence.

2. Any official traffic control device placed pursuant to the provisions of this section and purporting to conform to the lawful requirements pertaining to such devices shall be presumed to comply with the requirements of this section, unless the contrary shall be established by competent evidence.

- D. **Avoiding Traffic Control Devices:** No driver shall drive through a driveway or private property so as to avoid use of a street or traffic control device. (2013 Code)

6-1-5: **ONE-WAY STREETS AND ALLEYS:**

- A. **Authority To Designate:** The town is hereby authorized to determine and designate one-way streets or alleys and shall place and maintain official traffic control devices giving notice thereof. No such designation shall be effective unless such devices are in place.
- B. **Restricting Direction Of Movement During Certain Periods:** The town is hereby authorized to determine and designate streets, parts of streets or specific lanes thereon upon which vehicular traffic shall proceed in one direction during one period and the opposite direction during another period of the day, and shall place and maintain appropriate markings, signs, barriers or other devices to give notice thereof. The town may erect signs temporarily designating lanes to be used by traffic moving in a particular direction, regardless of the centerline of the roadway. (2013 Code)

6-1-6: **OBSTRUCTED INTERSECTION:** 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. (2013 Code)

6-1-7: **DRIVING ON SIDEWALK:** The driver of a vehicle shall not drive upon a sidewalk or within any sidewalk area except at a permanent or temporary driveway. {2013 Code)

6-1-8: RIDING REGULATIONS:

A. Prohibited Acts:

1. No person shall ride, stand, sit or cling to or upon any outside part of any moving vehicle.

2. No driver shall permit passengers to stand on the open body of any truck unless such truck has a protective railing completely around the bed not less than four feet (4') in height, nor permit passengers to ride with their legs across the rear of the truck body.

3. No driver shall permit any passenger to leave or board a vehicle while it is in motion. No person shall board or leave a vehicle while it is in motion_

4. No person operating a vehicle of any type shall permit another person to ride in or upon the vehicle unless the vehicle is equipped with proper seats, handholds or protective railings, and is in a mechanically safe condition.

5. No person shall operate a motorcycle, motor scooter or motor bicycle while carrying a passenger less than ten (10) years of age unless that passenger is a member of the operator's immediate family.

6. No driver shall permit any passenger on a lightweight motor vehicle.

7. No part of this subsection shall apply to the necessary operation of town vehicles by town employees performing health or public safety assignments.

8. No driver shall permit any passenger on a motorcycle, motor scooter or motor bicycle unless the vehicle is factory designed for the purpose of carrying additional passengers and is properly equipped with a passenger seat and is properly equipped with handholds and footrests.

9. No driver under sixteen (16) years of age shall permit any passenger on a motorcycle, motor scooter or motor bicycle.

B. Unlawful Riding: No person shall ride on any vehicle upon any portion thereof not designed or intended for the use of passengers. This provision shall not apply to an employee engaged in the

necessary discharge of a duty, or to persons riding within truck bodies in space intended for merchandise. (2013 Code)

6-1-9: PARADES AND FUNERAL PROCESSIONS:

- A. Driving Through Funeral Or Other Procession: No driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated as required in this section.
- B. Drivers In Procession: Each driver in a funeral or other procession shall drive as near to the right hand edge of the roadway as practicable and shall follow the vehicle ahead as close as is practicable and safe.
- C. Escorts For Funeral Processions:
1. It shall be the motor vehicle escort guide's duty to stop oncoming vehicles at intersections where such escorted vehicle or vehicles are making turns.
 2. Nothing herein excludes any motor vehicle escort guide or the driver of any vehicle being escorted from any part of this title that requires the operator to obey the directions given by any police officer or requires the operator of any motor vehicle to yield the right of way to emergency vehicles.
 3. No motor vehicle escort guide shall escort any funeral cortege unless he is wearing a uniform that has been approved by the chief of police or his designee for the use of the motor vehicle escort agency by which he is employed.
 4. Any motor vehicle used in performing escorts shall be subject to inspection at any time by the chief of police or his authorized representative.
- D. Permit Required For Certain Parades Or Processions: No funeral, procession or parade containing two hundred (200) or more persons, or fifty (50) or more vehicles, except the military forces of the United States and the military forces of this state, shall occupy, march or proceed along any street except in accordance with a permit issued by the chief of police and such other regulations as are set forth in this title which may apply. (2013 Code)

6-1-10: **DRIVING OR PARKING IN PARKS:** It shall be unlawful within the public parks to drive, park or otherwise permit any motorized vehicle elsewhere in any park of the town, other than upon improved roadways and parking areas within said parks, except in the following situations:

- A. Governmental units, utility companies or their agents while in the normal course of business.
- B. Persons who are associated with special events authorized by the town board of trustees. Persons who lease a park for a specific event are hereby given authority to regulate traffic during such event.
- C. Persons who have shelter reservations from the town clerk-treasurer's office may have access to shelters or band shells for loading and unloading equipment and supplies.
- D. In compliance with the Americans with disabilities act, those persons who qualify are permitted to drive vehicles within the parks if no hard surface is available. (2013 Code)

6-1-11: **VEHICLES PROHIBITED OR RESTRICTED; EXCEPTIONS:**

- A. **Injurious To Streets:** No vehicle or object which injures or is likely to injure the surface of a street shall be driven or moved on any street.
- B. **Obstructive And Dangerous:** 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, without authorization from the chief of police or his designee.
- C. **Width, Height, Length, Weight And Load:** No person shall drive or convey through any street any vehicle the width, height, length, weight or load of which exceeds that authorized by state law, except in accordance with a permit issued by state or local authority.
- D. **Repair And Service In Streets:** No person shall repair, wash or service a vehicle in any street, alley, highway or roadway. (2013 Code)

6-1-12: COASTERS, ROLLER SKATES AND SIMILAR DEVICES:

No person upon roller skates, or riding in or by means of any coaster, toy vehicle or similar device, shall go upon any roadway except while crossing a street on a crosswalk, and when so crossing, such person shall be granted all of the rights and shall be subject to all of the duties applicable to pedestrians. This section shall not apply upon any street which is set aside as a play street as authorized herein. (2013 Code)

6-1-13: MOTORCYCLES, MINIBIKES, MOTORIZED BICYCLES AND SCOOTERS:

- A. Participating In Parades: Parade units or groups participating in group parades, in instances in which parade permits have been issued, will be permitted to wear ornamental headpieces.
- B. Motorized Bicycles: All other provisions relating to minibikes, motor driven cycles and motorcycles contained in this title are made applicable to motorized bicycles. (2013 Code)

6-1-14: PROHIBITED VEHICLE SOUND AMPLIFICATION SYSTEMS:

- A. Definitions: For the purpose of this section, the following terms shall have the meanings ascribed to them in this subsection:

AUDIBLE: Any sound produced by a sound amplification system from within the vehicle, regardless of whether the vehicle is operating or occupied, which can be heard at a distance of fifty feet (50') 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 in any public or private location.

SOUND AMPLIFICATION SYSTEM: Any radio, tape player, compact disc player, loudspeaker or other electronic device used for the amplification of sounds, including, without limitation, sounds created by human voice or musical instrumentation.

- B. Loud Sound Prohibited: 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 the vehicle so that the sound is audible at a distance of fifty feet (50') or more from the vehicle.
- C. Affirmative Defense: It is an affirmative defense to the 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 town, or public or private utility company.
 4. The vehicle was used in authorized public activities, such as parades, fireworks, sports events or other activities which have been approved by the chief of police.
 5. The vehicle was a commercial vehicle, such as, but not limited to, ice cream delivery trucks, etc.
- D. Penalty: Any person who violates any provision of this section, upon conviction thereof, shall be subject to penalty as provided in section 1-4-1 of this code, excluding costs and assessments. (2013 Code)

CHAPTER 2

ADMINISTRATION AND ENFORCEMENT

SECTION:

- 6-2-1: Public Officials To Obey Traffic Regulations
- 6-2-2: Authority Of Police And Fire Department Officials
- 6-2-3: Traffic Accidents
- 6-2-4: Records Of Traffic Violations
- 6-2-5: Violations And Penalties

6-2-1: PUBLIC OFFICIALS TO OBEY TRAFFIC REGULATIONS:
 The provisions of this title shall apply to the drivers of all vehicles owned or operated by the United States, this state or any county, town, district or any other political subdivision of the state, subject to such specific exemptions as are set forth in this title or in the state vehicle code. (2013 Code)

- 6-2-2: AUTHORITY OF POLICE AND FIRE DEPARTMENT OFFICIALS:
- A. It shall be the duty of the police department to enforce the street traffic regulations of the town and all of the state vehicle laws, to make arrests for traffic violations, to investigate accidents and to cooperate with the other officers of the town in the administration of the traffic laws and in developing ways and means to improve traffic conditions, and to carry out those duties specially imposed upon said department by this title and the traffic ordinances of the town.
 - B. Officers of the police department or such officers as are assigned by the chief of police are hereby authorized to direct all traffic by voice, hand or signal in conformance with traffic laws; provided, that, in the event of a fire or other emergency or to expedite traffic or to safeguard pedestrians, officers of the police department may direct traffic as conditions may require, notwithstanding the provisions of the traffic laws.

- C. Officers of the fire department, when at the scene of a fire, may direct or assist the police in directing traffic thereat or in the immediate vicinity. (2013 Code)

6-2-3: TRAFFIC ACCIDENTS:

- A. Investigation By Police Department: It shall be the duty of the police department to investigate traffic accidents, to arrest and to assist in the prosecution of those persons charged with violations of law causing or contributing to such accidents.
- B. Reports: The police department shall maintain a suitable system of filing traffic accident reports. (2013 Code)

6-2-4: RECORDS OF TRAFFIC VIOLATIONS:

- A. The police department or the court clerk shall keep a record of all violations of the traffic ordinances of the town or of the state vehicle laws of which any person has been charged, together with a record of the final disposition of all such alleged offenses. Such record shall be so maintained as to show all types of violations and the total of each.
- B. All forms for records of violations and notices of violations shall be serially numbered. For each month and year, a written record shall be kept available to the public showing the disposal of all such forms.
- C. All such records and reports shall be public records. (2013 Code)

6-2-5: VIOLATIONS AND PENALTIES:

- A. Penalty For Violation: On admission of violation in the municipal court or before the court clerk of a minor traffic offense, there shall be assessed a penalty not exceeding the maximum established by law. Upon conviction or upon entering a plea of guilty in the municipal court for the violation of any provision of this title, there shall be assessed as punishment a fine not exceeding the maximum established by law.

- B. Court Costs: The municipal judge may levy court costs, at his discretion, in an amount not exceeding the maximum established by state law for any case before the court.
- C. Failure To Pay Fine Or Costs: Upon a determination by the municipal judge that an individual is financially able but refuses or neglects to pay the fine or costs, the judge may order the individual to satisfy the amount owed by working on the streets, alleys, avenues, areas and public grounds of the town, subject to the supervision of the appropriate town official at a rate per day of not less than fifty dollars (\$50.00) for useful labor, until the fine or costs are satisfied.
- D. Penalties For Minor Traffic Violations: Upon receiving a citation for a minor traffic violation, the offender may pay the fine at the designated town payment drop box, at the court clerk's office, or by mail to the town.
- E. Parking Offenses; Fines:
 - 1. Determination Of Fine: The board of trustees shall designate the fines to be paid for parking offenses. Such fines may be satisfied by payment at the town clerk-treasurer's office, or by deposit in drop boxes provided for the same at locations.
 - 2. Penalties For Certain Violations: The penalties for parking violations, such as improper parking, parking in a restricted zone, parking over time limit posted, parking over twenty four (24) hours in an unlawful manner and all other parking violations, shall be guilty of an offense and, upon conviction thereof, shall be fined or punished as provided in section 1-4-1 of this code. (2013 Code)

CHAPTER 3
RULES OF THE ROAD

SECTION:

- 6-3-1: Turning Movements
- 6-3-2: Speed Restrictions
- 6-3-3: Emergency Vehicle Operation
- 6-3-4: Inattentive Driving

6-3-1: **TURNING MOVEMENTS:**

- A. **Position And Method:** 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:** The driver of a vehicle intending to turn left at an 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. Whenever practicable, when leaving a two-way roadway, the left turn shall be made in that portion of the intersection to the left of the center of the intersection.
- B. **Placement Of Devices Altering Normal Course For Turns:** The town is authorized to place official traffic control devices within or adjacent to intersections indicating the course to be traveled by vehicles turning at such intersections, and such course to be traveled as so indicated may conform to or be other than prescribed by law.
- C. **Placement Of Restricted Turn Signs:** The town is authorized to determine those intersections at which drivers of vehicles shall not make

a right, left or U-turn, and shall place proper signs at such intersections. The making of such turns may be prohibited between certain hours of any day and permitted at other hours, in which event the same shall be plainly indicated on the signs or such signs may be removed when such turns are permitted.

D. **Restriction Compliance:** Whenever authorized signs are erected indicating that no right or left or U-turn is permitted, no driver of a vehicle shall disobey the directions of any such sign.

E. **U-Turns:**

1. The driver of any vehicle shall not turn such vehicle so as to proceed in the opposite direction upon any street in the town except at an intersection. It is unlawful for the driver of a vehicle to make such a turn at the following intersections:

a. Where traffic control signals are installed;

b. Where a police officer is directing traffic, except at the latter's direction; or

c. Where an official no U-turn sign has been placed and is maintained.

2. When otherwise permitted, a U-turn may be made only when it can be made in safety and without interfering with any other traffic.

3. The driver of any vehicle shall not turn that vehicle so as to proceed in the opposite or different direction upon the street, when such turn is made for the purpose of parking said vehicle in a lawfully marked parking space on the opposite side of the street. (2013 Code)

6-3-2: SPEED RESTRICTIONS:

A. **Speed Limits Designated; Other Restrictions:**

1. The speed limit in the town shall be twenty five (25) miles per hour on any residential street other than through streets and boulevards.

2. It is unlawful to disregard speed limits as designated on official traffic speed control signs.

3. A speed greater than twenty five (25) miles per hour is a violation in any business district unless official traffic control signs designate otherwise.

4. Any speed greater than that which will enable the driver of a vehicle to stop within the assured clear distance ahead is unlawful, and every driver shall remain alert and allow enough distance between his vehicle and the vehicle ahead to enable him to stop and avoid a collision in the event of an unexpected stop or slowing by the vehicle ahead.

5. When adverse weather conditions of snow, rain, ice, fog or wind, or when blinding lights make driving hazardous or decrease normal visibility, all drivers shall drive at a reduced speed that will permit complete control of their vehicles at all times.

6. It is an offense to accelerate or turn a vehicle so rapidly as to spin the wheels and produce a loud and annoying noise.

7. It is unlawful to enter into a drag race on the town streets with any vehicle, motorcycle, motor scooter or motor bicycle. For the purpose of this section, "drag race" is defined as a contest for speed as between two (2) or more drivers or operators starting either from a complete stop or slow speed and rapidly accelerating for any distance.

B. School Zones:

1. No person shall operate a vehicle within three hundred feet (300') of any school at a speed greater than twenty five (25) miles per hour during the time set forth in subsection B3 of this section; provided, that at those locations where traffic control signal devices are in operation, the speed of vehicles in said areas shall be the speed indicated on the variable message traffic control signs.

2. For the purpose of this section, a "school zone" includes those portions of all roadways adjacent to any school and those portions of all roadways within three hundred feet (300') of any school.

3. The provisions of this subsection shall be applicable only for the period starting one hour before school starts and ending one hour after school is dismissed and only on those days when school is in session.

C. Minimum Speed:

1. It is unlawful for any person to drive 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.

2. All persons driving slower than the normal flow of traffic shall drive in the extreme right lane.

3. It is unlawful to drive at a speed less than twenty (20) miles per hour on a through street unless such reduced speed is necessary for safe operation.

D. State Speed Laws Applicable: The state traffic laws regulating the speed of vehicles shall be applicable upon all streets within the town except where the town, upon the basis of an engineering and traffic investigation, determines that other speed limits shall be applicable on specified streets or in certain areas, in which event it shall be unlawful for any person to drive a vehicle at speed in excess of any speed so determined when signs are in place giving notice thereof.

E. Regulation Of Speed By Traffic Signals: The town is authorized to regulate the timing of traffic signals so as to permit the movement of traffic in an orderly and safe manner at speeds slightly at variance from the speeds otherwise applicable within the district or at intersections and shall erect appropriate signs giving notice thereof. (2013 Code)

6-3-3: EMERGENCY VEHICLE OPERATION:

A. Exemptions: The exemptions granted in this section to an authorized emergency vehicle shall apply only when the driver of any such vehicle is making use of audible and/or visual signals as required by law.

B. Safety: The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others. (2013 Code)

6-3-4: INATTENTIVE DRIVING:

- A. Every driver shall remain alert and give full attention to the safe operation of his vehicle while it is in motion.
- B. No driver shall engage in any other activity while driving that interferes with the safe control of his vehicle.
- C. Any driver that collides with another vehicle, person or property because of driving error or negligent inattention is in violation of this section.
- D. No person shall engage in any activity or do any act which interferes with a driver's safe operation of a vehicle. (2013 Code)

CHAPTER 4

PARKING REGULATIONS

SECTION:

- 6-4- 1: Prohibited Parking Places
- 6-4- 2: Time Limit Parking
- 6-4- 3: Parking Places For Physically Disabled Persons; Enforcement
- 6-4- 4: Parallel And Angle Parking
- 6-4- 5: Dangerous Areas; Placement Of Signs
- 6-4- 6: Outside Business Or Residence Districts
- 6-4- 7: Posted Private Property
- 6-4- 8: Adjacent To Schools
- 6-4- 9: One-Way Streets
- 6-4-10: Alleys
- 6-4-11: Narrow Streets
- 6-4-12: Hazardous Or Congested Places
- 6-4-13: Parking Near Garbage Containers Placed For Pick Up
- 6-4-14: Parking Of Trucks At Night
- 6-4-15: Parking Not To Obstruct Traffic
- 6-4-16: Prohibited Purposes
- 6-4-17: Vehicle Storage Loading
- 6-4-18: And Unloading Buses And
- 6-4-19: Taxicabs Opening Vehicle
- 6-4-20: Doors Vehicle With Motor
- 6-4-21: Running Unattended Motor
- 6-4-22: Vehicle Moving Parked
- 6-4-23: Vehicle
- 6-4-24: Exceptions To Certain Parking Restrictions
- 6-4-25: Presumption Of Liability

6-4-1: **PROHIBITED PARKING PLACES:**

- 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 feet (15') of a fire hydrant, except in a parking space officially marked.
5. On a crosswalk.
6. Within twenty feet (20') of a crosswalk at an intersection.
7. Within thirty feet (30') 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 feet (30') of points on the curb immediately opposite the ends of a safety zone, unless the town indicates a different length by signs or markings.
9. Within fifty feet (50') of the nearest rail of a railroad crossing.
10. Within twenty feet (20') of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy five feet (75') of the 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.
14. At any place where official signs prohibit stopping.
15. Between the curb, if one exists, or between the outside edge of the roadway and the outside edge of the dedicated easement to the town for roadway purposes; provided, that this subsection shall not apply to stopping, standing or parking on driveways.
16. Any designated fire lane.

- 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 unlawful. (2013 Code)

6-4-2: TIME LIMIT PARKING:

A. Authority To Designate:

1. The town is authorized to establish parking time limits, or to prohibit parking, on designated streets and parts of streets by having appropriate signs placed thereon.

2. When such signs are in place, it is unlawful for any person to park a vehicle in violation thereof.

- B. Parking Prohibited During Certain Hours: Where official signs are erected giving notice that parking is prohibited during certain hours, no person shall park a vehicle during said hours upon that portion of the street so designated.

C. Parking Time Limited:

1. Generally: All parking limit regulations, unless specifically provided otherwise, shall be in force and effect between the hours of eight o'clock (8:00) A.M. and five o'clock (5:00) P.M., except Sundays and legal holidays.

2. Compliance With Sign Provisions: Except as provided in subsection C1 of this section, in all instances where official signs are erected giving notice that parking is limited to a certain period, no person shall park a vehicle for a period exceeding the specified limit, except on Sundays and legal holidays. It shall be a violation of this subsection for any person to move a vehicle in any manner or leave a parking space and then reenter it to avoid the intent of this subsection.

- D. Parking In Excess Of Forty Eight Hours: No person, operator or owner shall park or permit to be parked or left standing on any public street, alley or other public space any vehicle, wagon, automobile or other private property while unattended for a continuous period exceeding forty eight (48) hours, and any such vehicle, wagon or automobile is hereby declared a public nuisance endangering public safety and may be impounded by the police department. Any vehicle or other private property left standing may be removed by the police

department or its agents. The removal and storage fee must be paid by the owner of the vehicle in violation of this subsection before its redemption. (2013 Code)

6-4-3: **PARKING PLACES FOR PHYSICALLY DISABLED PERSONS; ENFORCEMENT:** It is unlawful for any person to place or park a motor vehicle in any parking space on private property accessible to the public and where the public is invited or public property that is designated and posted as a reserved area for parking of motor vehicles of a physically disabled person, unless such person has a physical disability insignia as provided under the provisions of 47 Oklahoma Statutes section 15-112, and such insignias are displayed as provided in 47 Oklahoma Statutes section 15-112, or regulations adopted pursuant thereto. (2013 Code)

6-4-4: **PARALLEL AND ANGLE PARKING:**

A. Parallel:

1. Except as otherwise provided, every vehicle stopped or parked upon a roadway where there are adjacent curbs shall be so stopped or parked with the right hand wheels of such vehicle parallel to and within eighteen inches (18") of the right hand curb. In parallel parking spaces, the frontmost part of a vehicle shall be alongside of and next to the parking meter for the parking space. The board of trustees may by ordinance permit parking of vehicles with the left hand wheels adjacent to and within eighteen inches (18") of the left hand curb on a one-way roadway.

2. No person shall park a vehicle on a street unless the vehicle is headed in the direction of traffic with the curbside wheels of the vehicle parallel to the curb or roadside edge.

B. Angle: The board of trustees may by ordinance permit angle parking on any roadway. In diagonal parking spaces, the frontmost part of a vehicle shall be directed at and next to the parking meter for the parking space.

C. Parking Within Marked Lines: Vehicles must be parked within the lines marked on the street for such parking spaces. (2013 Code)

6-4-5: DANGEROUS AREAS; PLACEMENT OF SIGNS: The board of trustees may place signs prohibiting or restricting the stopping, standing or parking of vehicles on any highway where such stopping, standing or parking is dangerous to those using the highway or where the stopping, standing or parking of vehicles would unduly interfere with the free movement of traffic thereon. Such signs shall be official signs and no person shall stop, stand or park any vehicle in violation of the restrictions stated on such signs. (2013 Code)

6-4-6: OUTSIDE BUSINESS OR RESIDENCE DISTRICTS:

- A. Prohibited Act: Upon any highway outside of a business or residence district, no person shall stop, park or leave standing any vehicle, whether attended or unattended, upon the paved or main traveled part of the highway when it is practicable to stop, park or so leave such vehicle off such part of said highway, but in every event, an unobstructed width of the highway opposite a standing vehicle shall be left for the free passage of other vehicles, and a clear view of such stopped vehicle shall be available from a distance of four hundred feet (400') in each direction upon such highway.
- B. Exception, Disabled Vehicles: This section shall not apply to the driver of any vehicle which is disabled while on the paved or main traveled portion of a highway in such manner and to such extent that it is impossible to avoid stopping and temporarily leaving such disabled vehicle in such position. (2013 Code)

6-4-7: POSTED PRIVATE PROPERTY:

- A. Permission Required; Exception: It shall be unlawful to place or park a motor vehicle or a trailer upon the posted private property of another without first obtaining permission of the landowner or the person in charge of such property, except where said placing or parking is casual or involuntary.
- B. Violation; Penalty: Violation of the terms of this section shall be considered to be a misdemeanor and, upon conviction thereof, violators shall be fined not to exceed twenty dollars (\$20.00) and, in addition thereto, shall pay any and all reasonable and necessary charges incurred by the landowner or other person in having any vehicle or trailer removed from his property and stored.

- C. Nonliability Of Landowner: The landowner or person in charge of the land shall not be liable for any damages which may occur to a trespassing vehicle or trailer under the terms of this section while the same is trespassing, or while it is being removed from his property, or while it is in storage. (2013 Code)

6-4-8: ADJACENT TO SCHOOLS:

- A. The town is hereby authorized to erect signs indicating no parking upon either or both sides of any street adjacent to any school property when such parking would interfere with traffic or create a hazardous situation.
- B. When official signs are erected indicating no parking upon either side of a street adjacent to any school property as authorized herein, no person shall park a vehicle in any such designated place. (2013 Code)

6-4-9: ONE-WAY STREETS: The town is authorized to erect signs upon the left hand side of any one-way street to prohibit the standing or parking of vehicles, and when such signs are in place, no person shall stand or park a vehicle upon such left hand side in violation of any such sign. (2013 Code)

6-4-10: ALLEYS:

- A. No person may park a vehicle in any alley at any time, except as provided in this section.
- B. Drivers of vehicles may park in alleys for periods not to exceed fifteen (15) minutes while engaged in loading or unloading from an establishment abutting such alley items or merchandise too numerous, heavy or bulky to carry by hand.
- C. No person shall park a vehicle in an alleyway except with the vehicle headed in the direction in which traffic is designated to move through such alley. No person shall park a vehicle in an alley in such a manner as to prevent the free flow of traffic through the alley. (2013 Code)

6-4-11: NARROW STREETS:

- A. The town is hereby authorized to erect signs indicating no parking upon any street when the width of the roadway does not exceed twenty feet (20'), or upon one side of a street as indicated by such signs when the width of the roadway does not exceed thirty feet (30').
- B. When official signs prohibiting parking are erected upon narrow streets as authorized herein, no person shall park a vehicle upon any such street in violation of any such sign. (2013 Code)

6-4-12: HAZARDOUS OR CONGESTED PLACES:

- A. The town is hereby authorized to determine and designate by proper signs places not exceeding one hundred feet (100') in length in which the stopping, standing or parking of vehicles would create an especially hazardous condition or would cause unusual delay to traffic.
- B. When official signs are erected at hazardous or congested places as authorized herein, no person shall stop, stand or park a vehicle in any such designated place. (2013 Code)

6-4-13: PARKING NEAR GARBAGE CONTAINERS PLACED FOR PICK UP: No person shall park a vehicle of any nature within six feet (6') of any container used in the town container collection service in such a manner which would interfere with the removal of refuse from such container, or block the approach to such container. Proof of ownership of any vehicle violating this section shall be prima facie proof that such owner parked such vehicle so as to violate this section. (2013 Code)

6-4-14: PARKING OF TRUCKS AT NIGHT: No person shall park at night any commercial vehicle of one ton classification or greater on any through street nor on any street of twenty six feet (26') or less in width unless the person is actually engaged in loading or unloading merchandise and while the vehicle displays warning lights as required by state law. The storage of commercial vehicles, trucks or trailers wider than ordinary passenger cars on any street at night is expressly prohibited. (2013 Code)

6-4-15: **PARKING NOT TO OBSTRUCT TRAFFIC:** No person shall park any vehicle upon a street, other than an alley, in such a manner or under such conditions as to leave available less than ten feet (10') of the width of the roadway for free movement of vehicular traffic. (2013 Code)

6-4-16: **PROHIBITED PURPOSES:** No person shall park a vehicle upon any roadway for the principal purpose of:

- A. Displaying the vehicle for sale.
- B. Displaying advertising or displaying merchandise or other things for sale or selling merchandise or other things.
- C. Washing, greasing, repairing the vehicle except repairs necessitated by an emergency. (2013 Code)

6-4-17: **VEHICLE STORAGE:** No owner or occupant of any place of business shall permit any vehicle, whether left in storage or safekeeping, or for repair or otherwise, to be or to remain on a sidewalk, street or alley adjoining or in front of such place. (2013 Code)

6-4-18: **LOADING AND UNLOADING:**

- A. Authority To Designate Loading Zones; Permit Required:
 - 1. The town is hereby authorized to determine the location of loading zones and passenger loading zones and shall place and maintain appropriate signs indicating the same and stating the hours during which the provisions of this section are applicable.
 - 2. The town shall not hereafter designate or sign any curb loading zone upon special request of any person unless such person makes application for a permit for such zone and for two (2) signs to indicate the ends of each such zone. The town, upon granting a permit and issuing such signs, shall collect from the applicant and deposit in the town treasury a service fee established by the town board of trustees and may by general regulations impose conditions upon the use of such signs and for reimbursement of the town for the value thereof in the event of their loss or damage and their return

in the event of misuse or upon expiration of permit. Every such permit shall expire at the end of one year.

B. Loading Or Unloading At Angle To Curb; Special Permit:

1. The town is authorized to issue special permits to authorize the backing of a vehicle to the curb for the purpose of loading or unloading property subject to the terms and conditions of such permit. Such permits may be issued either to the owner or lessee of real property alongside the curb or to the owner of the vehicle and shall grant to such person the privilege as therein stated and herein authorized.

2. It shall be unlawful for any permit holder or other person to violate any of the special terms or conditions of any such permit.

C. Evening Time Parking Within Loading Zones: Vehicles shall be permitted to park between the hours of six o'clock (6:00) P.M. and twelve o'clock (12:00) midnight in those loading zones which are designated by sign or other marking for such evening time parking.

D. Passenger Curb Loading Zones: 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 a period not to exceed three (3) minutes.

E. Standing In Loading Zones:

1. 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 pick up and loading of property in any place marked as a loading zone during hours when the provisions applicable to such zones are in effect. In no case shall the stop for loading and unloading of property exceed fifteen (15) minutes.

2. The driver of a vehicle may stop temporarily at a loading zone for the purpose of and while actually engaged in loading or unloading passengers when such stopping does not interfere with any vehicle which is waiting to enter or about to enter such zone to load or unload property. (2013 Code)

6-4-19: BUSES AND TAXICABS:

A. Stopping For Loading And Unloading:

1. The operator of a bus shall not stand or park such vehicle upon any street at any place other than a bus stand so designated as provided in this chapter.

2. 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 as provided in this chapter, except in case of an emergency.

3. 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 inches (18") from the curb and the bus approximately parallel to the curb so as not to unduly impede the movement of other vehicular traffic.

4. The operator of a taxicab shall not stand or park such vehicle upon any street at any place other than in a taxicab stand so designated as provided in this chapter. This provision shall not prevent the operator of a taxicab from temporarily stopping in accordance with other stopping or parking regulations at any place for the purpose of and while actually engaged in the expeditious loading or unloading of passengers.

B. 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 does not interfere with any bus or taxicab waiting to enter or about to enter such zone. (2013 Code)

6-4-20: OPENING VEHICLE DOORS: Drivers or passengers of vehicles parked on a public street shall not open the doors of said vehicles on the side of the vehicle available to traffic until and unless it is reasonably safe to do so. (2013 Code)

6-4-21: **VEHICLE WITH MOTOR RUNNING:** No vehicle with the motor running shall be parked on any street or alley unless a licensed operator is in said vehicle. (2013 Code)

6-4-22: **UNATTENDED MOTOR VEHICLE:** 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 highway. (2013 Code)

6-4-23: **MOVING PARKED VEHICLE:** It shall be lawful for regular police officers of the town in the performance of their duties to change the position of any parked vehicle. (2013 Code)

6-4-24: **EXCEPTIONS TO CERTAIN PARKING RESTRICTIONS:**
Provisions of this parking chapter shall not apply to authorized emergency vehicles or to vehicles or machinery used in the construction or maintenance of highways, and such vehicles or machinery may be operated on any part of the road, whether same is open to traffic or closed, when such operation is necessary in the maintenance or construction of said highway. (2013 Code)

6-4-25: **PRESUMPTION OF LIABILITY:** In any proceeding for the violation of this chapter, the license plate displayed upon the motor vehicle in violation shall constitute in evidence prima facie presumption that the registered owner of such motor vehicle was the person who parked or placed such motor vehicle at the place where the violation occurred. (2013 Code)

CHAPTER 5

BICYCLES

SECTION:

- 6-5-1: Pedestrians Crossing At Right Angles
- 6-5-2: Riding On Roadways And Bicycle Paths
- 6-5-3: Riding On Sidewalks And Other Public Property
- 6-5-4: Speed
- 6-5-5: Emerging From Alley Or Driveway
- 6-5-6: Parking
- 6-5-7: Equipment
- 6-5-8: Effect Of Regulations

6-5-1: PEDESTRIANS CROSSING AT RIGHT ANGLES: Except where otherwise indicated by a crosswalk or other official traffic control devices, a pedestrian shall cross a roadway at right angles to the curb or by the shortest route to the opposite curb. (2013 Code)

6-5-2: RIDING ON ROADWAYS 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) abreast except on paths or paths of roadways set aside for the exclusive use of bicycles. (2013 Code)

6-5-3: RIDING ON SIDEWALKS AND OTHER PUBLIC PROPERTY:

- A. No person shall ride a bicycle, roller skates, skateboard or similar type device, upon a sidewalk or other public property within a business district.

- B. The chief of police is authorized to erect signs on any sidewalk, roadway or other public property prohibiting the riding of bicycles, roller skates, skateboards or similar type devices, thereon by any person, and when such signs are in place no person shall disobey them.
- C. Whenever any person is riding a bicycle, roller skates, skateboard or similar type device, upon a sidewalk or other public property other than in a business district, such person shall yield the right of way to any pedestrian and shall give audible signal before overtaking and passing such pedestrian. (2013 Code)

6-5-4: SPEED: No person shall operate a bicycle at a speed greater than is reasonable and prudent under the conditions then existing. (2013 Code)

6-5-5: EMERGING FROM ALLEY OR DRIVEWAY: 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. (2013 Code)

6-5-6: PARKING: No person shall park a bicycle upon a street or upon the sidewalk in such manner as to impede pedestrian or vehicular traffic. (2013 Code)

6-5-7: EQUIPMENT:

- A. Lights: 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 feet (500') to the front and with a red reflector on the rear of a type which shall be visible from all distances from fifty feet (50') to three hundred feet (300') to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle. A lamp emitting a red light visible from a distance of five hundred feet (500') to the rear may be used in addition to the red reflector.

- B. Siren Or Whistle Prohibited: A bicycle shall not be equipped with nor shall any person use upon a bicycle any siren or whistle.
- C. Brakes: Every bicycle shall be equipped with a brake which will enable the operator to make the braked wheel skid on dry, level, clean pavement. (2013 Code)

6-5-8: EFFECT OF REGULATIONS:

- A. It is an unlawful offense for any person to do any act forbidden or fail to perform any act required in this chapter.
- B. The parent of any child and the guardian of any ward shall not authorize or knowingly permit any such child or ward to violate any of the provisions of this chapter.
- C. 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 those exceptions stated herein. (2013 Code)

CHAPTER 6
IMPOUNDED VEHICLES

SECTION:

- 6-6-1: Authority To Remove; Reclamation
- 6-6-2: Unclaimed Vehicle Disposition

6-6-1: **AUTHORITY TO REMOVE; RECLAMATION:**

- A. Circumstances For Removal: Members of the police department are authorized to remove a vehicle from a street to a garage or other place of safety under any of the circumstances enumerated as follows:
1. When any vehicle is left unattended upon any bridge, viaduct or causeway, or in any tube or tunnel where such vehicle constitutes an obstruction to traffic.
 2. When a vehicle upon a street is so disabled as to constitute an obstruction to traffic and the person or persons in charge of the vehicle are by reason of physical injury or otherwise incapacitated to such an extent as to be unable to provide for its custody or removal.
 3. When any vehicle is left unattended upon a street and is so parked illegally as to constitute a definite hazard or obstruction to the normal movement of traffic.
 4. When any vehicle has been parked for more than one hour in excess of the time allowed for parking in any place.
 5. When any vehicle which has been involved in two (2) or more violations of this title for which citations have been issued, and not presented as required, is parked in violation of any provision of this chapter.

- B. Reclamation Of Vehicle: A vehicle impounded as provided in this section shall be delivered back to the owner or other person to whom it may properly be delivered only after such fine or fines and costs as may be properly assessed by the municipal judge for the violation or violations for which such vehicle was impounded, and any reasonable costs of or charges for impounding and storage, have been paid. (2013 Code)

6-6-2: UNCLAIMED VEHICLE DISPOSITION:

- A. Sale At Public Auction: When any motor vehicle, including a motorcycle, motor scooter and motor bicycle, has been impounded by the police department on account of any of the offenses designated in this chapter, if the owner on being notified, either personally or by mail, fails to claim and redeem the vehicle, or if upon diligent inquiry the owner cannot be found and notice is given to him by advertisement in a newspaper having general circulation in the town once a week for two (2) consecutive weeks and the owner fails for a period of sixty (60) days after the first date of publication to claim and redeem the vehicle, the chief of police shall sell the vehicle at the time and place designated in the notice at public auction.

B. Disposition Of Proceeds:

1. After deducting all amounts due for towage, expenses of keeping, impounding fee and costs of notice and of sale, the remaining proceeds shall be paid to the owner if he demands the same within two (2) years from the date of sale. If the remaining proceeds are not claimed for a period of two (2) years from the date of sale, they shall become a part of the general fund of the town.

2. If at said sale no bidder bids enough to cover all amounts due for towage, expenses of keeping, impounding fees and costs of giving notice and sale, the chief of police may thereafter, without giving further notice, sell the impounded vehicle at public or private sale. Disposition of the sale price obtained in such event shall be the same as if sold at sale for which notice was given as provided in this section. (2013 Code)

TITLE 7
PUBLIC WAYS AND PROPERTY

Subject	Chapter
Parks And Recreation	1
Streets, Sidewalks And Public Areas	2

CHAPTER 1

PARKS AND RECREATION

SECTION:

- 7-1-1: Applicability And Jurisdiction
- 7-1-2: Rules Promulgated
- 7-1-3: Fees
- 7-1-4: Overnight Camping
- 7-1-5: Motor Vehicle Use In Parks
- 7-1-6: Penalty

7-1-1: **APPLICABILITY AND JURISDICTION:** All the ordinances, resolutions and regulations provided for the administration of justice and the preservation of the public peace, health and safety, and declaring and regulating the authority, duties and jurisdiction of the chief of police, shall be the same as are hereby extended over and made of equal effect within the limits of the public parks belonging to the town. (2003 Code § 15-8)

7-1-2: **RULES PROMULGATED:** The board of trustees shall promulgate, invoke, create, amend and enforce such rules, regulations and other requirements, as it deems necessary or expedient in connection with fishing and fishing privileges, hunting and hunting privileges, boating and boating privileges, and swimming, and the use of all other recreational facilities owned or operated by the town. (2003 Code § 15-1)

7-1-3: **FEES:** The town shall provide to such rules, from time to time, the fees charged for any such recreational privileges on any property or facility for recreational purposes owned or operated by the town. (2003 Code § 15-2)

7-1-4: OVERNIGHT CAMPING:

- A. Consent Required: The use of the parks and public areas of the town for overnight camping is prohibited without the consent of the board of trustees. (2003 Code § 15-3; amd. 2013 Code)
- B. Penalty: Any person, firm or association using the areas defined in subsection A of this section in a prohibited manner shall be subject to penalty as provided in section 1-4-1 of this code. (2003 Code § 15-4; amd. 2013 Code)
- C. Waiver: The prohibition and fine specified in subsections A and B of this section may be waived by the board of trustees at any regular or special meeting in favor of any organized group or association for such time as specified, not to exceed five (5) days and nights, consecutively. (2003 Code§ 15-5; amd. 2013 Code)
- D. Presumptive Evidence Of Camping: The installation or stopping of any trailer or the erection of any tent or shelter after one hour before sundown in the areas described in subsection A of this section shall constitute presumptive evidence of the breach of this section. (2003 Code§ 15-6)

7-1-5: MOTOR VEHICLE USE IN PARKS: It shall be unlawful for any person to drive any truck, automobile, motorcycle, motor scooter or other motor vehicle, or to ride any horse, pony or other animal in or upon the public parks within the limits of the town, except upon clearly defined public roadways or public parking areas in such parks, or except in cases of public necessity when authorized and directed to do so by officials of this town. (2003 Code § 15-7)

7-1-6: PENALTY: It shall be unlawful for any person to use any of such recreational facilities or to hunt, fish, swim or use any boat in connection with any of said recreational facilities owned or operated by this town, without having complied with the rules and regulations promulgated by the town board of trustees in connection therewith; and any person violating any of the rules and regulations, or failing to comply with such, shall be guilty of an offense and, upon conviction thereof, shall be subject to penalty as provided in section 1-4-1 of this code. (2003 Code § 15-9; amd. 2013 Code)

CHAPTER 2

STREETS, SIDEWALKS AND PUBLIC AREAS

SECTION:

- 7-2-1: Use And Obstruction Of Streets And Sidewalks
 7-2-2: Street Excavations
 7-2-3: Damages To Public Roads; Bond Requirements
 7-2-4: Penalty

7-2-1: USE AND OBSTRUCTION OF STREETS AND SIDEWALKS:

- A. Trees Permitted On Residential Streets: Permission is hereby given to any owner, lessee or occupant of any property abutting on any residential street to set out and grow any kind of tree for shade purposes between the property line and the curb line of such property line, such trees to be set on a line or lines running parallel with the line of such property and shall not be set or grown in any other place or in any other manner. (2003 Code § 19-1)
- B. Removal Of Decayed Trees: All decayed, dead or broken trees and all dead, decayed or broken parts of trees, which are unsightly and liable to fall or be blown down, and which are standing near any sidewalk in this town, shall be removed by the owner or occupant or person having charge of the adjacent property or the property on which same are located. (2003 Code § 19-2)
- C. Trimming Of Trees And Shrubbery:
1. Owner Or Occupant Required To Trim: The owner of any premises abutting on any street of this town 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 of any street or alley, in such manner that the boughs or limbs thereof shall not obstruct free and convenient passage and travel along the streets, sidewalks and alleys. When such premises is 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 feet (10') above the roadway of a street or alley, nor lower than eight feet (8') above the sidewalk. (2003 Code § 19-3)

2. Penalty For Violation: Any owner or occupant who shall fail, refuse or neglect to trim trees and shrubbery as provided in subsection C1 of this section, after receiving five (5) days' notice from the superintendent of streets to do so, shall be guilty of an offense against the town. Every day that the said owner or occupant shall fail, refuse or neglect to trim said trees or shrubbery, after the expiration of the five (5) days' notice, shall be a separate offense. (2003 Code § 19-4)

- D. Injuring Trees And Shrubby: It is unlawful for any person to injure any tree or shrubby on a street or alley in the town; provided, that this shall not prohibit the lawful and proper care and removal of such trees and shrubby. (2003 Code § 19-5)
- E. Obstructing With Merchandise: It is unlawful for any person, firm or corporation to place upon, or permit to be placed upon, the sidewalks, parkways, streets and alleys of the town any goods, wares, articles or merchandise or any other obstruction, and leave same thereon; or to use the same as a place to carry on a business or trade. (2003 Code § 19-6)
- F. Unduly Obstructing: It is unlawful for any person, firm or corporation to use or obstruct the sidewalks of the town in any manner so as to interfere unduly with pedestrian traffic thereon, or to use or obstruct the streets and alleys of the town in any manner so as to interfere unduly with lawful traffic and parking therein. (2003 Code § 19-7)
- G. Depositing Trash: It is unlawful for any person, firm or corporation to deposit, throw or sweep into or upon the streets, alleys, parking or sidewalks of the town any paper, rubbish, grass, weeds, tree trimmings, dirt, trash, crates, boxes or other refuse of any kind. (2003 Code § 19-8)
- H. Congregating On Streets: It is unlawful for any person or persons to obstruct the free use of a street, alley, sidewalk or other public way by congregating or assembling thereon. (2003 Code § 19-9)

- I. Interfering With Drainage:
1. It shall be unlawful for any person, firm or corporation to obstruct any street, sidewalk or alley within the town, by placing any approach driveway or other obstruction or substance whatever that will obstruct or prevent the natural flow of water into the storm sewers or drains or dam the same so to back any water upon the streets, alleys, sidewalks or gutters.
 2. Any such obstruction is hereby declared to be a nuisance; and the street department may abate it at any time, either with or without notice to owners or occupants of abutting property owners. (2003 Code § 19-10)
- J. Keeping Articles On Sidewalks: No person, firm or corporation shall cause or allow to be caused the storage, display or keeping of any goods, wares or merchandise, for any purpose, upon any sidewalk within the corporate limits of the town. (2003 Code § 19-11)
- K. Playing: It is unlawful for any person to play on the sidewalks or upon the main traveled portion of the streets and alleys of the town, except as may be authorized by ordinance. (2003 Code § 19-12)
- L. Washing Vehicles: The washing of an automobile or other vehicle in any street of the town is hereby prohibited. (2003 Code § 19-13)
- M. Substances From Vehicles Draining Onto Street: No automobile or other vehicle shall be washed at any place within the town where the water, dirt, mud or other substances removed therefrom by or during the washing thereof, shall drain into or upon any street or sidewalk of the town. (2003 Code § 19-14)
- N. Fluids From Filling Stations And Other Businesses: It is unlawful for any owner or operator of a filling station or other place of business, or any agent or employee thereof, to cause or allow water, grease or other fluid to flow or drain into, over or across any sidewalk, parking, street, alley or other public way. (2003 Code § 19-15)
- O. Driving On Newly Paved Streets: It shall be unlawful for any person to ride or drive any animal, or drive any vehicle, over any newly paved street, avenue or alley in this town before such paving shall have been accepted by this town, and before the same shall have been formally opened by this town for public travel thereon. Provided, the contractor or other person having charge of such paving, shall erect and maintain barriers at the end of the streets, avenues

and alleys on which such paving is being done, as well as at all street intersections thereon. (2003 Code§ 19-16)

7-2-2: STREET EXCAVATIONS:

- A. Permit Required; Bond: No street within the corporate limits of the town will be cut, broken or dug into, in any manner whatsoever, without the person, firm or corporation desiring to disturb said street, first applying to the town clerk-treasurer for a permit to so cut, break or dig, over and under said street. The permit amount will be one thousand dollars (\$1,000.00), in the nature of a bond, which shall be posted with the town clerk-treasurer prior to any such excavations, cuts, breaks or diggings into any streets, avenues, alleys, and thoroughfares within the town. Thereafter, any such person, firm or corporation so excavating has twenty four (24) hours after the bond is posted to excavate and then backfill same with sand or SB2 from bottom of cut to four inches (4") from top of cut and then to use four inches (4") minimum of asphalt on top. The street superintendent is to inspect such refill. The bond will remain posted until six (6) months from such backfill or refill, when again the street superintendent will reinspect and either be satisfied therewith or require additional work thereon. At such time the bond will be refunded, less any charge assessed against the bond for such excavation. (2003 Code§ 19-17; amd. 2013 Code)
- B. Excavator To Warn Of Defects Created: Any person, firm or corporation cutting, digging into, breaking or otherwise disturbing any town street shall be solely responsible for the installation and maintaining of warning devices, flickers, lights and such other like equipment as shall be adequate to warn the traveling public of such street defects; and, they shall be fully liable and responsible for any and all damages, losses or injuries to person or property, which may be caused by any cutting, breaking, digging or disruption of town streets. (2003 Code § 19-18)
- C. Restoration Of Streets:
1. Any person, firm or corporation cutting, breaking, digging or disturbing any street or streets within the limits of the town are hereby obligated to restore the same to condition equal to that which existed prior to such action, to the end, extent and degree that said streets will be nearly identical to its previous condition as possible. In this regard, any defect which appears in such streets, where so cut, dug or disturbed, within twelve (12) months from the time of the

street disturbance, shall be conclusively presumed to result from such cutting, digging, breaking or disruption, and within five (5) days of receipt of written notice to make such repairs, the person, firm or corporation so disturbing any town street shall thereupon cause the same to be corrected. (2003 Code § 19-19)

2. Any person, firm or corporation failing to comply herewith shall be denied the right and privilege of connecting and tying on to any utilities within the town. (2003 Code § 19-19; amd. 2013 Code)

7-2-3: DAMAGES TO PUBLIC ROADS; BOND REQUIREMENTS:

A. Bond Required: From and after the effective date hereof, all mining, oil and gas companies, drilling contractors, well operators, or other heavy equipment relative thereto utilized by agents, contractors and subcontractors, will, before proceeding upon the public thoroughfares of the town, post a cash surety bond in the amount of one hundred thousand dollars (\$100,000.00) to the town clerk-treasurer in order to ensure that no damages will be done to such public thoroughfares or, in the alternative, if there be damages done by such, that the damages will be recouped from such bond by the town.

B. Movement Of Heavy Equipment:

1. No person shall move or cause to be moved over, upon or across any paving or paved street or alley within this town, any piece of machinery of extreme weight which exceeds the design limits of such pavement without having first obtained express written permission from the mayor.

2. Heavy equipment or vehicles used in the actual transportation of oil, gas, mining or deleterious substances shall not be moved nor cause to be moved across streets or alleys within residential neighborhoods abutting kindergartens, elementary schools or middle schools, whether such schools are public or private; except such equipment may be moved upon major arterial streets.

3. Prior to the commencement of any mining or drilling operations, all private roads used for access to the site and the site itself shall be surfaced with at least crushed rock or gravel, or oiled and maintained, to prevent dust and mud.

4. All public roads that are gravel shall be maintained as long as the site is in use.

C. Term, Conditions Of Bond: The bond shall become effective on or before the same date as filed with the town and remain in force and effect until the rig and/or other machinery and equipment have been removed from the site and transported through the town from said site. No determination of damages will be made until said rig and/or machinery and equipment have been transported through the town from the site. In addition, the bond will be conditioned that the contractor:

1. Will promptly restore to their former condition the streets, sidewalks and other public property of the town which may be disturbed or damaged by the operations;
2. Will promptly clear the premises of all litter, trash, waste and other substances used, allowed or occurring in the drilling and/or production operations;
3. Will (after all operations are complete) grade, level and restore said property to the same surface condition as nearly as possible as existed when the operations first commenced;
4. Will comply with every applicable federal and state law, municipal ordinance, rule, regulation, standard or directive relating to the maintenance of the safe and beneficial physical, chemical and biological properties of any waters of the town or lands within the town;
5. Will bear all the costs necessary and incidental to the correction of any pollution to the waters of the town or lands within the town caused by contractor or his agents, servants, employees, sub-contractors or independent contractors; and
6. The contractor shall indemnify and hold the town harmless from any and all liability attributable to granting the permit. (Ord. 143-07, 5-8-2007)

7-2-4: PENALTY: Any person, firm or corporation who shall violate any provisions of this chapter by doing any act prohibited or declared to be unlawful thereby, or declared to be an offense or misdemeanor thereby, or who shall fail to do any act required by any such provision, shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to penalty as provided in section 1-4-1 of this code. (2003 Code § 19-20; amd. 2013 Code)

TITLE 8
PUBLIC UTILITIES

Subject	Chapter
Town Owned Utilities	1
Sale Or Lease Of Municipal Utility	2

CHAPTER 1

TOWN OWNED UTILITIES

SECTION:

- 8-1-1: Extension Of Utility Lines And Service Beyond Town
- 8-1-2: Emergency Replacement And Repair Fund
- 8-1-3: Meter Deposit Investments

8-1-1: **EXTENSION OF UTILITY LINES AND SERVICE BEYOND TOWN:** Any municipality owning or operating its own system of generating or distributing energy or utilities, and any municipality engaged in the distribution of energy or utilities, may extend its lines and mains beyond the corporate limits of the municipality. Such municipality may acquire, erect, construct and own all necessary poles, wire, lines, pipelines and mains, apparatus and substations, and acquire rights of way, and do all other things necessary and proper in carrying on the business outside of the corporate limits of the municipality to the same effect as it may now do within corporate limits of the municipality. Such municipality may construct or acquire lines, pipelines or mains by purchase or otherwise and may sell such service to any person, firm or corporation outside of the limits of the municipality. (2003 Code § 18-1)

8-1-2: **EMERGENCY REPLACEMENT AND REPAIR FUND:**

- A. **Authority:** A municipality may withhold from surplus revenues derived from utilities a sufficient sum, not to exceed fifty percent (50%) of such surplus, to build up an emergency replacement and repair fund in a sufficient amount to replace or repair any item that may be reasonably expected to break down or go out in connection with the supply of utilities to the municipality. (2003 Code § 18-2)
- B. **Use Of Funds:** Money on hand in the emergency replacement and repair fund shall not be available for any purpose and shall not be used for any purpose other than repair or replacement of existing and necessary facilities to supply utilities for the municipalities.

- C. Fund Nonfiscal: The emergency replacement and repair 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. (2003 Code § 18-3)

8-1-3: METER DEPOSIT INVESTMENTS: All monies in the hands of municipal treasurers which have been acquired as meter deposits from users of municipally owned and operated energy or water facilities may be invested in the manner provided by 62 Oklahoma Statutes section 348.1, for investment of municipal funds. Before any such investment is made by the treasurer, the governing body shall pass a resolution authorizing the investment. The resolution shall recite:

- A. The securities in which the money is to be invested;
- B. The amount of money being invested; and
- C. The price to be paid for the securities in which the investment is made; provided a price above prevailing market price shall not be paid therefor. The investment of such funds by the municipality shall in no manner impair its obligation to any person, firm or corporation to refund in full any or all deposits theretofore or thereafter made. (2003 Code § 18-4)

CHAPTER 2

SALE OR LEASE OF MUNICIPAL UTILITY

SECTION:

- 8-2-1: Applicability
- 8-2-2: Voter Authorization Required
- 8-2-3: Procedure; Notice; Election
- 8-2-4: Cash Sale; Bids; Payment
- 8-2-5: Conveyance

8-2-1: **APPLICABILITY:** The provisions of this chapter on the procedure for selling or leasing municipally owned public utilities, shall apply to any public utility owned by a municipality where the cash value of the public utility exceeds ten thousand dollars (\$10,000.00). Nothing in this chapter shall apply to any sale of property of a municipality to the state, or any agency thereof, for park purposes. Any municipality governed by charter, when authorized by such charter, may sell, convey or lease any public utility owned by the municipality without conducting an election as provided in section 8-2-3 of this chapter. (2003 Code § 18-6)

8-2-2: **VOTER AUTHORIZATION REQUIRED:** No public utility owned by any municipality, as defined in section 8-2-1 of this chapter, shall be sold, conveyed, leased or otherwise disposed of by the municipal governing body unless such sale, lease, conveyance or other disposal of such utility shall be authorized by the vote of a majority of the registered voters of the municipality voting on the question at an election to be held for such purpose. (2003 Code § 18-7)

8-2-3: **PROCEDURE; NOTICE; ELECTION:** The procedure for the sale or lease of a municipally owned public utility shall be as follows:

- A. Notice: When the governing body of any municipality, as defined in section 8-2-1 of this chapter, desires to offer for sale or lease any

public utility belonging to the municipality, it shall authorize by resolution the proper officers of the municipality to give notice and advertise for bids. The notice shall state that on a specified day the governing body will receive open bids for the sale or lease of the public utility. The notice shall also state the requirements for submission of bids, as provided in section 8-2-4 of this chapter.

- B. **Publication:** The notice shall be published in two (2) consecutive issues of a newspaper of general circulation in the municipality. The two (2) publications shall be seven (7) days apart, and the first publication of the notice shall be at least fifteen (15) days before open bids will be received.
- C. **Bids:** The municipal governing body shall receive bids on the specified date and select the highest and best bid for the sale or lease of the public utility, if satisfactory to the governing body.
- D. **Election:**
 - 1. After selecting the highest and best bidder, the governing body shall, by ordinance, call for an election for the submission of the following propositions to the registered voters of the municipality:
 - a. The question of the proposed sale or lease of the public utility to the highest and best bidder; and
 - b. At the same time, the question of the granting of a franchise to the bidder if such a franchise is required by the Oklahoma constitution.
 - 2. The question shall be submitted on the same day. If a franchise is required by the Oklahoma constitution, the sale of the utility shall be conditioned upon the franchise being granted to the bidder by vote of the people at the election. The election shall be conducted in the manner provided by law for the granting of franchise.
- E. **Bidder Owner Of Competing Utility:** If the highest and best bidder for the public utility under the procedure herein defined shall be the owner of a competing utility operating under a valid franchise or permit, it shall be necessary only to submit to the registered voters the question of the sale of the municipal utility. (2003 Code § 18-8)

8-2-4: CASH SALE; BIDS; PAYMENT: The sale of any public utility, when authorized by the registered voters, shall be for cash to the highest and best responsible bidder. Each bid shall be accompanied with a certified check payable to the town clerk-treasurer for ten percent (10%) of the amount bid. The check shall be cashed by the town clerk-treasurer if the bid to which the check is attached is accepted, and the proceeds thereof shall be held to secure the municipality in damages it might sustain upon the failure of the bidder to pay the amount bid for the utility. The balance of the purchase price shall be payable in cash by the successful bidder upon the execution and delivery of proper legal conveyances and of the property thereby conveyed. The public utility shall not be delivered, nor shall the right to participate in any portion of the income derived therefrom accrue to the purchaser until full payment in cash of the amount of the bid for such utility is made. Securities in which municipal treasurers are authorized by law to invest sinking funds may be accepted in lieu of cash. (2003 Code § 18-9)

8-2-5: CONVEYANCE: If the sale or lease is authorized at the election on the question, and the franchise is granted, then the governing body of the municipality shall convey the utility to the purchaser by proper legal instruments. (2003 Code § 18-10)

TITLE 9
BUILDING CODES AND REGULATIONS

Subject	Chapter
Codes And Administration	1
Fire Prevention Regulations	2
Plumbing Regulations	3
Electrical Regulations	4
Mobile Homes And Travel Trailers	5

CHAPTER 1

CODES AND ADMINISTRATION

SECTION:

- 9-1-1: Technical Codes Adopted; Revisions
- 9-1-2: Inspection And Collection Of Permit Fees
- 9-1-3: Relief In Court
- 9-1-4: Certificate Of Occupancy

9-1-1: TECHNICAL CODES ADOPTED; REVISIONS:

A. Adoption: Those certain documents, copies of which are on file in the office of the town clerk-treasurer, being marked and designated as the 2012 editions of the international building, plumbing and fire codes, and the 2011 edition of the national electrical code, be and are hereby adopted as the building codes of the town for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupancy and use; and the condemnation of buildings and structures unfit for occupancy and use, and the demolition of such structures as herein provided; providing for the issuance of permits and the collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said building codes on file in the office of the building inspector, are hereby referred to, adopted and made a part hereof, as if fully set out in this section, with the additions, insertions, deletions and changes, if any, prescribed in subsection B of this section.

B. Revisions: The following sections of the 2012 edition of the international building code are hereby revised:

Section 101.1, insert "Town of Pocola".

Section 1612.3, insert "Town of Pocola".

Section 1612.3, insert (date of issuance of flood insurance study).
(2013 Code)

9-1-2: INSPECTION AND COLLECTION OF PERMIT FEES: All fees collected for electrical inspection and electrical permits, and building inspection and building permits, and for all other inspections and permits, shall be collected and paid to the town clerk-treasurer, to belong to the town. All fees shall be determined by resolution of the town board of trustees as may be amended from time to time. (2013 Code)

9-1-3: RELIEF IN COURT: No penalty imposed by and pursuant to this title shall interfere with the right of the town also to apply to the proper courts of the state for redress in injunction or other appropriate action against such person. (2013 Code)

9-1-4: CERTIFICATE OF OCCUPANCY:

- A. Required: A new building, with the exception of one-unit and two-unit residential dwellings, shall not be occupied nor shall a change in the use of a building or a part of a building or lot, parcel or tract of land be made until after the issuance of a certificate of occupancy therefor.
- B. Issuance: The certificate of occupancy shall be issued by the community development department only after satisfactory evidence of the applicant's compliance with all applicable code provisions. (2013 Code)

CHAPTER 2

FIRE PREVENTION REGULATIONS

SECTION:

- 9-2-1: Enforcement By Fire Department
- 9-2-2: Modifications
- 9-2-3: New Materials, Processes Or Occupancies; Permits
- 9-2-4: Appeals
- 9-2-5: Violation; Penalty

9-2-1: **ENFORCEMENT BY FIRE DEPARTMENT:** The fire prevention code shall be enforced by the fire department, under the supervision of the fire chief. The fire chief may detail such members of the fire department as inspectors as may from time to time be necessary. (2013 Code)

9-2-2: **MODIFICATIONS:** The fire chief, with the approval of the town board of trustees, shall have power to modify any of the provisions of the fire code adopted in this title, in his own discretion or upon application in writing by the owner or lessee, or his duly authorized agent, where there are practical difficulties in the way of carrying out the 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 or allowed, and the decision of the fire chief and the town board of trustees thereon shall be entered upon the records of the board of trustees; and for applications requesting change, a signed copy shall be furnished the applicant. (2013 Code)

9-2-3: **NEW MATERIALS, PROCESSES OR OCCUPANCIES; PERMITS:** The fire chief and two (2) persons appointed by the board of trustees shall act as a committee to determine and specify, after giving affected persons an opportunity to be heard, any new materials, processes or occupancies, which shall require permits, in addition to those now enumerated in the fire prevention code. The fire chief shall post such

list in a conspicuous place in his office, and distribute copies thereof to interested persons. (2013 Code)

9-2-4: APPEALS: Whenever the fire chief shall disapprove an application or refuse to grant a permit applied for, or when it is claimed that the provisions of the fire prevention code do not apply or that the true intent and meaning of said code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the fire chief to the board of trustees within thirty (30) days from the date of the decision appealed. (2013 Code)

9-2-5: VIOLATION; PENALTY:

- A. Any person who violates any of the provisions of the fire prevention code hereby adopted, or who fails to comply therewith, or who violates or fails to comply with any order made thereunder, or who builds in violation of any detailed statement of specifications or plans submitted and approved thereunder or any certificate or permit issued thereunder, and from which no appeal has been taken, or who fails to comply with such an order as affirmed or modified by the board of trustees or by a court of competent jurisdiction, within the time fixed therein, shall severally for every such violation and noncompliance respectively, be guilty of a misdemeanor and subject to penalty as provided in section 1-4-1 of this code.
- B. All such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each ten (10) days that prohibited conditions are maintained shall constitute a separate offense. (2013 Code)

CHAPTER 3

PLUMBING REGULATIONS

SECTION:

- 9-3-1: Extent Of Jurisdiction
- 9-3-2: Plumbing Inspector
- 9-3-3: Plumbing Contractors, Journeymen And Apprentices
- 9-3-4: Connection To Water And Sewer Lines
- 9-3-5: Performing Plumbing Work
- 9-3-6: Defective Plumbing
- 9-3-7: Right Of Entry
- 9-3-8: Turn On Of Water
- 9-3-9: Penalty

9-3-1: **EXTENT OF JURISDICTION:** The provisions of the plumbing code, as adopted in subsection 9-1-1A of this title, shall apply to all structures and premises located within the town. (2013 Code)

9-3-2: **PLUMBING INSPECTOR:** The town will have a chief plumbing inspector as determined by the board of trustees. (2013 Code)

9-3-3: **PLUMBING CONTRACTORS, JOURNEYMEN AND APPRENTICES:**

- A. **Registration Required:** No plumbing contractor, journeyman plumber or apprentice shall be issued a permit to do plumbing work within the town, nor shall any such person perform plumbing work, until and unless such person is registered as provided herein. Violation of this subsection shall constitute a misdemeanor.
- B. **Fees:** Fees shall be charged on an annual basis for registration and renewal of registration as the board of trustees may, from time to time, prescribe by resolution.

- C. Expiration And Renewal Of Registration: All registrations and renewals shall expire on July 1 of each year. (2013 Code)

9-3-4: CONNECTION TO WATER AND SEWER LINES: No connection shall be made to the water or sewer lines of the town except when all plumbing to which such lines are connected has been installed as provided by this chapter and the plumbing code. (2013 Code)

9-3-5: PERFORMING PLUMBING WORK:

- A. Permit Required: It shall be unlawful for any person, firm or corporation to proceed with any plumbing work connected or to be connected with any pipe or pipes in the town or to any private plumbing or any sewer system of the town until a permit for such work has been obtained from the plumbing inspector. No permit shall be required for the making of minor repairs unless a portion or a section of the plumbing or drain line is cut, removed or replaced.

B. Submission Of Plans:

1. The plumbing inspector may require the submission and approval of plans and specifications showing the nature and extent of the proposed work before a permit is issued. If, in the course of the work, it is found necessary to make any change from the approved plans and specifications on which a permit has been issued, amended plans and specifications shall be submitted and, if approved, a supplementary permit shall be issued to cover the change after the same conditions required to secure the original permit have been satisfied.

2. Plans and specifications, when required by the plumbing inspector, shall include a plane view and a riser diagram showing the work and shall show the direction of flow, pipe size, grade of horizontal piping, elevations, drainage fixture unit loading of both stacks, drains or drain waster and vent, the supply fixture unit load for water system and branch supplies which serve more than one plumbing fixture, appliance or hose outlet. Symbols used thereon shall be in accordance with standard engineering practice.

3. Nothing in this subsection shall be construed to prevent the issuance of a permit for the installation of part of a plumbing system before the entire plans and specifications of the system have been submitted or approved, if adequate information and detailed state-

ments have been presented for the same and have been found to comply with the plumbing code.

- C. Inspection: It shall be the duty of any person, firm or corporation doing any plumbing work and who has obtained a plumbing permit to report the same for rough-in inspection as soon as such work is ready for inspection, and when the work is ready for final inspection.
- D. Alteration After Inspection: It shall be unlawful for any person, firm or corporation to alter or change any pipe or fixture or to remove any material or fixture after inspection has been made without first obtaining a permit from the plumbing inspector to do so, and the plumbing inspector shall then reinspect all work altered or changed, and the same fee shall be charged as provided for original inspections. (2013 Code)

9-3-6: DEFECTIVE PLUMBING: Whenever the plumbing inspector has reason to believe that defective or unsafe plumbing or fittings exist in or upon any building or premises, or if he be so requested by the agent, owner or occupant thereof, he shall inspect the plumbing and fittings on such premises and, if he finds that they are defective or unsafe in any respect, it shall be his duty to notify the agent or owner of the building or premises in writing to forthwith cause such plumbing or fitting to be altered or repaired so as to conform to standards contained in the plumbing code, or to be changed and made safe in such other manner as the plumbing inspector may prescribe. If the owner or person having control of such building shall fail to comply with the provision of the notice within ten (10) days after the service of same, such person shall be deemed guilty of maintaining unsafe plumbing and fittings, and, upon conviction thereof, shall be punished as provided for herein. (2013 Code)

9-3-7: RIGHT OF ENTRY: In the discharge of his duties, the plumbing inspector or an authorized representative shall have the authority to enter at any reasonable hour any building, structure or premises in the jurisdiction to enforce the provisions of the plumbing code. (2013 Code)

9-3-8: TURN ON OF WATER: Whenever new fixtures are added or alterations or changes made to plumbing, or new jobs have been installed, the water shall be left off by the plumber or other person doing the work, and no person, firm or corporation shall turn on the water or

9-3-8

9-3-9

assist in turning on the water until a final certificate of the inspection has been issued by the plumbing inspector. After the plumbing inspector has made a finished inspection and placed his tag or label of approval on the fixtures of such job, and all certificates have been turned over to the water department by the owner, the water department shall turn on the water. (2013 Code)

9-3-9: PENALTY: Violation of any of the provisions of this chapter or the plumbing code shall constitute a misdemeanor, subject to penalty as provided in section 1-4-1 of this code. (2013 Code)

CHAPTER 4

ELECTRICAL REGULATIONS

SECTION:

- 9-4- 1: Extent Of Jurisdiction
- 9-4- 2: Electrical Inspector
- 9-4- 3: Electrical Contractors, Journeymen And Apprentices
- 9-4- 4: Connection To Electrical System
- 9-4- 5: Performing Electrical Work
- 9-4- 6: Wiring And Installations
- 9-4- 7: Right Of Entry
- 9-4- 8: Turn On Of Electricity
- 9-4- 9: Defective Electrical Connections Or Fixtures
- 9-4-10: Penalty

9-4-1: **EXTENT OF JURISDICTION:** The provisions of the electrical code shall apply to all structures and premises located within the town. (2013 Code)

9-4-2: **ELECTRICAL INSPECTOR:** The town will have a chief electrical inspector as determined by the board of trustees. The chief electrical inspector shall inspect all electrical wiring and apparatus as provided in this title. (2013 Code)

9-4-3: **ELECTRICAL CONTRACTORS, JOURNEYMEN AND APPRENTICES:**

- A. Registration Required: No electrical contractor, journeymen electrician or apprentice shall be issued a permit to do electrical work within the town, nor shall any such person perform electrical work, until and unless such person is registered as provided herein. Violation of this subsection shall constitute a misdemeanor.
- B. Fees: The fees for registration and renewal thereof shall be uniform and shall be assessed on an annual basis and shall be in such

amount as the board of trustees may, from time to time, prescribe by resolution.

- C. Expiration And Renewal Of Registration: All registration and renewals shall expire on July 1 of each year. (2013 Code)

9-4-4: CONNECTION TO ELECTRICAL SYSTEM: No connection shall be made to the electrical system of the town except when all electrical lines, systems and conduits to which such lines are connected have been installed as provided by this chapter and the electrical code. (2013 Code)

9-4-5: PERFORMING ELECTRICAL WORK:

- A. Permit Required: It shall be unlawful for any person, firm or corporation to proceed with any electrical work connected or to be connected with the electrical system of the town until a permit for such work has been obtained from the electrical inspector.

B. Submission Of Plans:

1. The electrical inspector may require the submission and approval of plans and specifications showing the nature and extent of the proposed work before a permit is issued. If, in the course of the work, it is found necessary to make any change from the approved plans and specifications on which a permit has been issued, amended plans and specifications shall be submitted and, if approved, a supplementary permit shall be issued to cover the change after the same conditions required to secure the original permit have been satisfied.

2. All plans and specifications required to be submitted shall be examined by the electrical inspector for conformance with the provisions of this chapter and the electrical code.

3. Nothing in this subsection shall be construed to prevent the issuance of a permit for the installation of part of an electrical system before the entire plans and specifications of the system have been submitted or approved, if adequate information and detailed statements have been presented for the same and have been found to comply with this chapter and the electrical code.

- C. Inspection: It shall be the duty of any person, firm or corporation doing any electrical work and who has obtained an electrical permit to report the same for rough-in inspection as soon as such work is ready for inspection, and when the work is ready for final inspection.
- D. Alteration After Inspection: It shall be unlawful for any person, firm or corporation to alter or change any wire conduit or fixture or to remove any material or fixture after inspection has been made without first obtaining a permit from the electrical inspector to do so, and the electrical inspector shall then reinspect all work altered or changed, and the same fee shall be charged as provided for original inspections. (2013 Code)

9-4-6: WIRING AND INSTALLATIONS:

- A. Definition: The term "electrical wiring", as used in this section, means the installation of electrical conductors, fixtures, appliances or apparatus to be used for the transmitting of electrical current, for electric lights, heat or power, lighting fixtures, or installing electrical apparatus of any nature, kind or description to be connected to light, heat or power service.
- B. Utility Connections: It shall be unlawful for any public service corporation, individual, light, heat or power company to connect or cause to be connected any service or building for the supply of electrical current for light, heat or power until they have been notified by the electrical inspector that the electric work has been inspected and approved and is ready for service.
- C. Right Of Entry: The electrical inspector, while in the discharge of his duty, shall have the authority to enter any building or premises at any reasonable hour, and any person interfering with the electrical inspector while performing his duty shall be fined as prescribed in this chapter. The electrical inspector shall be the judge of what constitutes the safe installation of electrical conductors and his decision shall be final and binding.
- D. Rulings Of Inspector: The electrical inspector shall have the right to make special rulings, when circumstances warrant, for the safeguarding of life and property and the improvement of electrical installations, but in all cases, persons engaged in the installing of electrical wires, fixtures and apparatus and holding an electrical license, must be notified by letter of these decisions.

- E. Charges For Installations: Charges may be made by the electrical inspector as provided by the board of trustees for various installations in connection with work being performed. (2013 Code)

9-4-7: RIGHT OF ENTRY: In the discharge of his duties, the electrical official or an authorized representative shall have the authority to enter at any reasonable hour any building, structure or premises in the jurisdiction to enforce the provisions of this chapter and the electrical code. (2013 Code)

9-4-8: TURN ON OF ELECTRICITY: Whenever new fixtures, wires or systems are added or alterations or changes made to electrical fixtures, or new lines have been installed, the service shall be left off by the person doing the work, and no person, firm or corporation shall turn on the electricity or assist in turning on the same until a final certificate of the inspection has been issued by the electrical inspector. After the electrical inspector has made a finished inspection and placed his tag or label of approval on the fixtures of such job, and all certificates have been turned over to the electrical department by the owner, the service shall be established. (2013 Code)

9-4-9: DEFECTIVE ELECTRICAL CONNECTIONS OR FIXTURES: Whenever the electrical inspector has reason to believe that defective or unsafe electrical connections or fixtures exist in or upon any building or premises, or if he be so requested by the agent, owner or occupant thereof, he shall inspect the electrical systems and wiring on such premises and, if he finds that they are defective or unsafe in any respect, it shall be his duty to notify the agent or owner of the building or premises in writing to forthwith cause such electrical systems or wiring to be altered or repaired so as to conform to standards contained in this chapter and the electrical code, or to be changed and made safe in such other manner as the electrical inspector may prescribe. If the owner or person having control of such building shall fail to comply with the provision of the notice within ten (10) days after the service of same, such person shall be deemed guilty of maintaining unsafe electrical systems and wiring, and, upon conviction thereof, shall be punished as provided for in this chapter. (2013 Code)

9-4-10: PENALTY: Violation of any of the provisions of this chapter or the electrical code shall constitute a misdemeanor and shall be subject to penalty as provided in section 1-4-1 of this code. (2013 Code)

CHAPTER 5

MOBILE HOMES AND TRAVEL TRAILERS

SECTION:

- 9-5-1: Definitions
- 9-5-2: Freestanding Mobile Homes
- 9-5-3: Nonresidential Mobile Trailers
- 9-5-4: Mobile Home, Travel Trailer Park Plans
 - 9-5-4- 1: Electrical Distribution System
 - 9-5-4- 2: Water Supply
 - 9-5-4- 3: Laundry Facilities
 - 9-5-4- 4: Sewage And Refuse Disposal
 - 9-5-4- 5: Garbage Receptacles
 - 9-5-4- 6: Traffic, Parking
 - 9-5-4- 7: Insect, Rodent And Weed Control
 - 9-5-4- 8: Register Of Occupants
 - 9-5-4- 9: Attendant Or Caretaker
 - 9-5-4-10: Wrecked Or Damaged Homes, Trailers
- 9-5-5: Minimum Housing Regulations For Mobile Homes
- 9-5-6: Mobile Home Subdivisions
- 9-5-7: Inspections For Compliance
- 9-5-8: Violations; Notice, Hearings And Orders

9-5-1: **DEFINITIONS:** For the purpose of this chapter, the following terms shall have the meanings respectively ascribed to them in this section:

DEPENDENT MOBILE HOME: A mobile home which does not have a flush toilet and a bath or shower. The purposes of regulation under this chapter, a dependent mobile home shall be considered to be the same as a travel trailer, unless otherwise specified.

FREESTANDING MOBILE HOME OR TRAVEL TRAILER: Any mobile home or travel trailer not located in a mobile home park or travel trailer park, or in an approved mobile home subdivision.

HEALTH OFFICER:	The legally designated health authority of the town or his authorized representative.
INDEPENDENT MOBILE HOME:	A mobile home which has a flush toilet and a bath or shower. Unless otherwise indicated in the text of this chapter, the term "mobile home" shall mean an independent mobile home.
INSPECTION OFFICER:	The building inspector of the town or his authorized agent.
MOBILE HOME:	A movable or portable dwelling consisting of one or more components or of two (2) or more units separately towable but designed to be jointed into one integral unit designed for towing or transport on streets and highways on its own wheels, chassis or on flatbed or other trailers, both complete and ready for occupancy, except for minor and incidental unpacking and assembly operations, located on jacks or permanent foundations, skirting, connection to utilities and similar operations. Unless otherwise indicated in the text of this chapter, the term "mobile home" shall refer to an "independent mobile home", as defined in this section.
MOBILE HOME PARK:	Any plot of ground upon which two (2) or more mobile homes, occupied for dwelling or sleeping purposes, are located, regardless of whether or not a charge is made for such accommodations.
MOBILE HOME SPACE:	A plot of ground within a mobile home park designed for the accommodation of one mobile home, and not located on a mobile home sales lot.
MOBILE HOME SUBDIVISION:	A subdivision designed and intended for residential use where residence is in mobile homes exclusively, and where mobile home lots are sold for occupancy.
NONRESIDENTIAL MOBILE TRAILER:	Any vehicle having the basic characteristics of either a mobile home or travel trailer, but which is used for purposes other than residential and

is not being offered for sale as indicated by a clearly displayed sign on or near the trailer.

PARK:	A mobile home or travel trailer park.
PERSON:	A natural individual, firm, trust, partnership, association or corporation.
PUBLIC WATER SYSTEM OR PUBLIC SEWER SYSTEM:	Any such system built and owned by, or dedicated to and accepted by, the town. All other systems are private.
RURAL:	Any area shown on the town area general plan for suburban or rural development and which is zoned agriculturally.
SERVICE BUILDING:	A building housing toilet and bathing facilities for men or women, and may also include buildings containing laundry facilities and other facilities.
SUBDIVISION:	"Mobile home subdivision", as defined in this section, unless otherwise indicated.
TRAILER PARK OR TRAVEL TRAILER PARK:	Any lot of ground upon which two (2) or more travel trailers, occupied for dwelling or sleeping purposes, are located, regardless of whether or not a charge is made for such accommodations.
TRAVEL TRAILER OR TRAILER:	All vehicles and portable structures built on a chassis, designed as a temporary or permanent dwelling for travel, recreational and vacation use not included in the definition of independent mobile homes. For purposes of regulation under this chapter, a dependent mobile home shall be considered to be the same as a travel trailer, unless otherwise specified.
TRAVEL TRAILER SPACE:	A plot of ground within a travel trailer park designed for accommodation of one travel trailer.
URBAN:	Any area shown on the town area general plan for urban intensity development. (2013 Code)

9-5-2: FREESTANDING MOBILE HOMES:

- A. When Permitted: No freestanding mobile home or travel trailer shall be permitted in the town limits unless it is owner occupied or is being offered for sale or parked for storage.
- B. Mobile Homes For Sale; Number Permitted: Except for mobile homes or travel trailers within regular commercial mobile or travel trailer sales lots, each such freestanding mobile home or travel trailer offered for sale must be clearly marked as such, and shall not be occupied for either living or sleeping purposes. A property owner shall not store, nor permit to be stored, more than one mobile home or travel trailer on a residential lot.
- C. Foundation Required: Mobile homes shall be placed on a solid foundation constructed of masonry block, stone or solid concrete. Open tier construction of block or concrete is not sufficient unless the materials are covered by a solid metal material or skirting properly vented.
- D. Existing Mobile Homes: Notwithstanding anything contained to the contrary herein, this section shall not prohibit the continued location of a mobile home used for rental purposes on property having a mobile home on it on the effective date hereof. (2013 Code)

9-5-3: NONRESIDENTIAL MOBILE TRAILERS:

- A. Permit Required: A nonresidential mobile trailer shall not be permitted in the town unless a permit for its operation is issued by the inspection officer or health officer. Such permit shall specify the permitted use of the nonresidential mobile trailer, the location of such operation and the termination date of the permit. No permit shall be issued for a use which would violate any town ordinance or state or federal law or regulation.
- B. Fee: An annual fee in such amount as established by resolution of the board of trustees shall be charged for each nonresidential mobile trailer. No governmental or nonprofit agency shall be charged a fee.
- C. Construction Projects: Operation of nonresidential trailers by contractors on construction projects for which building permits have been issued or which are otherwise approved by governmental units is permitted during the term of such construction project without issuance of a permit.

- D. Permanent Location Not Permitted: This section is not to be construed as permitting or authorizing the permanent location of any nonresidential mobile trailer in the town. (2013 Code)

9-5-4: MOBILE HOME, TRAVEL TRAILER PARK PLANS: Any mobile home park or travel trailer park shall conform to the following requirements:

- A. Drainage: The park shall be located on a well drained site, properly graded to ensure rapid drainage and freedom from stagnant pools of water;
- B. Spacing: Spaces shall be provided consisting of a minimum of one thousand (1,000) square feet for each space which shall be at least thirty feet (30') wide and clearly defined. Mobile homes or trailers shall be so harbored on each space that there shall be at least fifteen feet (15') clearance between trailer coaches at their nearest point; provided, however, that with respect to mobile homes or trailers parked end to end, the end to end clearance between trailer coaches may be less than fifteen feet (15'), but shall be not less than ten feet (10') from any building within the park or from any side or rear property line bounding the park, nor closer than twenty five feet (25') from the front property line;
- C. Driveways: All spaces shall abut upon a driveway of not less than twenty five feet (25') in width which shall have unobstructed access to a public street, alley or highway. All driveways shall be well marked;
- D. Installations: All electrical, plumbing, gas or other installations in the park shall comply with all state and local codes and ordinances. (2013 Code)

9-5-4-1: ELECTRICAL DISTRIBUTION SYSTEM:

- A. Location Of Main Lines: Main power lines not located underground shall be suspended at least eighteen feet (18') above the ground. There shall be a minimum horizontal clearance of three feet (3') between overhead wiring and any mobile home, service building or other structure.
- B. Conductors And Cable: All direct burial conductors or cable shall be buried at least eighteen inches (18") below the ground surface and

shall be insulated and specially designed for the purpose. Such conductors shall be located not less than one foot (1') radial distance from water, sewer, gas or communication lines.

C. Individual Connection Requirements: Individual electrical connections for each mobile home space shall be in conformance with the following:

1. Each mobile home space shall be provided with an approved disconnecting device and over current protective equipment. The minimum service per outlet shall be one hundred twenty/two hundred forty (120/240) volts AC, fifty (50) amperes;

2. Outlet receptacles at each mobile home stand shall be located not more than twenty five feet (25') from the over current protective devices in the mobile home and a 3-pole, 4-wire grounding type shall be used. Receptacles shall be of weatherproof construction and configurations shall be in accordance with American standard outlet receptacle C-73.1; and

3. Where the calculated load of the mobile home is more than fifty (50) amperes, either a second outlet receptacle shall be installed or electrical service shall be provided by means of permanently installed conductors.

D. Grounding: All exposed noncurrent carrying metal parts of mobile homes and all other equipment shall be grounded by means of an approved grounding conductor with branch circuit conductors or other approved method of grounded metallic wiring. The neutral conductor shall not be used as an equipment for mobile homes or other equipment. (2013 Code)

9-5-4-2: WATER SUPPLY: An adequate supply of pure, potable water for drinking and domestic purposes shall be supplied to meet the requirement of the park. It shall be capable of furnishing a minimum of two hundred fifty (250) gallons per day per space. Each space shall be provided with a cold water tap at least four inches (4") above the ground. (2013 Code)

9-5-4-3: LAUNDRY FACILITIES: If laundry facilities are provided, not less than one double laundry tub and one conventional wringer type washing machine shall be provided for every twenty (20) spaces or one single laundry tub and one automatic or semiautomatic type

washing machine shall be furnished for every twenty (20) spaces. An electrical outlet shall be provided to supply current sufficient to operate each washing machine. Drying spaces shall be provided to accommodate the laundry of the occupants of trailers or mobile homes. The service building housing the laundry facilities shall be a permanent structure complying with all applicable ordinances and statutes regulating buildings, electrical installations and plumbing and sanitation systems. (2013 Code)

9-5-4-4: SEWAGE AND REFUSE DISPOSAL: Each space shall be provided with a sewer connection at least four inches (4") in diameter, which shall be connected to receive the waste from the shower, bathtub, flush toilet, lavatory and kitchen sink of the mobile home or trailer harbored in such space. The sewer in each space shall be connected to discharge the waste into a public sewer system. It shall be unlawful for any dependent mobile home to be harbored in a mobile home or trailer park within the town. (2013 Code)

9-5-4-5: GARBAGE RECEPTACLES: Waterproof, flytight and rodent-proof garbage containers shall be provided in quantities adequate to permit disposal of all garbage and rubbish. Garbage containers shall be located no farther than two hundred feet (200') from any space. The containers shall be kept in sanitary condition at all times. Garbage and rubbish shall be collected and disposed of as frequently as may be necessary to ensure that the garbage containers shall not overflow. (2013 Code)

9-5-4-6: TRAFFIC, PARKING:

- A. In the town limits, mobile home parks should abut, and have their major means of ingress and egress on, at least a secondary thoroughfare.
- B. Travel trailer parks in the town limits shall abut, and have their major means of ingress and egress on, at least a primary thoroughfare. (2013 Code)

9-5-4-7: INSECT, RODENT AND WEED CONTROL:

- A. Required: Insect and rodent control measures to safeguard public health as required by the inspection officer or health officer shall be applied in the mobile home park or travel trailer park.

- B. Larvicidal Solutions: Effective larvicidal solutions may be required by the inspection officer or health officer for fly or mosquito breeding areas which cannot be controlled by other, more permanent measures.
- C. Control Of Insects, Weeds: The inspection officer or health officer may require the park operator to take suitable measures to control other insects and obnoxious weeds.
- D. Debris: Accumulations of debris which may provide harborage of rodents shall not be permitted in the mobile home park.
- E. Extermination Measures: When rats or other objectionable rodents are known to be in the park, the park operator shall take definite action, as directed by the inspection officer or health officer to exterminate them. (2013 Code)

9-5-4-8: REGISTER OF OCCUPANTS:

- A. Information Required: It shall be the duty of the licensee to keep a register containing a record of all mobile home or trailer owners and occupants located within the park. The register shall contain the following information:
 1. Name and address of each occupant;
 2. The make, model and year of all automobiles, trailers and mobile homes;
 3. License number and owner of each trailer, mobile home and any automobile by which either is towed;
 4. The state issuing license; and
 5. The date of arrival and departure of each trailer or mobile home.
- B. Availability For Inspection: The park shall keep the register available for inspection at all times by law enforcement officers, public health officials and other officials, whose duties necessitate acquisition of the information contained in the register. The register records shall not be destroyed for a period of three (3) years following the date of registration. (2013 Code)

9-5-4-9: ATTENDANT OR CARETAKER: A responsible attendant or caretaker, owner or operator shall be in charge at all times to keep the park, its facilities and equipment in a clean, orderly and sanitary condition and shall be answerable, with the licensee, for a violation of the provisions of this chapter. (2013 Code)

9-5-4-10: WRECKED OR DAMAGED HOMES, TRAILERS: Wrecked, damaged or dilapidated mobile homes and travel trailers shall not be kept or stored in a mobile home park or travel trailer park. The health officer shall determine if a mobile home or travel trailer is damaged or dilapidated to a point which makes the mobile home or travel trailer unfit for human occupancy on either a temporary or permanent basis. Whenever such a determination is made, the mobile home or travel trailer shall be vacated and removed from the premises. (2013 Code)

9-5-5: MINIMUM HOUSING REGULATIONS FOR MOBILE HOMES:

- A. Housing Codes Applicable: Every mobile home located in either a mobile home park, a mobile home subdivision or as a freestanding mobile home shall meet the provisions of the housing codes of the town, except as may be otherwise provided in this section.
- B. Dependent Mobile Homes: Dependent mobile homes shall not be required to have a flush toilet or a bath or shower.
- C. Exception For Travel Trailers: The housing code shall not apply to travel trailers insofar as floor area, flush toilet, bath or shower and ceiling height in concerned. (2013 Code)

9-5-6: MOBILE HOME SUBDIVISIONS:

- A. Minimum Acreage: The minimum size of mobile home subdivision shall be ten (10) acres.
- B. Residences Permitted: No residences except mobile homes shall be permitted in a mobile home subdivision.
- C. Lot Width: Minimum effective lot width in a mobile home subdivision shall be forty feet (40') measured at the front building line and minimum lot areas shall be four thousand (4,000) square feet;

provided, that at least a five foot (5') side yard shall be provided on each lot beyond any mobile home and additions thereto; and further provided, that in areas not served a public sewer, the minimum additional lot area shall be determined by the health officer on the basis of safe and sanitary sewer service. The effective lot width of a mobile home shall be determined, for interior lots, by measuring at right angles across the lot from one diagonal side line to the other, and for corner lots, the measurements shall be made at right angles from the diagonal having the greatest divergence from perpendicular to the street, through the midpoint of the rear line of the required front yard, to the opposite lot line or an extension thereof.

- D. Side Lot Lines: Side lines of lots in mobile home subdivisions need not be at right angles to straight street lines or radial to curved street lines
- E. Abut Public Street: Regardless of the effective lot width, mobile home subdivision lots must abut a public street for at least twenty five feet (25').
- F. Buffer Strip: All parks may have and maintain a buffer strip along all park boundaries not bordering a street. Such strip may consist of shrubs spaced at a distance that will properly screen with a solid appearance a height of at least five feet (5'). Also opaque fencing shall be installed where mobile home parks abut existing single-family residential areas. Opaque fencing shall not include conventional wire or chainlink type construction with material inserted to give a solid appearance. (2013 Code)

9-5-7: INSPECTIONS FOR COMPLIANCE:

- A. Authorized: The inspection or health officers are hereby authorized and directed to make inspections to determine the condition of mobile home and travel trailer parks located within the town in order to perform their duty of safeguarding the health and safety of occupants of mobile home parks and of the general public.
- B. Outside Premises: The inspection officer and the health officer shall have the power to inspect the outside premises of private or public property for the purposes of inspecting and investigation conditions in relation to the enforcement of this chapter or of regulations promulgated thereunder.

- C. Register: The inspection and the health officer shall have the power to inspect any register containing a record of all mobile homes and occupants using the park.
- D. Access Required: It is the duty of every occupant of a park to give the owner thereof or his agent or employee access to any part of the mobile home park or travel trailer park or their premises at reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with this chapter or with any lawful regulations adopted thereunder, or with any lawful order issued pursuant to the provisions of this chapter. (2013 Code)

9-5-8: VIOLATIONS; NOTICE, HEARINGS AND ORDERS:

- A. Notice Of Violation: Whenever the inspection or health officer determines violations of this chapter or pertinent laws or ordinances exist, he shall notify the owner or his agent of the alleged violation. The notice shall:
 1. Be in writing;
 2. Include a statement of the reasons for its issuance;
 3. Contain an outline of remedial action, which, if taken, will effect compliance with provisions of this chapter and other pertinent regulations;
 4. Allow a reasonable time, not to exceed ninety (90) days, for the performance of any act it requires; and
 5. Be served upon the owner or his agent as the case may require. The notice or order shall be deemed as properly served upon owner or agent when a copy thereof has been sent by certified mail to his last known address.
- B. Hearing: Any person affected by any notice issued under this chapter or resulting regulation may request and shall be granted a hearing on the matter before the board of trustees. Such person shall file with the inspection officer or health officer a written request for such hearing and setting forth briefly the grounds for such request within ten (10) days after the notice was served. When no request for such hearing shall have been filed within ten (10) days following the day on which notice was served, a violation shall be deemed to have been automatically in existence at the expiration of

the ten (10) day period. The filing of the request shall not stay the notice in cases of orders issued under this section. The hearing shall be held by the town board of trustees at the earliest possible time.

- C. Findings: After the hearing, the inspection officer or health officer shall compile the findings of the town board of trustees as to compliance with this chapter and pursuant regulations and shall issue an order in writing sustaining, modifying or withdrawing the prior notice which shall be served as provided in this section.

- D. Emergency Action: Whenever the inspection officer or health officer finds that an emergency exists which requires immediate action to protect the public health, the inspection officer or health officer may, without notice or hearing, issue an order reciting the existence of such an emergency and requiring that such action be taken as he may deem necessary to meet the emergency. Notwithstanding any other provisions of this chapter, such order shall be effective immediately. Any person to whom such an order is directed shall comply therewith immediately, but upon petition to the board of trustees, shall be afforded a hearing at the next regular meeting even if the agenda has been completed. (2013 Code)

TITLE 10

ZONING REGULATIONS

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CHAPTER 1

TITLE, PURPOSE AND APPLICATION

SECTION:

- 10-1-1: Title
10-1-2: Purpose
10-1-3: Application

10-1-1: **TITLE:** This title shall be known as and may be cited and referred to as the *ZONING ORDINANCE OF THE TOWN OF POCOLA, OKLAHOMA*. (Ord. 127-02, 11-11-2003; amd. 2013 Code)

10-1-2: **PURPOSE:** This title is enacted for the purposes of promoting the health, safety, morals and general welfare of the community; lessening congestion in the streets; securing safety from fire, panic and other dangers; providing adequate light and air; preventing the overcrowding of land; avoiding undue concentration of population; facilitating the adequate provision of transportation, water, sewage, schools, parks and other public requirements; conserving the value of buildings and encouraging the most appropriate use of land throughout the community; and promoting the development of the community in accordance with a comprehensive plan. (Ord. 127-02, 11-11-2003)

10-1-3: **APPLICATION:** The provisions of this title shall apply to all land, properties, buildings and structures located within the corporate limits of the town. Except as hereinafter otherwise provided, no land shall be used and no building, structure or improvement shall be made, erected, constructed, moved or altered except in accordance with the provisions contained in these regulations. (Ord. 127-02, 11-11-2003)

CHAPTER 2
DEFINITIONS

SECTION:

10-2-1: General Definitions

10-2-1: **GENERAL DEFINITIONS:** In this title, words used in the present tense shall include the future tense; words in the singular number include the plural number; and words in the plural number include the singular, except where the natural construction of the writing indicates otherwise. The word "shall" is mandatory and not directory. The definitions set out below shall govern the interpretation of the words to which they are attached:

ACCESSORY USE OR STRUCTURE: A use or structure customarily incidental, appropriate and subordinate to the principal use of land and which is located upon the same lot therewith.

AGRICULTURE: The use of land for agriculture 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 commercial feeding.

ALLEY: A minor right of way dedicated to public use, not more than thirty feet (30') wide, affording a secondary means of access of abutting property and not intended for general traffic circulation.

AUTOMOBILE OR TRAILER SALES AREA:	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 and where no repair work is done.
AUTOMOBILE REPAIR, MAJOR:	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.
AUTOMOBILE REPAIR, MINOR:	Incidental replacement of parts and motor service to passenger cars and trucks not exceeding one and one-half (1 ¹ / ₂) ton capacity.
AUTOMOBILE SERVICE STATION OR FILLING STATION:	Any area used for retail sale of gasoline or oil fuels, or automobile accessories, and incidental services, including facilities for lubrication, and washing and cleaning, but not including painting, major repair or the sale of butane or propane fuels.
AUTOMOBILE WASH OR AUTOMATIC CAR WASH:	A building or structure, or chain conveyor, blower, steam cleaner and other mechanical device used primarily for the purpose of washing motor vehicles.
BLOCK:	In describing the boundaries of a district, the word "block" refers to the property abutting on one side of the street between two (2) intersecting streets or between an intersecting street and a watercourse.
BOARD OF ADJUSTMENT:	The board of adjustment of the town of Pocola, Oklahoma. Also referred to as the "board".
BOARD OF TRUSTEES:	The official governing body of the town of Pocola.
BOARDING HOUSE AND ROOMING HOUSE:	Where meals or lodging are provided for persons other than the family or their relatives, and excluding facilities for transient persons such as hotels, motel, inns and other such facilities.

BUILDING:	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.
BUILDING, ACCESSORY:	See definition of Accessory Use Or Structure.
BUILDING HEIGHT:	The vertical distance from the average line of the highest and lowest points of that portion of the lot covered by the building to the highest point of sloping of the flat roof, or the decline of the mansard roof or the average height of the highest gable of a pitch or hip roof.
BUILDING LINE:	A line established beyond which no part of a building shall project, except as otherwise provided by this title.
BUILDING, PRINCIPAL:	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.
BULLETIN BOARD:	Any sign announcing the activities of an educational, religious, institutional or similar use.
CEMETERY:	Land used or intended to be used for the burial of the human dead and dedicated for cemetery purposes.
CHILDCARE CENTER:	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 schools organized, operated or approved under the laws 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, or other church activities.

- CLINIC:** 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 customarily provided with board and room or kept overnight on the premises.
- CLUB:** A nonprofit association of persons who are bona fide members, paying regular dues, and organized solely or primarily to render a service customarily carried on as a commercial enterprise.
- COMPREHENSIVE PLAN:** The official town plan of the town. Also refers to the specific document "General Development Plan".
- CONVALESCENT HOME, NURSING HOME, REST HOME:** 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.
- COVERAGE:** The lot area covered by all buildings located thereon, including the area covered by all overhanging roofs.
- DWELLING:** Any building or portion thereof designed or used as a residence of one or more persons, but not including a tent, cabin, trailer coach, mobile home, boarding or rooming house, hotel or motel.
- DWELLING, MULTI-FAMILY:** A building or portion thereon containing three (3) or more families. Also includes the word "apartments".

DWELLING, SINGLE-FAMILY:	A building containing one dwelling unit and designed for or used exclusively by one family.
DWELLING, TWO-FAMILY:	A building containing two (2) dwelling units and designed for or used exclusively by two (2) families. Also includes the word "duplex".
DWELLING UNIT:	A room or group of rooms arranged, intended or designed as a habitable unit, containing kitchen, bath and sleeping facilities for not more than one family living independently of any other family.
ESSENTIAL SERVICES:	The erection, construction, alteration or maintenance by public utilities or municipal or other governmental agencies of underground or overhead gas, electrical, steam or water transmission 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.
FAMILY:	A person living alone or two (2) or more persons related by blood or marriage, living together as a single housekeeping unit, distinguished from a group occupying a boarding house, lodging house, hotel or motel.
FLOOR AREA:	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 centerlines of walls separating two (2) buildings.
FRONTAGE:	The linear measurement of a lot boundary which is abutting a street.

GARAGE APARTMENT:	A dwelling for one family erected as a part of a private garage.
GARAGE, PARKING:	Any building or portion thereof used for the storage of four (4) or more automobiles in which any servicing which may be provided is incidental to the primary use for storage purposes, and where repair facilities are not provided.
GARAGE, PRIVATE:	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.
GARAGE, PUBLIC:	The structure or portion thereof, other than a private garage, used for the storage, sale, hire, care, repairing or refinishing of any vehicles.
GARAGE, REPAIR:	A building in which facilities are provided for the care, servicing, repair or equipping of automobiles.
HEIGHT:	The vertical measurement of any structure on a parcel of land measured from the average elevation of the lot or parcel to the uppermost point of the structure.
HOME OCCUPATION:	<p data-bbox="646 1150 1328 1524">A. Any occupation or profession which is carried on solely by no more than one wholly self-employed person residing at and inhabiting the dwelling, is clearly incidental and secondary to the use of the dwelling for dwelling purposes, does not change the character of the dwelling, and is conducted entirely within the main or preexisting accessory buildings, which accessory buildings shall have existed for at least one year; provided, that such occupation or profession does not:</p> <ol data-bbox="646 1560 1328 1730" style="list-style-type: none"> <li data-bbox="646 1560 1328 1629">1. Trade in merchandise other than that which is crafted within the dwelling. <li data-bbox="646 1665 1328 1730">2. Display any merchandise or advertising sign other than one nonilluminated nameplate

not more than two (2) square feet in area attached to the main or accessory building.

3. Utilize any mechanical equipment which creates a disturbance, such as noise, dust, odor or electrical disturbance; or emits noise, dust or odor outside the structure.

4. Store outside the confines of the dwelling or accessory buildings any material or equipment.

5. Exceed twenty five percent (25%) of the gross area of the main building. Tearooms, restaurants, rest homes, clinics, doctors, metal or auto repair shops, or any other kind of shop or store, are specifically excluded from this definition.

B. Any violation of the foregoing restrictions shall be considered a violation of this code and punishable as an offense thereunder, and further, shall be considered a nuisance subject to abatement by the town board of trustees under the provisions of title 4, chapter 2 of this code.

HOSPITAL:

See definition of Medical Facilities.

HOTEL:

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 are lodged with or without meals for compensation, but not including trailer parks or camps, hospitals, asylums, orphanages or buildings where persons are housed under restraint.

INDUSTRY:

Storage, repair, manufacture, preparation or treatment of any article or substance, or any commodity for commercial use.

INSTITUTIONAL USES:

Those uses organized, established, used or intended to be used for the promotion of a

public, religious, educational, charitable, cultural, social or philanthropic activity and normally operated on a nonprofit basis.

**JUNKYARD OR
SALVAGE YARD:**

A place where waste or discarded materials are bought, sold, exchanged, baled, 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 pawnshops and establishments for the sale, purchase or storage of used furniture and household equipment, used cars in operable condition, or salvage material incidental to manufacturing operations.

KENNEL:

Any premises wherein any person engages in the business of boarding, breeding, buying, letting for hire, training for a fee, or selling dogs or cats, or any structure or premises on which three (3) or more dogs over four (4) months of age are kept.

LOADING SPACE:

A space on the same lot as the principal use of at least ten feet (10') in width and thirty feet (30') in length and having a vertical clearance of at least fourteen feet (14'), designated for the temporary parking of commercial vehicles while loading or unloading merchandise or materials.

LOT:

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 this title, and having access to a public street.

LOT, CORNER:

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°).

LOT DEPTH:	The average horizontal distance between the front and rear lot lines.
LOT, DOUBLE FRONTAGE:	A lot having a frontage on two (2) nonintersecting streets, as distinguished from a corner lot.
LOT, INTERIOR:	A lot other than a corner lot.
LOT LINE:	Any boundary of a lot.
LOT LINE, FRONT:	The boundary of a lot which abuts a public street. Where the lot abuts more than one street, the owner may select the front lot line.
LOT LINE, REAR:	The boundary of a lot which is most distant from and most nearly parallel to the front lot line.
LOT LINE, SIDE:	Any boundary of a lot which is not a front lot line or a rear lot line.
LOT, WEDGE SHAPED:	A lot situated so that the front is either wider or narrower than the rear of the lot.
LOTS OF RECORD:	A separate and distinct parcel designated on a legally recorded subdivision plat or a legally recorded deed filed in the records of LeFlore County, Oklahoma.
MEAN LOT ELEVATION:	The average elevation of a lot.
MEDICAL FACILITIES:	
Dental Or Doctor Office:	The same as dental or medical clinic, including the various dental and medical specialties.
Dental Or Medical Clinic:	A building used for the examination and treatment of the physically ill; provided, that no facilities are provided for patients remaining overnight except under emergency conditions.

Hospital:	An institution providing physical and mental health services primarily for human inpatient medical or surgical care for the sick or injured, and including related facilities, such as laboratories, outpatient departments, training facilities, central service facilities and staff offices which are an integral part of the facilities.
Nursing Home, Rest Home Or Convalescent Homes:	See definition of Convalescent Home, Nursing Home, Rest Home.
Public Health Center:	A facility primarily utilized by a health unit for providing public health services, including related facilities.
MOBILE HOME:	A detached residential dwelling unit which consists of one major component and is designed for transportation, after fabrication, on streets or highways on its own wheels or on flatbeds or other trailers, 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 other temporary or permanent foundations, and connection to utilities.
MOBILE HOME LOT:	A portion of a mobile home park allocated to the exclusive use of the occupants of a single mobile home.
MOBILE HOME PARK:	A parcel of land under single ownership which has been planned and improved for placement of mobile homes to be occupied as residences.
MOTEL:	An area containing one or more buildings designed or intended to be used as temporary sleeping facilities of one or more transient persons.
OPEN SPACE:	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.

PARCEL:	A "lot", as defined in this section.
PARKING SPACE:	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.
PLANNING COMMISSION:	The planning commission, as established by the statutes of the state. The planning commission shall also be the zoning commission and the board of adjustment.
ROOMING HOUSE:	See definition of Boarding House And Rooming House.
SIGN:	Any word, lettering, part of letters, figures, numerals, phrases, sentences, emblems, devices, designs, pictures, trade names or trademarks by which anything is made known, such as are used to designate any individual, a firm, an association, a corporation, a profession, a business, a service, a commodity or product, which are visible from any public street or right of way and designed to attract attention. "For Sale" and "For Rent" shall be deemed signs within the meaning of this definition, but the term "sign" shall not include the flag, pennant or like campaign, drive, movement or event used for a public purpose in the public interest.
SIGN DISPLAY SURFACE AREA:	The net geometric area of the surface of the sign upon, against or through which the message is displayed or illustrated, including the outward extremities of all letters, figures, characters and delineations; provided, that only one face of a double faced sign be included in the computation of display surface area.

SIGN, ILLUMINATED:	A sign designed to give forth any artificial light, or designed to reflect light from one or more sources, natural or artificial.
SIGN, PROJECTING:	A sign erected on the face or outside wall of a building which projects out at any angle therefrom.
SIGN, TEMPORARY:	Signs of temporary nature used to advertise the premises for sale, rent or lease.
STORY:	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, then the space between the floor and the ceiling next above it.
STREET:	A public right of way more than thirty feet (30') in width which provides the primary public means of access to abutting property and used primarily for vehicular circulation.
STREET, ARTERIAL:	Any street designated on the thoroughfare plan as an arterial, primary arterial, secondary arterial, major street, etc.
STREET, MINOR:	Any street not designated on the thoroughfare plan as an arterial.
STRUCTURAL ALTERATION:	Any change in the structural members of a building, such as walls, columns, beams or girders.
STRUCTURE:	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, driveways and similar improvement areas).
THOROUGHFARE PLAN:	The part of the comprehensive plan referring to transportation development goals, principles and standards. Also includes use of the words "major street plan" and "trafficways plan".

TRAILER:	A portable or mobile unit, other than a mobile home, used or designed to carry or transport materials or animals.
YARD:	A required space on a lot unobstructed except as expressly permitted.
YARD, FRONT:	A yard extending across the full width of a lot from side lot line to side lot line abutting on a street, into which a building may not protrude.
YARD, REAR:	A yard extending across the rear of a lot measured from side lot line to side lot line.
YARD, SIDE:	A yard extending from front yard to the rear yard abutting the side lot line, into which no building may protrude. (Ord. 127-02, 11-11-2003; amd. 2013 Code)

CHAPTER 3

ENFORCEMENT AND PENALTY

SECTION:

- 10-3-1: Zoning Administrator
- 10-3-2: Zoning Clearance Permit
- 10-3-3: Penalty

10-3-1: **ZONING ADMINISTRATOR:** It shall be the duty of the zoning administrator or planning commission to enforce this title. If the zoning administrator shall find that any of the provisions of this title are being violated, shall notify in writing the persons responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it, and shall take such other action as is authorized by law to ensure compliance with or to prevent violation of its provisions. (Ord. 127-02, 11-11-2003)

10-3-2: **ZONING CLEARANCE PERMIT:**

- A. **Required:** It shall be unlawful to change the use of any land or building land use within the corporate limits without a zoning clearance permit. All commercial, industrial, single-family residential, multi-family residential or other types of land uses shall be reviewed and authorized or rejected under the following procedure. (Ord. 127-02, 11-11-2003)
- B. **Application; Fee:** An application shall be filed with the planning commission for review. Said application, accompanied by a fee in such amount as established by resolution of the board of trustees, shall be filed with the town clerk-treasurer, who shall act as the filing clerk for said planning commission. Upon the filing of said application, the town clerk-treasurer shall refer the same to the planning commission for its action. Said application may be by letter or by other document sufficient to represent the applicant's intent and shall show the location and intended use of the site, the names of all the property

owners the existing land uses within three hundred feet (300'), and any other material pertinent to the request which the planning commission may require. (Ord. 127-02, 11-11-2003; amd. 2013 Code)

- C. Decision; Action Required: The planning commission, within a reasonable time following the filing of such application, shall transmit to the town board of trustees its report as to the effect of such proposed building or use upon the character of the neighborhood, traffic conditions, public utilities and other matters pertaining to the general welfare and their commendation of the planning commission concerning use thereon. Thereupon, the board of trustees may authorize or deny the issuance of a permit for use of land or buildings as requested. Upon approval by the board of trustees, the zoning clearance permit may be issued by the town clerk-treasurer. Any request for a change in land use must be approved in a public hearing as dictated in chapter 6 of this title. (Ord. 127-02, 11-11-2003)

10-3-3: PENALTY: A violation of this title 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 provision of this title shall be subject to penalty as provided in section 1-4-1 of this code. (Ord. 127-02, 11-11-2003; amd. 2013 Code)

CHAPTER 4

PLANNING COMMISSION

SECTION:

- 10-4-1: Established; Membership
- 10-4-2: Quorum
- 10-4-3: Organization And Rules
- 10-4-4: Employment Of Staff
- 10-4-5: Powers And Duties
- 10-4-6: Uses Permitted On Review
- 10-4-7: Zoning Commission

10-4-1: **ESTABLISHED; MEMBERSHIP:** The board of trustees established a planning commission in order to plan and guide the orderly development of the town. The planning commission shall be composed of five (5) members, all of whom shall be residents of the town, nominated by the mayor and confirmed by the board of trustees. The mayor and town engineer shall be ex officio members of the commission. Each appointed member shall hold office for a period of three (3) years, or until his successor takes office, except that in the first instance, two (2) members shall be appointed for three (3) years, two (2) members for two (2) years, and one member for one year. The appointed members of said 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 mayor only for inefficiency, neglect of duty, or malfeasance in office. Vacancies occurring otherwise than through the expiration of term, shall be filled only for the unexpired term by the mayor, and confirmed by the board of trustees. (Ord. 127-02, 11-11-2003)

10-4-2: **QUORUM:** Three (3) members of the planning commission shall constitute a quorum for the transaction of business; providing, however, that no action shall be taken which is binding upon said planning commission unless concurred in by not less than a majority of all members comprising the planning commission. (Ord. 127-02, 11-11-2003)

10-4-3: ORGANIZATION AND RULES: The commission shall elect a chairperson, a vice chairperson and a secretary, and may create and fill such other offices as it may deem necessary. The term of the chairperson, vice chairperson and secretary shall be one year, with eligibility for reelection. The planning commission shall hold at least one regular meeting each month. The planning commission shall adopt rules for the transaction of business and shall keep a record of its regulations, transactions, findings and determinations, which record shall be a public record. (Ord. 127-02, 11-11-2003)

10-4-4: EMPLOYMENT OF STAFF: The planning commission 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 board of trustees. The salary and compensation of such employees shall be fixed by the board of trustees and shall be paid out of the town treasury as are other officers and employees. The planning commission may incur necessary expenses within the limits of its appropriation to carry out its purposes and responsibility. (Ord. 127-02, 11-11-2003)

10-4-5: POWERS AND DUTIES:

- A. Generally Described: The planning commission shall have the power and the duty to prepare and recommend to the board of trustees for adoption a comprehensive plan for the physical development of the town. In conducting its work, the planning commission may consider and investigate any subject matter tending to the development and betterment of such municipality and may make recommendations as it may deem advisable concerning the adoption therefor to the board of trustees. 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 board of trustees on the location or design of any public building, statue, memorial, park, boulevard, street and alley, playground, public ground or bridge, or change in any location of any street or alley, such question shall be submitted to the planning commission for investigation and reports.
- B. Comprehensive Plan:
1. Preparation: In the preparation of the comprehensive plan, the planning commission may from time to time prepare and recommend to the board of trustees for adoption, part or parts thereof, which parts shall cover one or more major geographical plan. The planning

commission may from time to time recommend extending, amending or changing any portion of the comprehensive plan.

2. Purposes Of Plan: In the preparation of such plan, the planning commission shall make careful and comprehensive surveys and studies of present conditions and future growth of the town and with due regard to its relation to neighboring territory. The plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of said town 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 provision for light and air, the promotion of healthful and convenient distribution of population, the promotion of good civic design and arrangement, and with an efficient expenditure of public funds. (Ord. 127-02, 11-11-2003)

C. Subdivision Of Land: The planning commission may prepare and recommend to the board of trustees for adoption, rules and regulations governing the subdivision of land within the corporate limits of the town. All plans, plats or replats of land laid out in two (2) or more lots, plats or parcels, on streets, alleys or other ways intended to be dedicated to public use within the corporate limits of said town shall first be submitted to the planning commission for its recommendations. The planning commission shall, with the help of appropriate municipal officials, check the proposed dedications or subdivisions of land and with other elements of the comprehensive plan for the town. The disapproval of any such plan, plat or replat by the board of trustees shall be deemed a refusal of the dedication of street or alley or other easement, unless it bears the signature of the mayor, attested by the town clerk-treasurer, certifying the approval and acceptance thereof by the board of trustees. (Ord. 127-02, 11-11-2003; amd. 2013 Code)

D. Zoning Regulations:

1. Recommendation: The planning commission may recommend the division of the municipality 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.

2. Considerations: 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 overcrowding of land; to avoid undue concentration of population; and to facilitate the adequate provisions of transportation, water, sewage, 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 such municipality. (Ord. 127-02, 11-11-2003)

10-4-6: USES PERMITTED ON REVIEW: The uses listed under the various districts herein as "uses permitted on review" are so classified because they more intensely dominate the area in which they are located than do other uses permitted in the district. The nature of such uses make it desirable that they be permitted to locate therein. The following procedure is established to integrate properly the uses permitted on review with the other land uses located in the district. These uses shall be reviewed and authorized or rejected under the following procedures:

- A. Application: An application shall be filed with the town clerk-treasurer fourteen (14) days prior to the next scheduled planning commission meeting. The application shall be accompanied by a plot plan showing the accurate size of the parcel; the size and location of the building or use of the parcel; and points and dimensions of access. A list of names and addresses of all property owners of record within three hundred feet (300') of the property is to be included for the use permitted on review.
- B. Review: At their next scheduled meeting, the planning commission shall review the proposed use and the plot plan to determine if it is suitable in every aspect for location and development where and in the manner proposed, and to determine if there are any potential adverse influences upon adjacent and surrounding uses and on the neighborhood in general.
- C. Public Hearing: The planning commission shall hold one or more public hearings thereon. The property owners of record within the bounding lines defined in subsection A of this section will be informed in writing by the planning commission of the time and date of the public hearing.

- D. Decision: After due deliberation and study, the planning commission may authorize or deny the issuance of a building or other permit for the use of land or buildings as requested. (Ord. 127-02, 11-11-2003)

10-4-7: **ZONING COMMISSION:** The planning commission shall also act as the zoning commission, which shall have the power to prepare and to recommend to the board of trustees 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, residences and other purposes. (Ord. 127-02, 11-11-2003)

CHAPTER 5

BOARD OF ADJUSTMENT

SECTION:

- 10-5-1: Established; Membership
- 10-5-2: Organization And Procedures
- 10-5-3: Appeals To Board Of Adjustment
- 10-5-4: Notice And Hearings; Contents Of Notice; Minor Variances Or Exceptions
- 10-5-5: Fees
- 10-5-6: Powers Of Board
- 10-5-7: Notice And Hearing Requirements
- 10-5-8: Votes Necessary
- 10-5-9: District Court Appeal

10-5-1: **ESTABLISHED; MEMBERSHIP:** There is hereby created a zoning 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 town board of trustees 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 hereof, 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 said board shall expire after a period of three (3) years, or until their successors are duly appointed and qualified. Said board of adjustment shall be appointed by the mayor and confirmed by the town board of trustees; provided, however, that for the appointment under the provisions of this chapter, the planning commission members shall comprise the board of adjustment. (Ord. 127-02, 11-11-2003)

10-5-2: **ORGANIZATION AND PROCEDURES:** The zoning board of adjustment shall elect one of its members as chairperson to serve for a term of one year. The board shall adopt rules in accordance with the provision of this chapter. Meetings of the board shall be held at the

call of the chairperson and at such other times as the board may determine. The chairperson, or, in his absence, the acting chairperson, 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 failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the town clerk-treasurer and shall be a public record. All meetings of the board shall be open to the public. (Ord. 127-02, 11-11-2003)

10-5-3: **APPEALS TO BOARD OF ADJUSTMENT:** Appeals to the board may be taken by any person aggrieved by any officer of the municipality affected by any administrative decisions based on this zoning ordinance or the building inspector. Such appeal shall be taken within thirty (30) days of such decision by filing with the town clerk-treasurer and the board of adjustment a notice of appeal specifying the grounds thereof. The town clerk-treasurer shall forthwith transmit to the board all the papers constituting the record of the action from which the appeal is taken. (Ord. 127-02, 11-11-2003)

10-5-4: **NOTICE AND HEARINGS; CONTENTS OF NOTICE;
MINOR VARIANCES OR EXCEPTIONS:**

- A. Notice of public hearing before the board of adjustment shall be given by publication in a newspaper of general circulation in the municipality where the property is located and by mailing written notice by the clerk of the board of adjustment to all owners of property within a three hundred foot (300') radius of the exterior boundary of the subject property. A copy of the published notice may be mailed in lieu of written notice; however, the notice by publication and written notice shall be published and mailed at least ten (10) days prior to the hearing.
- B. The notice, whether by publication or mail, of a public hearing before the board of adjustment shall contain:
 - 1. Legal description of the property and the street address or approximate location in the municipality;
 - 2. Present zoning classification of the property and the nature of the appeal, variance or exception requested; and
 - 3. Date, time and place of the hearing.

- C. On hearings involving minor variances or exceptions, notice shall be given by the clerk of the board of adjustment by mailing written notice to all owners of property adjacent to the subject property. The notice shall be mailed at least ten (10) days prior to the hearing and shall contain the facts listed in subsection B of this section. The board of adjustment shall set forth in a statement of policy what constitutes minor variances or exceptions, subject to approval or amendment by the municipal governing body. (2013 Code)

10-5-5: **FEES:** The zoning board of adjustment shall establish a fee as provided by resolution of the board of trustees for the hearing of appeals, which shall be sufficient to defray the cost of publishing the notice of public hearing and any other costs associated with the hearing. The applicant shall pay such fee to the town clerk-treasurer upon filing the appeal. (Ord. 127-02, 11-11-2003; amd. 2013 Code)

10-5-6: **POWERS OF BOARD:** The zoning board of adjustment shall have the following powers in accordance with 11 Oklahoma Statutes section 44-104:

- A. **Administrative Review:** To hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the zoning administrator, building inspector or other administrative officer in the enforcement of this title.
- B. **Special Exceptions:** To hear and decide special exceptions to the terms of this title upon which the board of adjustment is required to pass subject to said title. (Ord. 127-02, 11-11-2003)
- C. **Variances:** Authorize in specific cases a variance from the terms, standards and criteria that pertain to an allowed use category within a zoning district as authorized by this title when such cases are shown not to be contrary to the public interest if, owing to special conditions, a literal enforcement of the provisions of this title will result in unnecessary hardship and so that the spirit of this title shall be observed and substantial justice done; provided, however, the board shall have no power to authorize variances as to use except as provided by 11 Oklahoma Statutes section 44-104.4. (Ord. 127-02, 11-11-2003; amd. 2013 Code)

10-5-7: NOTICE AND HEARING REQUIREMENTS: Exceptions and/or variances may be allowed by the board of adjustment, only after notice and hearing as provided in 11 Oklahoma Statutes section 44-108. The minutes of the meeting at which variance or special exception was granted shall show that each element of a variance or special exception was established at the public hearing on the question, otherwise said variance or special exception shall be voidable on appeal to the district court. (Ord.127-02, 11-11-2003)

10-5-8: VOTES NECESSARY: In exercising the above powers, the board of adjustment shall have the concurring vote of at least three (3) 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 administrative officer for directing the issuance of a permit. (Ord. 127-02, 11-11-2003; amd. 2013 Code)

10-5-9: DISTRICT COURT APPEAL:

- A. Notice: An appeal from any action, decision, ruling, adjustment or order of the board of adjustment may be taken by any person or persons, jointly or separately, or any taxpayer, or any officer, department, board or bureau of the town to the district court by filing a notice of appeal with the town clerk-treasurer 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 said 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. Stay Of Proceedings: An appeal to the district court from the board of adjustment stays all proceedings in furtherance of the action appealed from, unless the chairperson of the board of adjustment or the administrative office 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 this title, and, upon notice to the chairperson

of the board of adjustment from which the appeal is taken, and, upon due cause being shown, the court may reverse or affirm, wholly or partly, or modify the decision brought up for review. (Ord. 127-02, 11-11-2003)

CHAPTER 6

AMENDMENTS

SECTION:

- 10-6-1: Planning Commission Recommendation Required
- 10-6-2: Application For Amendment
- 10-6-3: Notice And Public Hearing
- 10-6-4: Additional Notice Requirements For Zoning Changes And
Reclassifications
- 10-6-5: Planning Commission Action
- 10-6-6: Board Of Trustees Action
- 10-6-7: Protest To Amendment

10-6-1: **PLANNING COMMISSION RECOMMENDATION REQUIRED:** The regulations, restrictions, prohibitions and limitations imposed and the districts created may from time to time be amended, supplemented, changed, modified or repealed by ordinance, but no change shall be made until the planning commission, after notice and public hearing, files with the town board of trustees a report and recommendation on the proposed change. (Ord. 127-02, 11-11-2003)

10-6-2: **APPLICATION FOR AMENDMENT:** An owner or his duly authorized agent or representative may make application for the amendment of the zoning restrictions applicable to his property by filing with the planning commission a written application in such form and content as the planning commission may by resolution establish. An application for amendment shall be accompanied by the payment of a fee as established by resolution of the board of trustees. Costs of notice and posting shall be billed to the applicant. (Ord. 127-02, 11-11-2003; amd. 2013 Code)

10-6-3: **NOTICE AND PUBLIC HEARING:** Upon receipt of an application, the planning commission shall set a date for a public hearing in accordance with 11 Oklahoma Statutes section 43-104. (Ord. 127-02, 11-11-2003; amd. 2013 Code)

10-6-4: **ADDITIONAL NOTICE REQUIREMENTS FOR ZONING CHANGES AND RECLASSIFICATIONS:** Additional notice requirements for proposed zoning changes and reclassifications shall follow the requirements of 11 Oklahoma Statutes section 43-106. (Ord. 127-02, 11-11-2003; amd. 2013 Code)

10-6-5: **PLANNING COMMISSION ACTION:**

- A. After notice and public hearing, the planning commission shall vote to:
1. Recommend to the town board of trustees that the application be approved as submitted, or as amended, or be approved subject to modification;
 2. Recommend to the town board of trustees that the application be denied.
- B. An application recommended for approval, or approval subject to modification, shall be transmitted to the town with the report and recommendation of the planning commission within fifteen (15) days from the date of planning commission action. (Ord. 127-02, 11-11-2003)
- C. An application recommended for denial shall not be considered further and a portion of the fee, as established by resolution of the board of trustees, required in section 10-6-2 of this chapter for amendment shall be refunded to the applicant, unless the applicant, within fifteen (15) days from the date of the planning commission action, files a written request with the town board of trustees for a hearing. A fee as established by resolution of the board of trustees shall accompany the request for a hearing before the town if the refund hereinabove has been granted to the applicant in appeal. Upon notice of such request, and receipt of fee, the planning commission shall forthwith transmit the application and its report and recommendation to the town board of trustees. (Ord. 127-02, 11-11-2003; amd. 2013 Code)

10-6-6: **BOARD OF TRUSTEES ACTION:** The town board of trustees shall hold a hearing on each application regularly transmitted, or which has been transmitted pursuant to an appeal as provided for in sub-section 10-6-5C of this chapter. The town board of trustees shall approve

the application as submitted and recommended by the planning commission, or approve the application subject to modification, or deny the application, or return the application to the planning commission for further study. (Ord. 127-02, 11-11-2003)

10-6-7: **PROTEST TO AMENDMENT:** Protests to amendments shall follow the procedures specified in 11 Oklahoma Statutes section 43-105. (Ord. 127-02, 11-11-2003; amd. 2013 Code)

CHAPTER 7

ZONING DISTRICTS

SECTION:

- 10-7-1: Authority To Establish Zoning
- 10-7-2: Districts Established Zoning
- 10-7-3: Map Incorporated Establishing
- 10-7-4: District Boundaries
- 10-7-5: Maintenance Of Official Zoning Map

10-7-1: **AUTHORITY TO ESTABLISH:** The town board of trustees may divide the town into districts of such number, shape and area as it deems suitable in carrying out its powers as to buildings, land and structures. Within the districts, it may regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures or land. (Ord. 127-02, 11-11-2003)

10-7-2: **ZONING DISTRICTS ESTABLISHED:** For the purpose of this title and the promotion of public health, safety and general welfare of the community, the following districts are established:

A-1 agricultural.

R-1A single-family residential.

R-1B single-family residential.

R-2 two-family dwelling.

R-3 multiple-family dwelling.

C-1 general commercial.

C-2 highway commercial and commercial recreation.

Industrial.

F-1 floodplain.

H-1 health facilities. (Ord. 127-02, 11-11-2003; amd. 2013 Code)

10-7-3: **ZONING MAP INCORPORATED:** The locations and boundaries of the zoning districts shall be established by ordinance and shall be delineated and shown on a map entitled "zoning map" and the zoning map is hereby incorporated as a part of this title. (Ord. 127-02, 11-11-2003; amd. 2013 Code)

10-7-4: **ESTABLISHING DISTRICT BOUNDARIES:** The boundaries of a zoning district shall extend to a centerline of abutting street, regardless of the legal description used in establishing such districts. In the event of uncertainty in the exact boundaries of any of the districts as shown on the zoning map, the planning commission, upon written application to the board of adjustment, and the board of adjustment shall make the final determination. (Ord. 127-02, 11-11-2003)

10-7-5: **MAINTENANCE OF OFFICIAL ZONING MAP:** It shall be the duty of the zoning administrator to maintain a current official zoning map, including all amendments directly adopted by the board of trustees. (Ord.127-02, 11-11-2003)

CHAPTER 8

AGRICULTURAL DISTRICT

ARTICLE A. A-1 AGRICULTURAL DISTRICT

SECTION:

- 10-8A-1: Established
- 10-SA-2: Permitted Uses
- 10-SA-3: Area And Height Regulations

10-8A-1: ESTABLISHED: The A-1 agricultural district is established for several purposes:

- A. To provide for the continued use of land for predominantly agricultural purposes;
- B. To preserve undeveloped areas until they can feasibly be developed at urban standards and with adequate public safeguards for health, safety, etc. (Ord. 127-02, 11-11-2003)

10-SA-2: PERMITTED USES: No buildings or uses shall hereafter be established or enlarged within the A-1 agricultural district, except a building or use devoted to one of the following purposes:

Accessory buildings or uses incidental to permitted principal uses.

"Agriculture", as defined in section 10-2-1 of this title.

Churches and temples.

Elementary schools and high schools.

Golf courses and driving ranges, pitch and putt courses, or miniature golf courses.

Municipal or community recreation centers.

Parks and forest preserves, operated not for profit.

Police or fire stations.

Public buildings or buildings operated in the public interest by a not for profit corporation, including art galleries, post offices, libraries or museums.

Public or not for profit auditoriums, stadiums, arenas, armories or sanatoriums.

Public or private hospitals or sanatoriums.

Public or private schools and colleges.

Public utility and service uses, including electric substations, gas regulator stations, electric, gas, telegraph, telephone and water transmission metering and distribution equipment and structures, microwave relay towers, water reservoirs or pumping stations, and other similar facilities.

Single-family dwellings.

Temporary buildings and uses for construction purposes only and not for dwelling purposes, nor for a period that exceeds the completion of the construction. (Ord. 127-02, 11-11-2003; amd. 2013 Code)

10-8A-3: AREA AND HEIGHT REGULATIONS:

- A. Lot Area: The minimum lot area shall be five (5) acres.
- B. Lot Frontage: Minimum lot frontage shall be one hundred fifty feet (150').
- C. Lot Coverage: Maximum lot coverage by structure shall not exceed thirty percent (30%), including accessory buildings.
- D. Building Height: Maximum building height shall be thirty five feet (35').

- E. Front Yard Setback: Minimum front yard setback shall be fifty feet (50'), except for residential uses which shall be twenty five feet (25').
- F. Side Yard Setback: Minimum side yard setback shall be twenty five feet (25').
- G. Rear Yard Setback: Minimum rear yard setback shall be fifty feet (50'). (Ord. 127-02, 11-11-2003)

CHAPTER 9

RESIDENTIAL DISTRICTS

ARTICLE A. R-1A SINGLE-FAMILY RESIDENTIAL DISTRICT

SECTION:

- 10-9A-1: Established
- 10-9A-2: Permitted Uses
- 10-9A-3: Uses Permitted On Review
- 10-9A-4: Area Regulations
- 10-9A-5: Height Regulations

10-9A-1: **ESTABLISHED:** This is the most restrictive residential district. The principal use of land is for single-family dwellings and related recreational, religious and educational facilities normally required to provide the basic elements of a defined area protected from the encroachment of uses not performing a function necessary to the residential environment. Internal stability, attractiveness, order and efficiency are encouraged by providing for adequate light, air and open space for dwelling and related facilities, and through consideration of the proper functional relationship of each element. (Ord. 127-02, 11-11-2003)

10-9A-2: **PERMITTED USES:**

Accessory buildings which are not a part of the main buildings, including a private garage, or accessory buildings which are a part of the main building, including a private garage.

Bulletin board or sign, not exceeding twenty (20) square feet in area appertaining to the lease, hire or sale of a building or premises, which board or sign shall be removed as soon as the premises is leased, hired or sold.

Church, provided it has major street frontage as shown on the major street plan.

Elementary school.

Junior high school, senior high school, or other school offering general education courses the same as ordinarily given in public schools; provided they have major street frontage as shown on the major street plan.

Public park or playground.

Single-family dwelling. (Ord. 127-02, 11-11-2003)

10-9A-3: USES PERMITTED ON REVIEW: The following uses may be permitted after review in accordance with provisions contained in section 10-4-6 of this title:

Golf course, provided it has major street frontage as shown on the major street plan.

"Home occupation", as defined in section 10-2-1 of this title.

Library, provided it has frontage on a major street as shown on the major street plan.

Municipal use, public building and public utility in conjunction with one of the other permitted uses.

Plant nursery, provided no building or structure is maintained and no retailing is conducted in connection therewith. (Ord. 127-02, 11-11-2003)

10-9A-4: AREA REGULATIONS:

- A. Front Yard: All buildings shall be set back from the street right of way to comply with the following front yard requirements:
1. The minimum depth of the front yard shall be thirty feet (30') for residential buildings, and fifty feet (50') for all other buildings.
 2. If twenty five percent (25%) or more of the lots on one side of the street between two (2) intersecting streets are improved with buildings, all of which have observed an average setback line of greater than thirty feet (30'), and no building varies more than five feet (5') from this average setback line, then no building shall be erected closer to the street line than the minimum setback so established by the existing buildings; but this regulation shall not require a front yard of greater depth than forty feet (40').

3. When a yard has double frontage, the front yard requirements shall be provided on both streets. (Ord. 127-02, 11-11-2003)

B. Side Yard:

1. For dwellings on one story located on interior lots, there shall be a side yard on each side of the main building of not less than five feet (5'), and of not less than eight feet (8') for dwellings of more than one story. For unattached buildings of accessory use, there shall be a side yard of not less than five feet (5'); provided, however, that the unattached one story buildings of accessory use shall not be required to set back more than three feet (3') from an interior side lot line when all parts of the accessory building are located not more than fifty feet (50') from the rear property line. (Ord. 127-02, 11-11-2003; amd. 2013 Code)

2. 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 feet (15') in case such lot is back to back with another corner lot, and twenty five feet (25') in every other case. The interior side yard shall be the same as for dwellings and accessory buildings on an interior lot.

3. Churches and main and accessory buildings, other than dwellings and buildings accessory to dwellings, shall set back from all exterior and interior side lot lines a distance of not less than twenty five feet (25').

C. Rear Yard: There shall be a rear yard for the main building of not less than twenty feet (20') or twenty percent (20%) of the depth of the lot, whichever amount is smaller. Unattached buildings of accessory use may be located in this rear yard of the main building.

D. Lot Width: For dwellings, there shall be a minimum lot width of one hundred feet (100') at the front building line, and such lot shall abut on a street for a distance of not less than fifty feet (50'). All other uses shall have a minimum lot width of two hundred feet (200'). (Ord. 127-02, 11-11-2003)

E. Intensity Of Use:

1. For each dwelling and buildings accessory thereto, there shall be a lot area of not less than ten thousand (10,000) square feet for residential uses. All other uses shall require a lot area of two (2) acres. (Ord. 127-02, 11-11-2003; amd. 2013 Code)

2. Where a lot has less area than herein required and all the boundary lines of that lot touch lands under other ownership on the effective date hereof, that lot may be used for any of the uses, except churches, permitted by this article.

3. For churches and main and accessory buildings, other than dwellings and buildings accessory to dwellings, the lot area shall be adequate to provide the yard areas required in this article.

- F. Coverage: Main and accessory buildings shall not cover more than twenty five percent (25%) of the lot area on interior lots, and thirty percent (30%) of the lot area on corner lots. Accessory buildings shall not cover more than twenty percent (20%) of the rear yard. All other uses shall not cover more than fifty percent (50%) of the lot. (Ord_127-02, 11-11-2003)

10-9A-5: HEIGHT REGULATIONS: No building shall exceed two and one-half ($2\frac{1}{2}$) stories or thirty five feet (35') in height. (Ord. 127-02, 11-11-2003)

CHAPTER 9

RESIDENTIAL DISTRICTS

ARTICLE B. R-1B SINGLE-FAMILY RESIDENTIAL DISTRICT

SECTION:

- 10-98-1: Established
 10-98-2: Permitted Uses
 10-98-3: Uses Permitted On Review
 10-98-4: Area Regulations

10-98-1: **ESTABLISHED:** The R-18 single-family residential district is established as a district in which the use of land is for single-family dwellings, yet provide for a somewhat higher density with basic restrictions similar to the R-1A single-family residential district. The development and continued use of this land for residential dwellings is encouraged and the encroachment of commercial and industrial use, or any other use which would substantially interfere with the development of, or continuation of, this district as residential is prohibited. Any use which would generate traffic or disturb the residences on the street is discouraged. Encouraged are those uses which, because of character or size, would not create additional requirements and costs for public services which are in excess of such requirements and costs if the district were developed solely for residential dwellings. (Ord. 127-02, 11-11-2003)

10-98-2: **PERMITTED USES:** Property and buildings in an R-18 single-family residential district shall be used only for the following purposes and shall be subject to all of the general provisions and regulations of this title:

Accessory buildings and uses customarily incidental to any permitted uses when located on the same lot.

All uses permitted and as regulated in the R-1A single-family residential district.

Home occupations. (Ord. 127-02, 11-11-2003)

10-98-3: USES PERMITTED ON REVIEW: Uses permitted after review in accordance with provisions contained in section 10-4-6 of this title are those specified in section 10-9A-3 of this chapter. (Ord. 127-02, 11-11-2003; amd. 2013 Code)

10-98-4: AREA REGULATIONS:

A. Side Yard:

1. For buildings of more than one story, the minimum width of the side yard on all lots shall be not less than ten feet (10').

2. On a lot where the principal use is a nonresidential building, there shall be a side yard of not less than one-half (1/2) the height of the building, but in no case less than fifteen feet (15').²

B. Rear Yard: For buildings more than two (2) stories in height, the minimum rear yard required hereby shall be increased by five feet (5') for each additional story or fraction thereof.

C. Lot Size Requirements:

1. No dwelling or use shall be constructed or commenced in the R-1B single-family district which does not conform with the minimum requirements for lot size.

2. There shall be a minimum lot width of fifty feet (50') at the front building line. The frontage of any wedge shaped lot which meets the requirements of the minimum lot size may be a minimum of thirty five feet (35') at the street line, with a minimum lot size of seven thousand (7,000) square feet. (Ord. 127-02, 11-11-2003)

CHAPTER 9

RESIDENTIAL DISTRICTS

ARTICLE C. R-2 TWO-FAMILY DWELLING DISTRICT

SECTION:

- 10-9C-1: Established
- 10-9C-2: Permitted Uses
- 10-9C-3: Uses Permitted On Review
- 10-9C-4: Area Regulations
- 10-9C-5: Height Regulations

10-9C-1: **ESTABLISHED:** This is a residential district to provide for a slightly higher population density, but with basic restrictions similar to the R-1A and R-1B districts. The principal use of land is for dwellings and related recreational, religious and educational facilities normally required to provide a balanced and attractive residential area. These areas are intended to be defined and protected from the encroachment of the uses not performing a function necessary to the residential environment. Internal stability, attractiveness, order and efficiency are encouraged by providing for adequate light, air and open space for dwellings and related facilities, and through the consideration of the proper functional relationship and arrangement of each element. (Ord. 127-02, 11-11-2003; amd. 2013 Code)

10-9C-2: **PERMITTED USES:** Property and buildings in an R-2 two-family dwelling district, shall be used only for the following purposes:

Any uses permitted in R-1A and R-1B single-family dwelling districts.

Two-family dwellings. (Ord. 127-02, 11-11-2003)

10-9C-3: USES PERMITTED ON REVIEW: The following uses may be permitted on review by the planning commission in accordance with the provisions contained in section 10-4-6 of this title.

Any use permitted on review in the R-1A and R-1B single-family dwelling districts.

Childcare centers, provided they have major street frontage as shown on the major street plan.

Lodges and other services institutions, provided they are located on a lot at least one acre and have major street frontage as shown on the major street plan. (Ord. 127-02, 11-11-2003)

10-9C-4: AREA REGULATIONS:

A. Front Yard: All buildings shall be set back from street right of way lines to comply with the following front yard requirements:

1. The minimum depth of the front yard shall be twenty five feet (25') for residential uses. All other uses shall have a minimum depth of the front yard of fifty feet (50'). (Ord. 127-02, 11-11-2003)

2. If twenty five percent (25%) or more of the lots on one side of the street between two (2) intersecting streets are improved with buildings, all of which have observed an average setback line of greater than twenty five feet (25'), and no building varies more than five feet (5') from this average setback line, then no building shall be erected closer to the street line than the minimum setback so established by the existing buildings; but this regulation shall not require a front yard of greater depth than forty feet (40').

B. Side Yard:

1. For dwellings on one story located on interior lots, there shall be a side yard on each side of the main building of not less than five feet (5'), or not less than eight feet (8') for dwellings of more than one story and for garage apartments. For unattached buildings of accessory use, there shall be a side yard of not less than five feet (5'); provided, however, that unattached one story buildings of accessory use shall not be required to set back more than three feet (3') from an interior side lot line when all parts of the accessory building are located not more than fifty feet (50') from the rear property line. (Ord. 127-02, 11-11-2003; amd. 2013 Code)

2. 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 feet (15') in case such lot is back to back with another corner lot, and twenty five feet (25') in every other case. The interior side yard shall be the same for dwellings and accessory buildings as for an interior lot.

3. Churches and main and accessory buildings, other than dwellings and buildings accessory to dwellings, shall set back from all exterior and interior side lot lines a distance of not less than twenty five feet (25').

C. Rear Yard: For main buildings, other than garage apartments, there shall be a rear yard of not less than twenty feet (20') or twenty percent {20%} of the depth of the rear yard of a single-family dwelling, but shall not be located closer than ten feet (10') to the rear lot line. Unattached buildings of accessory use may be located in the rear yard of a main building.

D. Lot Width: For single-family dwellings, two-family dwellings or single-family dwellings and garage apartments, there shall be a minimum lot width of sixty feet (60') at the front building line, and the lots shall abut on a street for a distance of not less than thirty five feet (35'). All other uses shall have a minimum lot width of two hundred feet (200').

E. Intensity Of Use:

1. For each single-family dwelling and accessory building, there shall be a lot area of not less than seven thousand (7,000) square feet. (Ord. 127-02, 11-11-2003)

2. For each two-family dwelling and accessory building, there shall be a lot area of not less than eight thousand {8,000} square feet. A garage apartment located on the same lot with a single-family dwelling shall have the same area requirements as a two-family dwelling. In all other cases, a garage apartment shall have the same lot requirements as a single-family dwelling. (Ord. 127-02, 11-11-2003; amd. 2013 Code)

3. Where a lot has less area than herein required and all boundary lines of that lot touch lands under other ownership on the effective date hereof, that lot may be used for any use, except churches, permitted in the R-1A and R-18 single-family districts. (Ord. 127-02, 11-11-2003)

4. For churches and main and accessory buildings, other than dwellings and buildings accessory to dwellings, the lot area shall be adequate to provide the yard areas required by this section. (Ord. 127-02, 11-11-2003; amd. 2013 Code)

- F. Coverage: Main and accessory buildings shall not cover more than thirty percent (30%) of the lot area. Accessory buildings shall not cover more than twenty percent (20%) of the rear yard. All other uses shall not cover more than fifty percent (50%) of the lot area. (Ord. 127-02, 11-11-2003)

10-9C-5: HEIGHT REGULATIONS: No building shall exceed two and one-half ($2\frac{1}{2}$) stories or thirty five feet (35') in height. (Ord. 127-02, 11-11-2003)

CHAPTER 9

RESIDENTIAL DISTRICTS

ARTICLE D. R-3 MULTIPLE-FAMILY DWELLING DISTRICT

SECTION:

- 10-9D-1: Established
- 10-9D-2: Permitted Uses
- 10-9D-3: Uses Permitted On Review
- 10-9D-4: Area Regulations
- 10-9D-5: Height Regulations

10-9D-1: **ESTABLISHED:** This is a residential district to provide for medium and high population density. The principal use of land can range from single-family to multiple-family and garden apartment uses. Certain uses which are functionally more compatible with intensive residential uses than with commercial uses are permitted, as are recreational, religious and educational facilities normally required to provide the basic elements of a balanced and attractive residential area. Internal stability, attractiveness, order and efficiency are encouraged by providing for adequate light, air and open space for dwellings and related facilities, and through consideration of the proper functional relationship of each element. (Ord. 127-02, 11-11-2003)

10-9D-2: **PERMITTED USES:**

Accessory buildings and uses customarily incidental to permitted uses when located on the same lot.

Any use permitted in an R-1A and R-1B single-family district.

Any use permitted in an R-2 two-family district.

Multi-family dwellings.

Rooming or boarding house. (Ord. 127-02, 11-11-2003)

10-90-3: USES PERMITTED ON REVIEW: The following uses may be permitted on review by the planning commission in accordance with provisions contained in section 10-4-6 of this title:

Any use permitted on review in an R-1A, R-1B or R-2 residential district.

Convalescent home, rest home, nursing home and hospitals, provided they have frontage on a major street as shown on the major street plan.

Mobile home parks, in compliance with the following requirements:

A. The applicant, upon making application for a zoning clearance permit, must submit a detailed site plan locating all mobile home stands, screening or fencing, and plans and specifications for the proposed park in a form suitable for making the determinations required herein;

B. The proposed site shall be a minimum of ten (10) acres in size and shall contain no more than four (4) mobile home stands per acre. The proposed site shall have a minimum frontage of two hundred feet (200') on a street designated as a major street or collector street in the major street plan. All access or egress by automobile will be on such streets. The proposed site shall be a minimum of two hundred feet (200') in depth;

C. It shall be the intention of the proposed plan for mobile home parks 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 five feet (25') from the corner line of any mobile home stand to the street boundary of the park. The site shall have side and rear yards of ten feet (10') from any solid fencing, screen planting or wall of six feet (6') in height. The proposed site shall be screened or buffered on all sides with a solid wall fence six feet (6') in height or a screen planting which will attain at least six feet (6') in height. (Ord. 127-02, 11-11-2003)

10-90-4: AREA REGULATIONS:

A. Front Yard: All buildings shall be set back from the street right of way lines to comply with the following front yard requirements:

1. The minimum depth of the front yard shall be twenty five feet (25'). All other uses, thirty five feet (35').

2. If twenty five percent (25%) or more of the lots on one side of the street between two (2) intersecting streets are improved with buildings, all of which have observed an average setback line of greater than twenty five feet (25'), and no building varies more than five feet (5') from this average setback line, then no building shall be erected closer to the street line than the minimum setback so established by the existing buildings; but this regulation shall not require a front yard of greater depth than forty feet (40').

3. When a yard has a double frontage, the front yard requirements shall be provided on both streets.

B. Side Yard:

1. For dwellings located on an interior lot, a side yard of not less than five feet (5') shall be provided on both sides of the main dwelling for the first story and an additional three feet (3') of side yard shall be provided for each additional story or part thereof. For unattached buildings of accessory use, there shall be a side yard of not less than five feet (5') from the property line.

2. 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 feet (15') in case such lot is back to back with another corner lot, and twenty five feet (25') in every other case. The interior side yard shall be the same as for dwellings and accessory buildings on an interior lot. (Ord. 127-02, 11-11-2003)

3. Mobile home parks shall be planned in such a manner that no mobile home, or related building, shall be closer than fifteen feet (15') to any property line or structure. Example: Each mobile home will have a minimum of fifteen feet (15') of yard surrounding each mobile home equaling thirty feet (30') between two (2) mobile homes or structures for public services and utilities. (Ord. 127-02, 11-11-2003; amd. 2013 Code)

4. Churches and main and accessory buildings, other than dwellings and buildings accessory to dwellings and trailers, shall set back from all exterior and interior side lot lines a distance of not less than thirty five feet (35').
- C. Rear Yard: For main buildings, other than garage apartments, there shall be a rear yard of not less than twenty feet (20') or twenty percent (20%) of the depth of the lot, whichever is smaller. Garage apartments may be located in the rear yard of another dwelling, but shall not be located closer than ten feet (10') to the rear lot line. Unattached buildings of accessory uses may be located in the rear yard of a main building.
- D. Lot Width: There shall be a minimum lot width of fifty feet (50') at the front building line for single-family and two-family dwellings, and ten feet (10') additional width at the front building line for each family more than two (2), occupying a dwelling. However, a lot width at the front building line shall not be required to exceed one hundred fifty feet (150'). A lot shall abut on a street not less than thirty five feet (35'). All uses, other than residential, shall have a minimum lot width of one hundred feet (100').
- E. Intensity Of Use:
1. There shall be a lot area of not less than six thousand (6,000) square feet for a single-family dwelling, not less than eight thousand (8,000) square feet plus an additional area of not less than two thousand (2,000) square feet for each family more than two (2), occupying a dwelling.
 2. There shall be a lot area of not less than eight thousand (8,000) square feet where a garage apartment is located on the same lot with a single-family dwelling. When a garage apartment is located on the same lot with a two-family or multiple-family dwelling, the lot area shall provide not less than two thousand (2,000) square feet more than is required for the dwelling.
 3. Where a lot has less area than herein required and all boundary lines of that lot touch lands under other ownership on the effective date hereof, that lot may be used for any use, except churches, permitted in the R-1A and R-1B single-family dwelling district. (Ord. 127-02, 11-11-2003)
 4. For churches and main accessory buildings, other than dwellings and buildings accessory to dwellings, the lot area shall be adequate

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to provide the yard areas required by this section. (Ord. 127-02, 11-11-2003; amd. 2013 Code)

- F. Coverage: Main and accessory building shall not cover more than fifty percent (50%) of the lot area. Accessory buildings shall not cover more than thirty percent (30%) of the rear yard. (Ord. 127-02, 11-11-2003)

10-90-5: **HEIGHT REGULATIONS:** No buildings shall exceed two and one-half ($2\frac{1}{2}$) stories or thirty five feet (35') in height. (Ord. 127-02, 11-11-2003; amd. 2013 Code)

CHAPTER 10

COMMERCIAL DISTRICTS

ARTICLE A. C-1 GENERAL COMMERCIAL DISTRICT

SECTION:

- 10-10A-1: Established
 10-10A-2: Permitted Uses
 10-10A-3: Area Regulations

10-10A-1: **ESTABLISHED:** 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. (Ord. 127-02, 11-11-2003)

10-10A-2: **PERMITTED USES:** Property and buildings in a C-1 general commercial district may be used for the following purposes:

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 permitted in this section.

Any public buildings or uses.

Buildings, structures and accessory uses customarily incidental to any of the permitted uses; provided, that there shall be no manufacturing of products other than such as are customarily incidental to retail establishments.

Other uses:

Artist supplies and hobby shop.

Auditorium.

Auto dealer (new/used).

Bakery.

Banks.

Barbershops.

Beauty shops.

Bookstore.

Bus terminal. Business

colleges. Cleaning and

dyeing works. Clothing or

apparel store. Commercial

school or hall.

Communications.

Dance hall.

Delicatessen.

Department store.

Financial institutions.

Fire stations.

Fraternal organizations.

Frozen food locker.

Funeral parlor or mortuary.

Furniture store; repair and upholstery.

Gasoline and filling stations.

General office.

Gift shop.

Hardware store.

Hospitals.

Hotel.

Interior decorating store.

Jewelry store.

Key shop.

Laboratories, testing and experimental.

Laundry.

Leather goods shop.

Libraries.

Liquor store.

Lodge halls.

Medical/dental facilities.

Mobile home parks.

Motel or motor inn.

Museums.

Music conservatory.

Music, radio or television shop.

New and used automobile sales and service.

Nightclub.

Nursery or garden supply store.

Office supply.

Pawnshop.

Pet shop.

Pharmacy.

Printing and stationery.

Professional offices.

Research laboratories.

Restaurant.

Sign painting shop.

Sporting goods store.

Stock and bond broker.

Tavern.

Telephone and telegraph offices.

Theater.

Toy store.

Youth recreation center. (Ord. 127-02, 11-11-2003)

10-10A-3: AREA REGULATIONS:

- A. Minimum Area: The minimum area for a C-1 general commercial district shall not be less than fifty thousand (50,000) square feet.
- B. Yard Requirements: Where a commercial building is to be serviced from the rear, there shall be provided an unobstructed paved alleyway, service court or rear yard, or combination thereof, of not less than twenty feet (20').
- C. Floor Space: In no instance shall the total floor space of the structure in this district exceed the relationship of one to one (1:1), i.e., there must be provided one square foot of open space to each one square foot of floor space in the structure. (Ord. 127-02, 11-11-2003)

CHAPTER 10

COMMERCIAL DISTRICTS

**ARTICLE B. C-2 HIGHWAY COMMERCIAL AND
COMMERCIAL RECREATION DISTRICT**

SECTION:

- 10-10B-1: Permitted Uses
10-10B-2: Area Regulations

10-10B-1: **PERMITTED USES:**

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 permitted in this section.

Any use permitted in the C-1 general commercial district, except mobile home parks.

Buildings, structures and accessory uses customarily incidental to any permitted uses; provided, that there shall be no manufacturing of products other than such as are customarily incidental to retail establishments.

Other uses:

Ambulance service.

Amusement enterprises.

Automobile service station.

Boat sales.

Bowling alleys.

Building material store.

Drive-in theater or restaurant.

Feed and fuel store.

Food store.

Garden stores.

Golf course, miniature or practice range.

Heating and plumbing sales and service.

Hospital for small animals.

Ice plant

Kennel.

New and used machinery.

Novelty shop.

Office and garage.

Public garages.

Public uses.

Recreation center.

Rollerskating rink.

Sales and service.

Storage warehouse.

Truck sales and service.

Vision shop and repair.

Wholesale distributing center. (Ord. 127-02, 11-11-2003; amd. 2013 Code)

10-10B-2: AREA REGULATIONS:

- A. Yard Requirements: When a commercial building is to be serviced from the rear, there shall be provided an unobstructed paved alleyway, service court or rear yard, or combination thereof, of not less than twenty feet (20').
- B. Minimum Area: The minimum area for a C-2 highway commercial and commercial recreation district shall be not less than fifty thousand (50,000) square feet.
- C. Floor Space: In no instance shall the total floor space of the structure in this district exceed the relationship of one to one (1:1), i.e., there must be provided one square foot of open space to each one square foot of floor space in the structure. (Ord. 127-02, 11-11-2003)

CHAPTER 11

INDUSTRIAL DISTRICT

ARTICLE A. INDUSTRIAL DISTRICT

SECTION:

- 10-11A-1: Established
- 10-11A-2: Standards For Industrial District
- 10-11A-3: Permitted Uses
- 10-11A-4: Area Regulations

10-11A-1: **ESTABLISHED:** The purpose of the 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 major street plan, as well as locations generally accessible to railroad transportation. Because of the nuisances or other objectionable influences that may be created in this district, it is necessary to provide a buffer or setback strip between this district and other zoning districts. (Ord. 127-02, 11-11-2003; amd. 2013 Code)

10-11A-2: **STANDARDS FOR INDUSTRIAL DISTRICT:** Any use constructed, established, altered or enlarged in the industrial district after the effective date hereof shall be so operated as to comply with the following standards. No use already established on the effective date hereof shall be so altered or modified as to conflict with, or further conflict with, the applicable standards established hereinafter for the industrial district:

- A. No building shall be used for residential purposes, except that a watchman may reside on the premises.
- B. No retail sales or services shall be permitted, except as incidental to or accessory to or associated with a permitted use.

- C. No storage, manufacture or assembly of goods shall be conducted outside of a building unless the nearest point of said activity is more than two hundred feet (200') from the boundary of any nonindustrial use district, and unless such storage shall be so screened by ornamental fencing or evergreen planting that it cannot be seen by a person standing on ground level in the adjacent district; provided, however, that screening shall not be required in excess of seven feet (7') in height. All planting shall be kept neatly trimmed and maintained in good condition at all times.
- D. Exterior lighting fixtures shall be shaded wherever necessary to avoid casting direct light upon property located in any residential district.
- E. No activities involving storage, utilization or manufacture of materials or products which decompose by detonation shall be permitted. (Ord. 127-02, 11-11-2003; amd. 2013 Code)

10-11A-3: **PERMITTED USES:** All buildings or uses hereafter established or enlarged shall comply with the following conditions or restrictions:

Accessory uses incidental to and on the same zoning lot as a principal use.

Automobile wrecking and junk yards, provided they are enclosed throughout the entire perimeter by a solid fence not less than eight feet (8') in height.

Beverages (nonalcoholic, processing and bottling).

Blacksmiths, tinsmiths, and sheet metal shops, canning or preserving factories, cold storage plants, heavy machinery rental, sales and service.

Building materials specialties.

Bulk fuel sales and storage.

Commercial radio and television transmitting antenna towers and other electronic equipment requiring outdoor towers, including antenna towers for the dispatching of private messages.

Compounding, processing and blending chemical products, not including any materials which decompose by detonation.

Cosmetics and toiletries.

Dairy products, production and distribution.

Drugs and pharmaceutical products.

Electrical and acoustic products and components.

Food products (except fish, sauerkraut, vinegar and yeast).

Furniture.

General and administrative offices incidental to permitted uses.

Glass products.

Ice, dry and natural.

Machine shops and metal products manufacture and tool and dye shops, provided they do not include the following equipment: automatic screw machines, drop forges or riveting machines.

Mail order houses.

Manufacturing and assembling electrical or electronic products and equipment.

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 material.

Manufacturing, fabricating, assembling, repairing, storing and cleaning, servicing or testing any of the following materials, goods, or merchandise: apparel, clothing, jewelry and optical goods.

Medical laboratory supplies, equipment and specialties.

Metal products and utensils.

Monumental stonecutting.

Motor freight terminals.

Musical instruments.

Paper products, including boxes and containers.

Pattern shops.

Printing and binding plants.

Printing plans.

Processing of meat and vegetable products, including the slaughter of animals.

Public utility distribution centers.

Radio, phonograph recorder, and television sets and parts.

Railroad yards and switching areas, including lodging and sleeping facilities for transient railroad labor.

Research laboratories.

Sign painting.

Soldering and welding shops.

Spray painting and mixing.

Textiles.

Toys and children's vehicles.

Trailers and carts.

Warehouses and storage facilities.

Water filtration plants, pumping stations, reservoirs and lift stations.

Wood products, including wooden boxes and containers. (Ord. 127-02, 11-11-2003; amd. 2013 Code)

10-11A-4: AREA REGULATIONS:

- A. There are no requirements for minimum lot area in the industrial district.
- B. Yard requirements include maximum lot coverage of sixty percent (60%), a front yard setback of thirty five feet (35') minimum, and a side yard setback of twenty five feet (25') minimum or one foot (1') of setback for each one foot (1') of height when the structure is adjacent to a residential zoned lot. (Ord. 127-02, 11-11-2003; amd. 2013 Code)

CHAPTER 12

SPECIAL DISTRICTS

ARTICLE A. F-1 FLOODPLAIN DISTRICT

SECTION:

- 10-12A-1: Applicability
- 10-12A-2: Established
- 10-12A-3: Permitted Uses
- 10-12A-4: Minimum Lot Size
- 10-12A-5: Yard Requirements
- 10-12A-6: Height Regulations
- 10-12A-7: Flood Disaster Protection Act

10-12A-1: **APPLICABILITY:** The provisions of this article do not apply when in conflict with the permissive uses contained in title 12 of this code. (2013 Code)

10-12A-2: **ESTABLISHED:** This district is intended to comprise those areas which are subject to periodic or occasional inundation and therefore are unsuited for all residential uses and the usual commercial and industrial uses. (Ord. 127-02, 11-11-2003)

10-12A-3: **PERMITTED USES:** Property and buildings in the F-1 floodplain district shall be used only for the proposed purposes:

Growing of agricultural crops and nursery stock, and gardening.

Public recreation. (Ord. 127-02, 11-11-2003)

10-12A-4: **MINIMUM LOT SIZE:** There shall be no requirements for minimum lot area in the F-1 floodplain district. (Ord. 127-02, 11-11-2003)

10-12A-5: **YARD REQUIREMENTS:** The following minimum requirements for yards shall apply to any use that is constructed or commenced on a parcel of land in the floodplain district:

- A. Maximum lot coverage by structure shall not exceed fifty percent (50%) of the zoned lot.
- B. Front yard setback shall be a minimum of twenty five feet (25').
- C. Side yard setback shall be a minimum of five feet (5').
- D. Rear yard setback shall be a minimum of twenty percent (20%) of the lot depth. (Ord. 127-02, 11-11-2003)

10-12A-6: **HEIGHT REGULATIONS:** No structure in the floodplain district shall be constructed with a height in excess of thirty five feet (35') from the average lot elevation. (Ord. 127-02, 11-11-2003)

10-12A-7: **FLOOD DISASTER PROTECTION ACT:** All structures which are constructed or commenced on a parcel of land in the floodplain district shall be in compliance with the provisions of the national insurance program as set forth under the flood disaster protection act of 1973. (Ord. 127-02, 11-11-2003)

CHAPTER 12

SPECIAL DISTRICTS

ARTICLE B. H-1 HEALTH FACILITIES DISTRICT

SECTION:

- 10-128-1: Established
- 10-128-2: Permitted Uses
- 10-128-3: Area Regulations
- 10-128-4: Height Regulations

10-128-1: **ESTABLISHED:** The purpose of the **H-1** health facilities district is to provide a separate location for medical and health facilities and related uses. (Ord. 127-02, 11-11-2003)

10-128-2: **PERMITTED USES:** Property and buildings in an H-1 health facilities district shall be used only for the following purposes:

Accessory buildings and uses customarily incidental to the permitted uses.

Convalescent, rest home or nursing home.

Hospital.

Nameplate and sign relating only to the use of the facility and premises or to products sold on the premises.

Public health center.

Sanatorium.

Supporting facilities necessary in conjunction with the existing health facility, permitted on review only:

Ambulance service.

Artificial limbs and braces, sales and service.

Barber and beauty shops.

Dental laboratory or supply house.

Drugstore.

Hotel and motel.

Medical clinic or dental office.

Orthopedic appliance sales.

Pharmacy.

Restaurant. (Ord. 127-02, 11-11-2003)

10-12B-3: AREA REGULATIONS: Any building used primarily for the enumerated uses shall not have more than forty percent (40%) of the floor area devoted to purposes incidental to the primary use. The following requirements shall apply to all uses permitted in this district:

- A. All buildings shall set back from the street right of way line to provide a front yard having not less than twenty five feet (25') in depth;
- B. On a side of a lot adjoining a dwelling district, there shall be a side yard of one foot (1') per each one foot (1') of height;
- C. Where a health facility building is to be serviced from the rear, there shall be provided an unobstructed paved alleyway, service court or rear yard, or combination thereof, of not less than twenty feet (20'). (Ord. 127-02, 11-11-2003)

10-12B-4: HEIGHT REGULATIONS: There shall be no limit, with the exception of one foot (1') of setback per each two feet (2') of height above twenty five feet (25') from the front, rear and side yards. (Ord. 127-02, 11-11-2003)

CHAPTER 13

LIMITATION OF USES

SECTION:

- 10-13- 1: Application Of Regulations In District Authorized
- 10-13- 2: Uses Of More Restricted District
- 10-13- 3: Residential Uses Restricted To Residential Lots
- 10-13- 4: Division Of Lots
- 10-13- 5: Use Of Yards
- 10-13- 6: Street Access
- 10-13- 7: Storage And Parking In Residential Districts
- 10-13- 8: Commercial Vehicles In Commercial And Industrial Districts
- 10-13- 9: Off Street Parking And Loading
- 10-13-10: Screening Wall Or Fence
- 10-13-11: Sewer Service

10-13-1: **APPLICATION OF REGULATIONS IN DISTRICT AUTHORIZED:** No land, building, structure or improvement shall be used and no building, structure or improvement shall be made, erected, constructed, moved, altered, enlarged or rebuilt which is designed, arranged or intended to be used or maintained for any purpose or in any manner, except in accordance with the use, height, area, coverage, yard, space, and other requirements established in the district in which such land, building, structure or improvement is located, and such use is authorized, except as provided by chapter 14 of this title. (Ord. 127-02, 11-11-2003)

10-13-2: **USES OF MORE RESTRICTED DISTRICT:** Whenever the specific district regulations pertaining to one district permit the uses of a more restricted district, such uses shall be subject to the conditions set forth in the regulations of the more restricted district, unless otherwise specified. (Ord. 127-02, 11-11-2003)

10-13-3: **RESIDENTIAL USES RESTRICTED TO RESIDENTIAL LOTS:** 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, except that one accessory residential unit may be provided for a night watchman, motel manager or similar purpose where essential to the main use of the lot. (Ord. 127-02, 11-11-2003)

10-13-4: DIVISION OF LOTS: An improved lot shall not hereafter be divided into two (2) or more lots unless all lots resulting from such division comply with all the applicable yard, space, area, parking and loading regulations of the zoning district in which located. (Ord. 127-02, 11-11-2003)

10-13-5: USE OF YARDS: No building, structure or improvement shall **be permitted to encroach upon required yard spaces set forth** in the provisions of this title; provided, however, that surfaced parking facilities, signs, fences and gasoline pumps in service units may be permitted to occupy required yard space unless otherwise prohibited in those districts permitting such improvements; and provided, that no inoperative vehicle may be stored in the front yard of a lot in a residential district. (Ord. 127-02, 11-11-2003)

10-13-6: STREET ACCESS: No principal building shall hereafter be constructed on a lot which does not abut a public dedicated street. (Ord. 127-02, 11-11-2003)

10-13-7: STORAGE AND PARKING IN RESIDENTIAL DISTRICTS:
Commercial vehicles and trailers of all types, including travel, camping and hauling, and mobile homes shall not be parked or stored on any lot occupied by a dwelling or on any lot in any residential district, except in accordance with the following provisions:

- A. No semitractor trailer combos will be permitted; and in no case shall a commercial vehicle used for hauling explosives, gasoline, hazardous materials or liquefied petroleum products be permitted at any residence or premises without a business permit.
- B. No more than one camping or travel trailer or hauling trailer per family living on the premises shall be permitted, and said trailer shall not exceed thirty six feet (36') in length or eight feet (8') in width; and further provided, that said trailer shall not be parked or stored for more than forty eight (48) hours unless it is located behind the

front yard building line. A camping or travel trailer shall not be occupied either temporarily or permanently while it is parked or stored in any area within the incorporated limits, except in a mobile home park authorized under the ordinances of the town.

- C. A mobile home shall be parked or stored only in a mobile home park which is in conformity with ordinances of the town. (Ord. 127-02, 11-11-2003)

10-13-8: **COMMERCIAL VEHICLES IN COMMERCIAL AND INDUSTRIAL DISTRICTS:** Commercial vehicles and trailers of all types may be displayed on such commercial districts allowing sales of said vehicles, or in such industrial districts allowing their manufacture; provided, however, said vehicles may not be used for dwelling purposes, whether temporarily or permanently, except in a mobile home park authorized under the ordinances of the town. (Ord. 127-02, 11-11-2003)

10-13-9: **OFF STREET PARKING AND LOADING:**

- A. Intent: It is the intent of these requirements that adequate parking and loading facilities be provided on off street areas for each use of land within the town. Requirements are intended to be based on the demand created by each use. These requirements shall apply to all uses in all districts.
- B. Required Open Space: Off street parking space may be a part of the required open space associated with the permitted use, unless otherwise prohibited; provided, however, the off street parking requirements shall not be reduced or encroached upon in any manner.
- C. Location Of Parking Lots: The off street parking lot shall be located within two hundred feet (200'), exclusive of street and alley widths, of the principal use and shall have direct access to a street or alley. (Ord. 127-02, 11-11-2003)
- D. Joint Parking And Off Site 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 spaces for each use. Owners shall jointly provide for their individual parking needs through a joint facility and/or

facilities; provided, that the total number of spaces so provided shall not be less than the sum of the individual requirements and that each business and/or other use is within two hundred feet (200') of the parking facility. (Ord. 127-02, 11-11-2003; amd. 2013 Code)

- E. Size Of Off Street Parking Space: The size of a parking space for one vehicle shall consist of a rectangular area having dimensions of not less than ten feet by twenty feet (10' x 20'), plus adequate area for ingress and egress.
- F. 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: (Ord. 127-02, 11-11-2003)

Boarding or rooming house or hotel	1 parking space for each sleeping room.
Community center, theater, auditorium, church sanctuary	1 parking space for each 4 permanent seats, based on maximum seating capacity, or 1 parking space for each 50 square feet of floor area in rooms without permanent seating, but intended to be used for assembly purposes.
Convalescent or nursing homes	1 space for each 6 patient beds, plus 1 space for each staff or visiting doctor, plus 1 space for each 2 employees, including nurses.
Convention hall, lodge, club, library, museum, place of amusement or recreation	1 parking space for each 50 square feet of floor area used for assembly or recreation in the building.
Dwelling, multi-family	The number of spaces provided shall not be less than 1 ¹ / ₂ times the number of units in the dwelling.
Dwelling, single-family or duplex	1 parking space for each separate dwelling unit within the structure.
Hospitals	1 space for each 4 patient beds, exclusive of bassinets, plus 1 space for each staff or visiting doctor, plus 1 space for each 3 employees including nurses, plus adequate area for the parking of emergency vehicles.

Industrial establishments	1 off street parking space for each 500 square feet of gross floor area, or 1 off street parking space for each 2 employees, whichever is greater, and 1 loading or unloading berth for each 25,000 square feet, or fraction thereof, of gross floor area.
Medical or dental clinics or offices	6 spaces per doctor, plus 1 space for each 2 employees.
Office building	1 parking space for each 300 square feet of gross floor area in the building, exclusive of the area used for services.

(Ord. 127-02, 11-11-2003; amd. 2013 Code)

- G. Paved Surface Required: All parking spaces shall be paved with a sealed surface permanent pavement and maintained in a manner that no dust will result from continued use.

 - H. Off Street Parking Lots Located Within Or Adjacent To Residential District: 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 a screening wall or fence.

 - 2. No parking shall be permitted within a front yard when the parking lot is located in a residential district.

 - 3. Driveways used for ingress and egress shall be confined to and shall not exceed twenty five feet (25') 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. No sign of any kind shall be erected, except information signs used to guide traffic and to state the condition and terms of the use of the lots. Only nonintermittent lighting of signs shall be permitted.
- (Ord. 127-02, 11-11-2003)

10-13-10: SCREENING WALL OR FENCE:

- A. Specifications: When the provisions of this title require the construction of and subsequent continuance of a screening wall or fence, said wall or fence:
1. Shall be constructed, designed and arranged to provide visual separation of uses, irrespective of vegetation.
 2. Shall not be less than five feet (5') nor more than eight feet (8') in height; and
 3. Shall be constructed with all braces and supports on the interior.
- B. **aintenance: The screening 'wall or fence shall be maintained by the owner of the zoning lot. (Ord. 127-02, 11-11-2003; amd. 2013 Code)**

10-13-11: SEWER SERVICE: No structure or use in any district shall be erected or commenced which does not have a septic tank or substitute disposal system until an officer certifies that such a system can be installed and operated effectively. As a basis for making his decision, the public health office may require such percolation tests as he deems necessary by the property owner. (Ord. 127-02, 11-11-2003; amd. 2013 Code)

CHAPTER 14

NONCONFORMITIES

SECTION:

- 10-14-1: Nonconforming Lots Of Record
- 10-14-2: Nonconforming Structures
- 10-14-3: Nonconforming Uses Of Structures
- 10-14-4: Nonconforming Uses Of Land
- 10-14-5: Changes In Nonconformity

10-14-1: **NONCONFORMING LOTS OF RECORD:** In any district in which a lot exists of record at the effective date of adoption or amendment of this title which does not conform in size or area to the provisions of this title, buildings for the uses permitted in such district may be erected on such lot, notwithstanding limitations imposed by other provisions of this title; provided, that such lot is in separate ownership and not of continuous frontage with other lots in the same ownership. (Ord. 127-02, 11-11-2003)

10-14-2: **NONCONFORMING STRUCTURES:** Where a lawful structure exists at the effective date of adoption or amendment of this title that could not be built under the terms of this title 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:

- A. No such structure may be enlarged or altered in a way which increases its nonconformity.
- B. Should such structure be destroyed by any means to an extent of more than fifty percent (50%) of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this title.

- C. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the zoning district in which it is located after it is moved. (Ord. 127-02, 11-11-2003)

10-14-3: 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 this title that would not be allowed in the district under the terms of this title, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. No existing structure devoted to a use not permitted by this title 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.**
- B. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this title, but no such use shall be extended to occupy any land outside such building.
- C. 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.
- D. When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for six (6) months, the structure, or structure and premises in combination, shall not thereafter be used except in conformance with the regulations of this district in which it is located.
- E. Where nonconforming use status applies to a structure and premises in combination, removal or destruction of this structure shall eliminate the nonconforming status of the land. (Ord. 127-02, 11-11-2003)

10-14-4: NONCONFORMING USES OF LAND: Where, at the effective date of adoption or amendment of this title, lawful uses of land exist that are no longer permissible under the terms of this title as

enacted or amended, such uses may be continued so long as they remain otherwise lawful, subject to the following provisions:

- A. No such conforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this title.
- B. No such nonconforming use shall be enlarged or increased or extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this title.
- C. If any such nonconforming use of land ceases for any reason for a period of more than one hundred eighty (180) days, any subsequent use of such land shall conform to the regulations specified by this title for the district in which such land is located. (Ord. 127-02, 11-11-2003)

10-14-5: CHANGES IN NONCONFORMITY: A nonconforming use of a structure, or of a structure and land in combination, shall not be changed unless changed to a use permitted in the district in which located; except that the board of adjustment may permit a change to a more restricted nonconforming use and such change shall be construed as an abandonment of the former permitted nonconforming use. (Ord. 127-02, 11-11-2003)

CHAPTER 15

SIGN REGULATIONS

SECTION:

10-15-1:	Purpose And Intent
10-15-2:	Definitions And Interpretations
10-15-3:	Allowed Signs Without Permit
10-15-4:	Allowed Signs With Permit
10-15-5:	Sign Permits And Fees
10-15-6:	General Sign Requirements
10-15-7:	Prohibited Signs
10-15-8:	Nonconforming Signs
10-15-9:	Violations; Penalty

10-15-1: PURPOSE AND INTENT:

- A. The mayor and board of trustees are enacting this chapter to ensure that noncommercial messages are authorized with restriction only as to the size of such signage and to establish reasonable regulations for signage containing commercial messages. The mayor and board of trustees find that signs provide an important medium through which individuals may convey a variety of noncommercial and commercial messages. However, left completely unregulated, signs can become a threat to public safety as a traffic hazard and detriment to property values and the town's overall public welfare as an aesthetic nuisance.
- B. By enacting this chapter, the mayor and board of trustees intend to:
1. Balance the rights of individuals to convey their messages through signs and the right of the public to be protected against the unrestricted proliferation of signs;
 2. Protect the public health, safety and welfare;
 3. Reduce traffic and pedestrian hazards;

4. Maintain the historical image of the town;
5. Protect property values by minimizing the possible adverse effects and visual blight caused by signs;
6. Promote economic development; and
7. Ensure the fair and consistent enforcement of sign regulations.
(Ord. 131-03, 11-11-2003)

10-15-2: **DEFINITIONS AND INTERPRETATIONS:** Signs include any words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, structures, designs, trade names or trademarks, which identify or describe the goods, services, or activities of an individual, a firm, an association, a corporation, a profession, a business, or a commodity or products, which are visible from any public street or adjacent property and used to attract attention. This definition includes the structure or the face on which a sign message is displayed. For the purposes of this chapter, this definition shall not include "trade dress", i.e., architectural features identified with a product or business as a sign. Signs, including various kinds of signs, are further defined in this section:

- AWNING SIGN:** A sign which is a part of a fabric or other non-structural awning.
- BACK TO BACK SIGN:** A single structure with two (2) parallel and directly opposite outdoor advertising signs with their faces oriented in opposite directions.
- BANNER:** A sign made of a lightweight fabric or similar material, which is either mounted permanently or in such a way as to allow movement caused by the atmosphere.
- CANOPY SIGN:** A sign which is painted, affixed or otherwise displayed on a permanent porch or cover, other than an awning, which may be attached to a building or supported by columns extending to the ground such as at fuel station islands.
- CHANGEABLE COPY SIGN:** Any sign where letters or numbers displayed on the sign can be changed periodically on the sign to display different messages.

CONSTRUCTION SIGN:	A sign which identifies architects, engineers, contractors and other individuals or firms involved with construction on the premises, the name of the building or development, the intended purpose of the building and/or the expected completion date.
DOOR SIGN:	A sign which is attached to, painted on or etched onto or into a door. A sign in a window, which is part of a door, is a door sign for the purposes of this chapter.
FREESTANDING SIGN:	<p>A sign which is not attached to a building and permanently attached to the ground by one or more supports. There are two (2) types of free-standing signs:</p> <p>A. High Stature Freestanding Signs: Freestanding signs in which the distance from the ground to the highest point of the sign is more than five feet (5').</p> <p>B. Low Stature Freestanding Signs (Ground Or Monument Signs): Freestanding signs in which the distance from the ground to the highest point of the sign is five feet (5') or less.</p>
HISTORICAL OR MEMORIAL MARKER:	A sign or tablet attached to a building, indicating the date of construction and/or the names of the building or the principals involved in its construction. Also, an attached sign on bona fide historic buildings.
INCIDENTAL SIGN:	An on premises sign giving information or direction for the convenience and necessity of the public, such as "Entrance", "Exit", "No Admittance", "Telephone", "Parking", etc.
MARQUEE SIGN:	A sign used to identify a theater or a sign projection over the entrance to a theater.
NONCOMMERCIAL SIGN:	A sign which is not an on premises or off premises sign and which carries no message, statement or expression related to the commercial

interests of the sign owner, lessee, author or other person responsible for the sign message. Noncommercial signs include, but are not limited to, signs expressing political views, religious views or signs of nonprofit organizations related to their tax exempt purposes.

OBSOLETE SIGN:

A sign relating to or identifying a business or activity which has not been conducted on the premises for six (6) months, or to a transpired election or event, or to a political party or nonprofit organization that no longer exists. In addition, the structure for a sign that is not allowed under this chapter if such structure cannot be used for a legal use or does not comply with the height, size or other physical requirements of this chapter, or a sign which has missing or broken panels, broken or damaged supports or frame, or otherwise displays inadequate maintenance, dilapidation, obsolescence or abandonment.

**OFF PREMISES SIGN,
OFF SITE SIGN OR
BILLBOARD:**

A permanent sign which directs attention to a business, commodity, service or entertainment not conducted, sold or offered on the premises where the sign is located, or which business, commodity, service or entertainment forms only minor or incidental activity upon the premises where the sign is displayed. These product oriented signs shall be considered on premises signs if they comply with on premises sign requirements. Portable signs are excluded from this definition.

**ON PREMISES SIGN
OR ON SITE SIGN:**

A sign which advertises or directs attention to a business, commodity or service conducted, offered or sold on the premises, or directs attention to the business or activity conducted on the premises.

PORTABLE SIGN:

Any sign not permanently attached to the ground or other permanent structure, including, but not limited to, signs with attached wheels and those converted to A- or T-frame structures.

PROJECTING SIGN:	A sign forming an angle with a building, which extends from the building and is supported by the building.
PUBLIC SIGN:	A sign erected by or on behalf of a governmental body to post a legal notice, identify public property, convey public information and direct or regulate pedestrian or vehicular traffic.
REAL ESTATE SIGN:	A sign advertising the premises for sale, rent or lease.
ROOF SIGN:	A sign which is higher than the roof to which it is attached. Signs attached to the lower slope of a roof or attached to a parapet wall above a flat roof are considered wall signs. Signs on mansard or canopy roofs are considered wall signs.
SIDE BY SIDE SIGN:	Two (2) adjacent outdoor advertising signs on a single structure with both faces oriented in the same direction.
SIGN AREA:	The sign area is measured by finding the area of an imaginary rectangle, circle or triangle, which fully encloses the sign message, including background and logos but not including supports or braces. For multifaced signs, sign area shall be computed from the vantage point which gives a view of the largest amount of sign area. If two (2) identical signs are back to back, and are part of the same sign structure, the sign area shall be computed by the measurement of one of the faces.
SIGN HEIGHT:	The height of a sign shall be the vertical distance from normal grade to the highest point of the sign. Any beaming or filling or excavating solely for the purpose of locating the sign shall be computed as part of the sign height.
STACKED SIGN:	A single structure with two (2) outdoor advertising signs with one sign placed directly above the other with their faces oriented in the same direction.

- SUSPENDED SIGN:** A sign which is attached to the underside of a horizontal plane or arm and is supported by the horizontal plane.
- TRIVISION SIGN:** A sign constructed to use multiple face panels or slats that rotate to different messages in a fixed position.
- V SIGN:** A single structure with two (2) outdoor advertising signs with their faces oriented in different directions placed at an angle.
- WALL SIGN:** Any sign, other than a projecting sign, which is oriented in a parallel direction to the wall of any building and is painted on or attached to that wall. The sign may extend above or below that wall; provided, that any extension must be parallel to that wall and placed not more than twenty four inches (24") forward or backward from the face of that wall. For purposes of this chapter only, a "wall" shall include any permanent architectural extension of a wall, including parapets, mansards and awnings even if such extension projects beyond or above the enclosed portions of the building.
- WINDOW SIGN:** Any sign which is attached to, painted on or etched into a window, or which is displayed within twelve inches (12") of the window and is legible from outside the window. (Ord. 131-03, 11-11-2003)

10-15-3: ALLOWED SIGNS WITHOUT PERMIT:

- A. All Zoning Districts: The following signs shall be allowed in all zoning districts. No sign permit shall be required:
1. Any federal, state or local traffic control or other public sign.
 2. Any public notice or warning required by valid and applicable federal, state or local law, regulation or ordinance.
 3. Works of art, which do not identify a business, product or service.

4. Hand carried noncommercial signs.
5. Lighting and displays that are part of customary holiday decorations; provided, that they contain no commercial message and are not located in the right of way.
6. Any sign not legible either from any public right of way or from any lot or parcel, other than the parcel on which such signs are located or from an adjacent lot or parcel under common ownership with the lot or parcel on which such sign is located.
7. Signs placed in or on windows, provided such signs in combination with other window signs do not block the view by public safety officials of the cashier or teller area from the exterior of the building.
8. Customary identification signs, such as building numbers, addresses, private parking signs, no trespassing signs or dangerous animal signs.
9. U.S., state, municipal or corporate flags.
10. Traffic control signs on private property, such as "Stop", "Yield" and similar signs, the face of which meet Oklahoma department of transportation standards and which contain no logo or commercial message.
11. Incidental signs which do not exceed three (3) square feet of area per sign. The signs shall not exceed four feet (4') in height.
12. Yard sale signs which do not exceed six (6) square feet in area per sign, are limited to one per lot and must be removed one day after the event.
13. Vending machines, automatic tellers or gasoline pumps, which display the name, trademark or logo of the company or brand or prices, provided the display is an integral part of the machine or pumps and does not exceed thirty two (32) square feet in area per side.
14. Construction signs in residential districts which do not exceed six (6) square feet in area and six feet (6') in height, and which are limited to one per lot. The sign must be removed prior to the issuance of a certificate of occupancy.

15. Real estate signs in residential districts, which do not exceed six (6) square feet in area, and six feet (6') in height for freestanding signs and which are limited to one per street frontage and one wall sign per dwelling unit.

16. Real estate signs in nonresidential districts which do not exceed thirty two (32) square feet in area per sign, and do not exceed eight feet (8') in height for freestanding signs and which are limited to one freestanding sign per street frontage. One wall sign per building facade is allowed if the entire building is for sale or lease. One wall sign per leasable unit is allowed if portions of the buildings are for sale or lease.

17. Announcements by public or nonprofit organizations of fund-raising events, special events or activities of interest to the general public, other than political signs. Such signs shall not exceed six (6) square feet in area for residential uses in residential districts and thirty two (32) square feet in area for nonresidential districts and nonresidential uses in residential districts. Signs shall be limited to one per event. The sign may be erected up to three (3) weeks prior to the event and shall be removed within seven (7) days after the event.

18. a. Political signs erected in connection with elections or political campaigns; provided, that:

(1) Such signs are prohibited on utility poles and may not obstruct driver's vision clearances at an intersection.

(2) Such signs shall not be posted earlier than sixty (60) days prior to a primary, general or special election and are to be removed within seven (7) days after the election.

(3) Such signs shall not exceed six feet (6') in height and forty (40) square feet per side.

(4) Such signs shall not be placed in public rights of way.

b. Signs found to be in violation of this subsection may be removed by code enforcement officers. (Ord. 131-03, 11-11-2003)

19. Attached or freestanding historic or memorial markers erected by a governmental agency or private, nonprofit historic preservation or education organization pursuant to a plan or program for the erection of such signs or markers applied on a national, state, county or

municipal wide basis, or to properties within a duly authorized local historic district. Such plan or program must employ uniform standards of eligibility and the sign or marker must commemorate a person, building, place or event, or historical, civic, cultural, natural historic, scientific or architectural significance. (Ord. 131-03, 11-11-2003; amd. 2013 Code)

20. Signs in public parks of a noncommercial nature erected by a government agency, such as directional signs, rules signs, safety signs or site identification signs. Such signs shall not be greater than eight feet (8') in height.

21. Special event signs and civic event signs may be allowed for a limited period of time as a means of publicizing special events, such as grand openings, special and holiday sales, carnivals, parades and charitable events. Such special event signs shall be limited to the following provisions:

a. Special event signs shall be limited to thirty (30) days per event from time of the erection.

b. Special event signs may include balloons, inflated devices, festoons, pennants, banners and streamers.

c. All special event signs shall be maintained in good condition.

22. Commercial signs inside stadiums, sports fields or arenas.

23. Directional signs for the sale or rent of residential property:

a. The signs shall not be placed in the right of way and shall be maintained in a good condition.

b. The signs are unlit and limited to four (4) square feet per side for a single user or four (4) square feet per side when shared by multiple projects. The sign message may be placed on each side of the sign. The signs shall not exceed four feet (4') in height and shall not obstruct vision clearances.

c. In order to avoid the placement of a series of signs along several miles of roadway, no more than five (5) signs shall be allowed per project (or per property when a single dwelling is for sale or rent). Signs shall be placed no farther than two (2) road miles from the project or property for which directions are given.

d. Up to two (2) directional signs are allowed at intersections. However, each user is allowed only one sign per intersection. Therefore, each of the signs must identify different users. If the number of signs at an intersection exceeds two (2), a code enforcement officer may remove all directional signs.

e. Signs for properties for sale shall be removed within seven (7) days of when a contract is closed on the property.

f. To encourage assistance in compliance with these requirements, the code enforcement officers may notify the board of realtors or the homebuilders association regarding violations of these provisions. Signs in violation of these requirements may be removed.

24. Signs visible only from the interior of a structure, such as in a mall, where they are not visible from a public right of way or public space.

25. Directional signs for local churches:

a. Such signs must not exceed six (6) square feet in area or eight feet (8') in height.

b. Such signs must not obstruct site distances at intersections or otherwise create a hazardous condition for vehicular or pedestrian traffic.

c. Such signs require property owner permission.

d. No more than four (4) such signs shall be placed for any given church.

e. Such signs may only bear the name and address of the church with direction and distance to the church.

f. Failure to comply with these requirements will cause the removal of the signs.

B. Public Rights Of Way: The following signs shall be allowed within public rights of way. No sign permit shall be required:

1. Public signs erected by the town, county, state or federal government.

2. Emergency warning signs erected by a government agency, utility company or a contractor doing work in a public right of way.

3. Signs identifying a recognized community, subdivision or development; provided, that such signs were lawfully erected pursuant to an encroachment agreement, and are consistent with an approved overall sign plan, site plan or subdivision plat. Must be included in preliminary plat or large scale development plan. (Ord. 131-03, 11-11-2003)

10-15-4: **ALLOWED SIGNS WITH PERMIT:**

- A. Permit Required: In an effort to ensure compliance with this chapter, all signs require permits through the town, except where otherwise stated within this chapter.
- B. Permitted Signs: The following signs are allowed with a permit:
1. Awning Signs: Awning signs are allowed in all commercial and industrial zoning districts, subject to the following requirements:
 - a. The sign shall be flat against the surface of the awning.
 - b. The sign shall maintain a clearance of nine feet (9') above a public right of way or front yard.
 - c. The sign shall not be within any right of way, or within ten feet (10') of the edge of roadway pavement.
 2. Freestanding Signs In Nonresidential Districts: Freestanding signs shall be allowed in all commercial and industrial zoning districts, subject to the following requirements:
 - a. For each street frontage of a property, a building may have a freestanding sign up to one hundred fifty (150) square feet. If the building has more than one hundred fifty feet (150') but less than three hundred feet (300') of street frontage, the freestanding sign size limit may be increased by an additional one square foot per linear foot of street frontage up to a maximum size of three hundred (300) square feet on each street on which the property fronts. One additional sign is allowed if the street frontage of the property exceeds three hundred feet (300'). If two (2) signs are placed on a single street frontage, the combined area of the two (2) signs shall

not exceed three hundred (300) square feet. Each sign must meet all other requirements for freestanding signs.

b. The sign shall not be within any right of way, or within ten feet (10') of the edge of roadway pavement.

c. Signs shall be located at least twenty five feet (25') from property line, which is adjacent to property in a residential zone.

d. Freestanding signs may not exceed thirty six feet (36') in height on SH 112 and seventy feet (70') in height on Highway 271. However, signs up to seventy feet (70') in height are allowed on Highway 271 for restaurants, hotels, motels and fuel sales establishments when the property on which the sign is located is situated within one thousand five hundred feet (1,500') of SH 112 or Highway 271. The height shall be measured from the grade of the ground on which the sign sits, except when a street or highway is higher than the grade of the sign location, in which case the measurement may be from the grade at the point on the centerline of the street or highway, which is nearest from the sign location.

3. Freestanding Signs In Residential Districts:

a. Identification signs for residential subdivisions, which are not PUDs or multi-family: Up to two (2) freestanding signs may be placed at each entrance to identify the subdivision. Each sign shall be limited to four feet (4') in height and thirty two (32) square feet in area. Signs shall be incorporated into a permanent landscape feature, such as a wall, fence or masonry column.

b. Identification signs for PUDs and multi-family developments: Up to two (2) freestanding signs may be placed at each entrance to identify the project. The total sign area shall not exceed thirty two (32) square feet in area. The sign shall be incorporated into a permanent landscape feature, such as a wall, fence, monument or masonry column and may not exceed four feet (4') in height.

c. Charitable organizations, including, but not limited to, churches, mosques, synagogues or other religious organizations, shall be allowed to have freestanding signs up to one hundred (100) square feet in area and shall be limited to sixteen feet (16') in height.

d. New residential developments: In addition to permanent identification signs identified in subsections B3a, B3b and B3c of this section, residential developments selling new dwellings may locate

one freestanding sign at each entrance to the development. A sign permit must be obtained for each sign, but the permit may be renewed annually at no cost. The sign shall be removed upon expiration of the permit. The maximum allowable sign area is one hundred (100) square feet per sign. The maximum sign height is sixteen feet (16').

e. The sign shall not be within any right of way, or ten feet (10') of the edge of roadway pavement.

4. Marquee Signs: Marquee signs shall be allowed in all commercial and industrial zoning districts, subject to the following requirements:

a. The sign shall maintain a vertical clearance over a sidewalk of at least nine feet (9').

b. The sign shall not be within any right of way, or ten feet (10') of the edge of the roadway pavement.

c. The sign may extend the full length of the marquee on theaters, auditoriums and assembly halls. The height of the message area may not exceed eight feet (8').

d. The sign may not exceed one hundred (100) square feet in area.

e. Only one marquee sign shall be allowed per establishment.

5. Noncommercial Signs: Noncommercial signs are allowed in all districts and may be substituted for any sign expressly allowed under this chapter. Noncommercial signs are subject to the same permit requirements, restrictions on size and type, and other conditions and specifications as apply to the sign for which they are being substituted.

6. Projecting Signs: Projecting signs may be located in all commercial and industrial zoning districts, subject to the following requirements:

a. The sign may not extend above the top of the wall to which it is attached, except that a sign eighteen inches (18") or less in width and perpendicular to such wall may extend up to a maximum of two feet (2') beyond the top of the wall.

b. The sign shall not be within any right of way, nor within ten feet (10') of the edge of roadway pavement.

c. The sign may not exceed forty (40) square feet in area.

d. Only one sign shall be allowed per establishment.

7. Suspended Signs: Suspended signs shall be allowed in all commercial and industrial zoning districts, subject to the following requirements:

a. The sign shall not be within any right of way, or ten feet (10') of the edge of roadway pavement.

b. The sign shall allow a nine foot (9') clearance to the walking surface.

c. No sign shall exceed eight (8) square feet in area.

d. Only one sign shall be allowed per establishment.

8. Wall Sign In Commercial And Industrial Districts: Wall signs shall be allowed in all commercial and industrial zoning districts, subject to the following requirements:

a. Wall signs are allowed up to the full size of the wall. However, a wall sign may not extend more than twenty four inches (24") beyond the building, except in the case of a sign on the lower slope of a roof or an awning, where the sign may extend the distance required to make the sign vertical.

b. The sign shall not be within any right of way, or within ten feet (10') of the edge of roadway pavement.

9. Canopy Signs: Canopy signs shall be allowed in all commercial and industrial zoning districts, subject to the following requirements:

a. The vertical edge of the canopy shall be a maximum of forty two inches (42") in height.

b. Signage on the canopy shall not exceed one hundred (100) square feet per canopy side. In no case shall the sign extend beyond the vertical edge of the canopy to which it is attached.

c. The sign shall not be within any right of way, or within ten feet (10') of the edge of roadway pavement.

10. Portable Signs: Portable signs shall be allowed in all commercial and industrial zoning districts, subject to the following requirements:

a. Maximum sign area for a portable sign is forty (40) square feet.

b. Should the sign have electrical power, it shall meet the requirements of the national electrical code.

c. The sign shall not be within any right of way, or within ten feet (10') of the edge of roadway pavement.

11. Billboards: Billboards shall be allowed in all commercial and industrial zoning districts, subject to the following requirements:

a. No billboard shall be located within six hundred feet (600') of another billboard abutting either side of the same street or highway. Back to back billboard structures and V-type billboard structures having only one face visible to traffic proceeding from any given direction on a street or highway shall be considered as one billboard. Additionally, side by side billboard structures shall be considered as one billboard. Otherwise, billboard structures having more than one billboard face shall be considered as two (2) billboards and shall be prohibited in accordance with the minimum spacing requirement set forth in subsection B11b of this section.

b. No billboard shall be located within two hundred feet (200') of a residential zone.

c. The sign shall not be within any right of way, or within ten feet (10') of the edge of roadway pavement.

d. The surface display area of any side of a billboard may not exceed three hundred (300) square feet. In the case of billboard structures side by side or stacked billboards, the combined surface display area of both faces may not exceed three hundred (300) square feet. However, those signs located along the interstate highway system and oriented toward the interstate highway may contain up to seven hundred (700) square feet of surface display area.

e. The overall height of a billboard shall not exceed fifty five feet (55'), and the bottom of the billboard shall not be less than thirty

seven feet (37'), measured from the grade of the ground on which the billboard sits, except when the street or highway is higher than the grade of the sign location, in which case the measurement may be from the grade at the point on the centerline of the street or highway nearest to the sign location.

f. No billboards shall be attached to, cantilevered from, or otherwise suspended by the roof of any building.

g. A billboard may be illuminated, provided such illumination is concentrated on the surface of the sign and is so located as to avoid glare or reflection onto any portion of an adjacent street or highway, the path of oncoming vehicles or any adjacent premises. In no event shall any billboard have flashing or intermittent lights, nor shall the lights be allowed to rotate or oscillate.

h. A billboard must be constructed using no more than one monopole support. The structure must meet applicable building code requirements and be constructed in such a fashion that it will withstand all wind and vibration forces, which can reasonably be expected to occur in the vicinity. Design calculations must be provided to the planning commission as a part of the application process.

i. A billboard must be maintained so as to assure proper alignment of structure, continued structural soundness and continued readability of message.

j. A billboard established within a business, commercial or industrial area, as defined in the "highway advertising act of 1972" (1972 PA 106, as amended) bordering interstate highways, freeways or primary highways as defined in said act, shall, in addition to complying with this chapter, also comply with all applicable provisions of said act and the regulations promulgated thereunder, as such may from time to time be amended. (Ord. 131-03, 11-11-2003)

10-15-5: SIGN PERMITS AND FEES: Certain signs shall be allowed with sign permits. The town shall process all sign permit applications within five (5) working days of the actual receipt of an application and a sign permit fee. Sign permits for signs allowed in conformance with section 10-15-4 of this chapter shall be issued by the town hall in accordance with the following procedures:

- A. Applications For Permits: Applications for sign permits shall be submitted on forms provided by the building department. The specified fee and the following information shall accompany the completed application:
1. Name, address and phone number of the sign owner, sign installer, local maintenance contact, and owner of the real property upon which the sign is situated.
 2. Description of the type of sign and design materials, including construction materials and proposed lighting, if any.
 3. Drawings showing the design, location, content and dimensions of the sign and the design and dimensions of any measures used to support the sign or used to affix the sign to a wall, window or the ground.
 4. All applications for permits for signs, which exceed thirty feet (30') in height from the ground, must be accompanied by appropriate plans bearing the name, address, business telephone number and seal of a registered professional engineer. (Ord. 131-03, 11-11-2003)
- B. Fees: No permit shall be issued until the appropriate application has been filed and fees have been paid for each sign installed. Said fees shall be in such amounts as established by resolution of the board of trustees. (Ord. 131-03, 11-11-2003; amd. 2013 Code)
- C. Approval And Inspection: After a review of the application by the planning commission shows that the sign meets zoning, electrical and building code requirements, and other requirements for an application in this chapter, the applicant shall receive a temporary permit to erect or install the approved signs.
1. Permanent Sign: The applicant shall request an inspection after installation of the sign. If the sign is found to be in compliance, the building department shall issue a final permit. Final sign permits may be assignable to a successor of the business.
 2. Portable Signs And Banners: The approved time period shall be specified on the final permit. An inspection shall not be required for portable signs and banners.
- D. Expiration Date: A temporary sign permit shall become null and void if the sign for which the temporary permit was issued has not been completed within twelve (12) months after the date of issuance. No

refunds will be made for a permit after the permit is issued. If later an individual desires to erect a sign at the same location, a new application for the sign must be processed and another fee paid in accordance with the fee schedule applicable at such time.

- E. Revocation Of Permits: Sign permits shall be revoked if a sign is found to be in violation of this chapter. (Ord. 131-03, 11-11-2003)

10-15-6: GENERAL SIGN REQUIREMENTS:

A. Illumination:

1. Signs may be illuminated from within or from an external source, **but such illumination shall be in a manner which avoids** glare or reflection, which in any way interferes with traffic safety.

2. Signs may not be illuminated by a string of lights placed around the sign.

3. Within two hundred feet (200') of off site residential zones, only internally illuminated signs, which allow only the sign characters and logos to emit light, or signs which are illuminated by means of a light that shines on the face of the sign shall be allowed. For the purposes of this subsection, property on the other side of a public right of way other than a controlled access highway shall be considered adjacent property.

B. Design, Construction And Maintenance:

1. All signs shall comply with the provisions of the applicable version of the town building code and the town electrical code, as adopted by the town.

2. Signs shall be constructed of permanent materials and permanently affixed to the ground or building, except for the following signs:

a. Banners and special event signs meeting the requirements elsewhere in this chapter.

b. Signs advertising premises for sale, lease or rent.

c. Signs providing information on construction taking place on the premises.

d. Window signs.

e. Yard sale signs, political and election signs.

f. Portable signs.

3. All signs shall be maintained in good condition at all times and shall be kept free of cracked or peeling paint, missing or damaged sign panels or supports, and weeds, grass or vegetation which obscures the view of the sign message.

4. Signs shall be located so as not to impair an individual's ability to safely see other vehicles or pedestrians at intersections, driveways, crosswalks or alleys. The sign may not prevent the free entrance and exit from any window, door or fire escape.

- C. Changeable Copy On Signs: Changeable copy is allowed on signs in all commercial and industrial zoning districts, and for schools and places of worship in any district. (Ord. 131-03, 11-11-2003)

10-15-7: **PROHIBITED SIGNS:** The following signs shall be prohibited, and may neither be erected nor maintained:

- A. Signs with flashing effects or rotating lights; however, this provision shall not prohibit signs with an alternating electronic display of time or temperature or text messages;
- B. Obsolete signs;
- C. Signs which have broken supports or are overgrown with vegetation;
- D. Any sign which constitutes a hazard to traffic, including, but not limited to, signs located within the right of way;
- E. Signs which block entrances or exits to buildings;
- F. Signs attached or painted on vehicles parked and visible from the right of way, unless said vehicle is used as a vehicle in the normal day to day operations of the business;
- G. All signs, including supports, frames and embellishments, which are located within a public right of way and/or attached, affixed or painted on any utility pole, light standard, utility box or pedestal, tree, rock or other natural object located within the public right of

way or on public property, except as allowed elsewhere in this chapter;

- H. Roof signs; or
- I. All other signs which are not expressly exempt from regulation or expressly allowed by this chapter. {Ord. 131-03, 11-11-2003}

10-15-8: NONCONFORMING SIGNS:

- A. Legal Nonconforming: All signs in existence or hereafter placed into service are covered by this chapter with no sign being "grandfathered". All existing signs, except portable signs and banners, which do not conform to the provisions of this chapter may be eligible for the designation "legal nonconforming" and allowed to continue to exist until one of the following conditions occurs:
 1. The deterioration of the sign or damage to the sign that makes it a hazard;
 2. The sign has been damaged to such extent that require repair costs greater than two-thirds e/3) of the replacement cost of the sign;
 3. The sign is relocated or replaced, except as required by street relocation or other work by a government entity, or if the size of the sign is altered toward compliance with this chapter.
- B. Replacement: A nonconforming sign shall not be replaced by another nonconforming sign, except that the substitution or interchange of message, poster panels, painted boards or dismountable material on nonconforming signs shall be allowed, as long as no changes are made to the structure of the sign.
- C. Safety, Maintenance Repair: The legal nonconforming sign is subject to all requirements of this chapter regarding safety, maintenance and repair. However, no changes in the size or shape of this sign shall be allowed, except to make the sign comply with the requirements of this chapter. {Ord. 131-03, 11-11-2003}

10-15-9: VIOLATIONS; PENALTY:

- A. Order Of Violation: If, upon inspection, the board of trustees or its designated representative finds that a sign has been abandoned, or

is structurally, materially or electrically defective, or is otherwise in violation of this chapter, the town board or its designated representative shall issue a written order to the sign owner and the owner of the real property upon which the sign is situated. The order shall specify those sections of this chapter which the sign violates, and shall state that the owner of the sign has twenty one (21) days from the date of the order in which to correct the alleged violation or to file an appeal as set out in this section. (Ord. 131-03, 11-11-2003)

- B. Penalty: Any person who fails to comply with the provisions of this chapter within twenty one (21) days after receipt of notice from the board of trustees or its designated representative shall be subject to penalty as provided in section 1-4-1 of this code. (Ord. 131-03, 11-11-2003; amd. 2013 Code)
- C. Immediate Removal:
1. In cases of emergency, where a sign constitutes a present hazard to public safety as defined in other ordinances or laws, the board of trustees or its designated representative may cause the immediate removal of a dangerous or defective sign without notice.
 2. In cases of signs being placed too close to the right of way or street as provided in this chapter, the board of trustees or its designated representative may cause the immediate removal of the sign without notice to the sign owner or the owner of the real property upon which the sign is situated.
- D. Removal Or Demolition By Town: After removal or demolition of the sign, a notice shall be given to the sign owner and the owner of the real property upon which the sign is situated, stating the nature of the removal work and the date on which it was performed, demanding payment for all costs incurred by the town. If the amount specified in the notice is not paid within twenty one (21) days of the notice, the amount stated shall become a lien against the property of the owner of the sign and the owner of the real property upon which the sign is located. (Ord. 131-03, 11-11-2003)
- E. Appeals: An owner of a sign or the real property upon which a sign is situated may appeal a decision of the planning commission trustees or its designated representative, whether such decision is the denial of a permit or is related to an alleged violation of this chapter, in the manner specified in chapter 5 of this title. (Ord. 131-03, 11-11-2003; amd. 2013 Code)

TITLE 11

SUBDIVISION REGULATIONS

Subject	Chapter
General Provisions	1
Definitions	2
Administration, Enforcement And Penalty	3
Plans And Plats	4
Minimum Design Standards	5

CHAPTER 1

GENERAL PROVISIONS

SECTION:

- 11-1-1: Applicability Of Provisions
11-1-2: Approvals Necessary For Subdivision Plats

11-1-1: APPLICABILITY OF PROVISIONS:

- A. Any plat, hereafter made for each subdivision or each part thereof, lying within the town, shall be prepared, presented for approval and recorded as herein prescribed.
- B. The requirements contained herein shall apply to the subdivision of a lot, tract or parcel of land into two (2) or more lots or other divisions of land for the purpose of transfer of ownership or development, whether immediate or future, including all changes in street or lot lines; provided, however, that divisions of land for agricultural purposes into parcels or tracts of five (5) acres or more, as permitted in the A-1 agricultural district of the town's zoning ordinance and not involving any new street or nonpublic utility easement or access shall be exempt from the requirements of this title. (Ord., 8-5-1980)

11-1-2: APPROVALS NECESSARY FOR SUBDIVISION PLATS:

Before any plat shall be recorded or be of any validity, it shall have been reviewed by the planning commission and either approved or rejected, and shall have been approved by the board of trustees as having fulfilled the requirements of this title and the zoning ordinance. Said approval of the board of trustees must be clearly affixed on all pages of said plat, along with the date thereof. (Ord., 8-5-1980)

CHAPTER 2
DEFINITIONS

SECTION:

11-2-1: General Definitions

11-2-1: **GENERAL DEFINITIONS:** For the purpose of these regulations, certain terms used herein are defined as follows:

ALLEY: A minor way, dedicated to public use, which is used primarily for vehicular access to the back or the side of properties otherwise abutting on a street.

BLOCK: A piece or parcel of land entirely surrounded by public highways, streets, streams, railroad rights of way, parks, etc., or a combination thereof.

COURT: Secondary designation following a street name, used only when street alignment is such that a short street is created that does not warrant a new street name.

CUL-DE-SAC: A street having one end open to traffic and the other end being permanently terminated by a vehicle turnaround.

EASEMENT: A grant by the property owner to the public, a corporation or persons of the use of a strip of land for specific purposes.

IMPROVEMENTS: Street pavements, with curbs and sidewalks, pedestrianways, water mains, sanitary and storm sewers, permanent street monuments, trees and other appropriate items.

LOT:	A portion of a subdivision, or other parcel of land intended as a unit for transfer of ownership or for development.
MASTER PLAN:	The comprehensive plan made and adopted by the planning commission indicating the general locations recommended for the major thoroughfares, streets, park, public building, zoning districts and other public improvements.
MONUMENT:	A post made of iron pipe filled with concrete, the lower end of the pipe being split and spread to form a base, and the upper end being fitted with a brass end for identifying marks.
PEDESTRIANWAY:	A right of way dedicated to public use, which cuts across a block to facilitate pedestrian access to adjacent streets and properties.
PLACE:	A secondary designation following a street name used only when street alignment is such that a short street is created that does not warrant a new street name.
ROAD, COLLECTOR:	A minor street which is parallel to and adjacent to major streets, trafficways, highways or railroad rights of way, and which provides access to abutting properties and protection from through traffic.
ROAD, LOCAL:	A street of limited lengths which serves or is intended to serve the local needs of a neighborhood.
SETBACK LINES OR BUILDING LINES:	A line on a plat generally parallel to the street right of way, indicating the limit beyond which building or structures may not be erected.
STAFF:	Any person or persons hired or retained by the planning commission as an employee or consultant.
STREET:	A right of way dedicated to public use, or a private right of way serving more than one owner-

ship, which provides principal vehicular and pedestrian access to adjacent properties.

STREET, DEAD END: A street, similar to a cul-de-sac, but providing no turnaround at its closed end.

STREET, MINOR ARTERIAL: A street which serves or is intended to serve as a principal trafficway between separated areas or districts and which is the main access to the primary street system.

STREET, PRINCIPAL ARTERIAL: A street which serves or is intended to serve as a major trafficway and is designated as such on the trafficways plan. It will have controls on access and specific construction requirements.

SUBDIVIDER (DEVELOPER): A person, firm or corporation undertaking the subdividing or the resubdividing of a lot, tract or parcel of land into two (2) or more lots, or other ownership or development, whether immediate or future, including all street or lot lines.

SUBDIVISION: A division of a lot, tract or parcel of land into two (2) or more lots or other divisions of land for the purpose of transfer of ownership or development, whether immediate or future, including all changes in street or lot lines; provided, however, that divisions of land for agricultural purposes into parcels of tracts of five (5) acres or more, as permitted in an A-1 agricultural district or the Pocola zoning ordinance and not involving any new street or easement of access, shall not be deemed a subdivision. The division of land into parcels or tracts of ten (10) acres or less, for purposes other than agricultural as permitted in an A-1 agricultural district, shall be deemed a subdivision.

SUPERBLOCK: A block of exceptionally large size in both dimensions, with access to interior lots by cui-de-sacs branching in from surrounding streets and providing one or more open spaces.

TOWN: The town of Pocola, Oklahoma. (Ord., 8-5-1980)

CHAPTER 3

ADMINISTRATION, ENFORCEMENT AND PENALTY

SECTION:

- 11-3- 1: Primary Responsibility
- 11-3- 2: Enforcement
- 11-3- 3: Modifications
- 11-3- 4: Amendments
- 11-3- 5: Vacation Of Plats
- 11-3- 6: Illustrations
- 11-3- 7: Issuance Of Permits
- 11-3- 8: Fees
- 11-3- 9: Planning Commission Approval
- 11-3-10: Penalty
- 11-3-11: Judicial Review

11-3-1: **PRIMARY RESPONSIBILITY:** The primary responsibility for the adoption, amendment, interpretation and administration of this title shall be that of the planning commission. It is the intent of the planning commission that the public interest be protected by a thorough review of all proposed plats without undue delay to developers. (Ord., 8-5-1980)

11-3-2: **ENFORCEMENT:** The responsibility of enforcing this title is as follows:

- A. **City:** The building inspector is designated as the enforcing official and shall make the inspections and investigations necessary for the enforcement of this title within the city limits.
- B. **Complaints:** Upon receipt of a written, signed complaint upon forms provided by the planning commission by the appropriate enforcing official, said official shall investigate the complaint and notify the complainant within thirty (30) days of the action taken or decision thereon. (Ord., 8-5-1980)

11-3-3: **MODIFICATIONS:** Upon written request to the planning commission, modifications to the procedures and requirements of this title may be granted by an affirmative vote of not less than a three-fourths (3/4) majority of the full planning commission at a regular meeting in the following instances:

- A. **Lot Splits:** Any proposed lot split shall be submitted to the planning commission for review and, if the planning commission is satisfied that such a proposed lot split is not contrary to applicable regulations, it shall, within thirty (30) days after submission, approve such lot split and, on presentation of a conveyance of interest of said parcel, shall stamp "approved by the planning commission, no plat required", and have it signed by the chairperson or other official as may be designated by it. In doing so, the planning commission may require the submission of a sketch plat, record of survey and such other information as it may deem pertinent to its determination hereunder.

- B. **Undue Hardship:** In any particular case where the developer can show by plan and written statement that, by reasons of exceptional topographic or other physical conditions, literal compliance with any requirement of this title would cause practical difficulty or exceptional or undue hardship, the planning commission may modify such requirement to the extent deemed just and proper, so as to relieve such difficulty or hardship; provided such relief may be granted without detriment to the public interest and without impairing the intent and purpose of this title or the desirable general development of the neighborhood and the community in accordance with the comprehensive plan and the zoning ordinance. Any modification thus granted shall be spelled out in the minutes of the planning commission setting forth the reasons which, in the opinion of the planning commission, justified the modification. (Ord., 8-5-1980)

11-3-4: **AMENDMENTS:** This title may be amended by the affirmative vote of a majority of the full membership of the board of trustees at a public hearing after notice to the public as required by state statute. (Ord., 8-5-1980; amd. 2013 Code)

- A. **Proposed Amendment Costs:** Amendments may be proposed in writing by the planning commission or any interested party. Costs of public hearings and publication of notice shall be deposited by any nongovernmental person proposing an amendment.

- B. Legal Approval: Prior to its consideration by the board of trustees, a proposed amendment shall be approved as to legality by counsel for the town. (Ord., 8-5-1980)

11-3-5: VACATION OF PLATS: No vacation of a plat, or any parts thereof, except by action of the district courts, shall be valid or impart notice until after the consent of all of the owners of such platted area is presented to the planning commission and the approval of the planning commission is entered thereon. All partial vacations or alterations of a final approved, filed plat shall require the approval of the planning commission and the filing of a corrected plat. Alteration of a plat and finally approved by the planning commission, without reapproval, shall constitute a violation of this title. (Ord., 8-5-1980)

11-3-6: ILLUSTRATIONS: Illustrations identified as figures in this title are intended to aid in interpretation. In the event of conflict with the text, the text shall be determinative. (Ord., 8-5-1980)

11-3-7: ISSUANCE OF PERMITS: No zoning, building or electrical permit shall be issued for any new structure or change, improvement or alteration on any existing structure or any tract of land which does not comply with the provisions of this title. (Ord., 8-5-1980)

11-3-8: FEES:

- A. Established: Fees connected with the administration and enforcement of this title shall be as specified by resolution of the board of trustees. (Ord., 8-5-1980; amd. 2013 Code)
- B. Inspection Fee: The board of trustees and the county commission may establish fees for inspections and investigations of subdivisions. (Ord., 8-5-1980)

11-3-9: PLANNING COMMISSION APPROVAL: The approval of the planning commission, by majority vote of the full planning commission, or the refusal to approve, shall take place within forty five (45) days from and after the submission of the plat for final approval, unless the developer agrees in writing to an extension of this time period; otherwise, said plat shall be deemed to have been approved and the certificate of said

planning commission as to the date of the submission of the plat for approval and as to the failure to take action thereon within such time shall be sufficient in lieu of the written endorsement or evidence of approval herein required. The grounds for refusal of any plat submitted or regulations violated by the plat shall be stated upon the record of the planning commission. (Ord., 8-5-1980)

11-3-10: PENALTY: A violation of this title or failure to comply with the provisions herein specified shall subject the person, firm or corporation to the following penalties: (Ord., 8-5-1980)

- A. Misdemeanor: Violations shall be deemed a misdemeanor and shall be subject to penalty as provided in section 1-4-1 of this code. Each day in which a violation continues, prior to instigation of appeal, shall constitute a separate offense. (Ord., 8-5-1980; amd. 2013 Code)
- B. Civil Action: The board of trustees or the county commission, or any person whose value of property is affected by a violation, may institute a civil suit to prevent or remove a violation of this title.
- C. Invalidity Of Transfers: All instruments of transfers of interest in property in violation of this title are invalid and do not impart notice when filed.
- D. Withdrawal Of Approval: The planning commission may, upon application of the staff, or enforcing officials, or any person whose property value is adversely affected, withdraw their approval of a plat when a violation of this title is found to exist after public hearing and due notice to the affected persons. In such event, the planning commission shall file notice of the withdrawal of approval in the office of the county clerk in a manner which will be reflected in the land title of the property in violation thereof. (Ord., 8-5-1980)

11-3-11: JUDICIAL REVIEW: A judicial review in the district court may be had of any ruling, provision, interpretation, order, requirement, refusal, permit, approval or decision made under the terms of the planning commission or enforcing official if it is arbitrary, capricious or unreasonable and unnecessary. (Ord., 8-5-1980; amd. 2013 Code)

CHAPTER 4
PLANS AND PLATS

SECTION:

- 11-4-1: Preapplication Plans And Data
- 11-4-2: Preliminary Plat
- 11-4-3: Final Plat

11-4-1: PREAPPLICATION PLANS AND DATA:

- A. Submission: Prior to the filing of an application for approval of a preliminary plat, the subdivider shall submit to the office of the planning commission plans and data showing his ideas and intentions in the platting of the proposed subdivision.
- B. Outline: He shall outline and describe the existing conditions of the site and the proposed development to supplement the drawings and sketches required in subsections C and D of this section.
- C. Location Map: A general location map shall be prepared and submitted and shall show the proposed subdivision and its relationship to existing community facilities. Such location map shall show the location and name of the subdivision, existing main traffic arteries, public transportation lines, schools, parks and playgrounds.
- D. Sketch Plan: A sketch plan drawn to scale shall be prepared and submitted showing the proposed layout of streets, lots and other features in relation to existing utilities and other conditions. This plan may be submitted in the form of a freehand pencil sketch.
- E. Review By Planning Commission: Within thirty (30) days of the submission of the preapplication plan, the subdivider shall be informed by the planning commission whether such plans and the data submitted meet the objectives of these regulations. If the planning commission finds the plans and data do not meet the objectives of

these regulations, it shall express its reasons therefor. (Ord., 8-5-1980)

11-4-2: PRELIMINARY PLAT: After reaching preliminary conclusions regarding the proposed subdivision as provided in section 11-4-1 of this chapter, the subdivider shall prepare and submit a preliminary plat, together with any necessary supplementary information.

- A. Filing: Five (5) copies of a preliminary plat and one copy of a vicinity sketch of any proposed subdivision shall be filed with the town clerk-treasurer at least fifteen (15) days prior to a meeting of the commission at which consideration is requested.
- B. Contents: The preliminary plat shall contain the following information:
1. Name: Proposed name of subdivision. Names shall not duplicate or too closely resemble names of existing subdivisions.
 2. Boundary Lines: Location of boundary lines in relation to section, quarter section or quarter quarter section lines, and any adjacent corporate boundaries comprising a legal description of the property.
 3. Developer, Surveyor: Names and addresses of the developer and the surveyor making the plat.
 4. Scale: Scale of plat, one inch equals two hundred feet (1" = 200') or larger.
 5. Date, North: Date and north point.
 6. Existing Conditions:
 - a. Location, width and name of each existing or platted street or other public way, railroad and utility rights of way, parks and other public open spaces and permanent buildings, within or adjacent to the proposed subdivision.
 - b. All existing sewers, water mains, gas mains, culverts or other underground installations within the proposed subdivision or immediately adjacent thereto, with pipe size, grades and locations shown.
 - c. Names of adjacent subdivisions and owners of adjacent parcels of unsubdivided land.

d. Topography (unless specifically waived) with contour intervals of not more than five feet (5'), referred to town datum; also the locations of watercourses, ravines, bridges, lakes, wooded areas, approximate acreage, and such other features as may be pertinent to the subdivision.

7. Proposed Development:

a. The location and width of proposed streets, roadways, alleys, pedestrianways and easements.

b. The location and character of all proposed public utility lines, including sewers (storm and sanitary), water, gas and power lines. If a community sewage treatment plant or other type of community disposal system is to be installed or constructed to serve all or certain portions of the proposed subdivision, the general plan for such community type sewage treatment or disposal system shall be shown and so identified on the preliminary plan.

c. Layout, numbers and approximate dimensions of lots and the number or letter of each block.

d. Location and size of proposed parks, playgrounds, churches or school sites, or other special uses of land to be considered for dedication to public uses or to be reserved by deed or covenant for the use of all property owners in the subdivision and any conditions of such dedication or reservation.

e. Building setback lines with dimensions.

f. Indication of any lots on which use other than residential is proposed by the subdivision.

8. Supplementary Requirements:

a. Two (2) copies of profiles shall be furnished for each proposed street, showing existing grades and proposed approximate grades and gradients on the centerline and along the property lines of the street. The location of proposed culverts and bridges shall also be shown.

b. Vicinity sketch, at a legible scale to show the relation of the plat to its surroundings, shall be shown on the preliminary plat, or accompany it. Utility connections too remote to be shown on the preliminary plat shall be shown on this sketch.

- C. Decision; Term Of Approval: Approval or disapproval of the preliminary plat will be conveyed to the subdivider in writing within five (5) days after the meeting of the planning commission at which such plat was considered. In case the plat is disapproved, the subdivider shall be notified of the reasons for such action and what requirements will be necessary to meet approval of the planning commission. The approval of the preliminary plat does not constitute an acceptance of the subdivision, but is deemed to be an authorization to proceed with the preparation of the final plat. This approval of the preliminary plat shall only be effective for a period of one year, unless an extension is granted by the planning commission. If the final plat has not been submitted for approval within this period, a preliminary plat must again be submitted to the planning commission for approval. (Ord., 8-5-1980)

11-4-3: FINAL PLAT:

- A. Submission: After approval of the preliminary plat, the subdivider shall prepare and submit to the planning commission a final plat for recording purposes, together with other supplementary information and certificates. Said final plat shall be submitted to the town clerk-treasurer at least fifteen (15) days prior to a regular meeting of the planning commission.
- B. Copies: Six (6) copies of such final plat shall be furnished, which shall bear the original signatures of the owner or owners and be duly acknowledged. One of these three (3) shall be on cloth or suitable material for filing at the office of the county clerk.
- C. Form Of Plat: The final plat prepared for recording purposes shall be drawn at a scale of at least one inch equals one hundred feet (1" = 100'). The size of sheets on which such final plats are submitted shall be at least sixteen and one-fourth inches by nineteen inches (16¹/₄ x 19"). Each sheet shall have a one and one-fourth inch (1¹/₄) binding edge along the nineteen inch (19") dimension and a one-fourth inch (1/4) border along all other sides. Where the proposed plat is of unusual size, the final plat shall be submitted on two (2) or more sheets of the same dimensions. If more than two (2) sheets are required, an index sheet of the same dimensions shall be filed, showing the entire development at a smaller scale.
- D. Information Required: The final plat shall show and contain the following information:

1. Name of subdivision (not to duplicate or too closely approximate the name of any existing subdivision).
2. Location by section, township, range, county and state, and including descriptive boundaries of the subdivision, based on an accurate traverse, giving angular and linear dimensions which must mathematically close. The allowable error of closure on any portion of a final plat shall be one foot (1') in five thousand (5,000).
3. The location of monuments shall be shown and described on the final plat. Locations of such monuments shall be shown in reference to existing official monuments or the nearest established street lines, including true angles and distances to such reference points or monuments.
4. Location of lots, streets, public highways, alleys, parks and other features, with accurate dimensions in feet and decimals of feet, with the length of radii and/or arcs of all curves, and with all other information necessary to reproduce the plat on the ground. Dimensions shall be shown from all angle points and points of curve to lot lines.
5. Lots shall be numbered clearly. If blocks are to be numbered or lettered, these should be shown clearly in the center of the block.
6. The exact locations, widths and names of all streets to be dedicated.
7. Location and width of all easements to be dedicated.
8. Boundary lines and description of boundary lines of any areas other than streets and alleys which are to be dedicated or reserved for public use.
9. Building setback lines on front and side streets with dimensions.
10. Name and address of developer and surveyor making the plat.
11. Scale of plat (the scale to be shown graphically and in feet per inch), date and north point.
12. Statement dedicating all easements.
13. Statement dedicating all streets, alleys and other public areas not previously dedicated.

E. Certifications Required On Final Plat:

1. Certificate by parties holding title. A certificate signed and acknowledged by all parties having any title interest in the land subdivided, consenting to the preparation and recordation of the plat as submitted. All copies shall carry the original signatures of the owner or owners and notary public.
2. Certification by registered engineer that details of the plat are correct.
3. Space for certificates of approval to be filled in by the signatures of the chairperson and secretary of the planning commission and the town clerk-treasurer.

F. Supplementary Documents And Information:

1. A certificate from the town approving annexation of the subdivided area.
2. Tax certificates from both the town and county shall be submitted stating that all taxes and encumbrances of record have been satisfied on the land to be dedicated as streets or alleys or for other public purposes.
3. Two (2) copies of any private restrictions affecting the subdivision or any part thereof.

G. Board Of Trustees Review:

1. After review of the final plat by the planning commission, such plat, together with the recommendation of the commission, shall be submitted to the board of trustees for approval. If accepted, the final plat shall be approved by ordinance, which ordinance shall provide for the acceptance of all streets, alleys, easements or other public ways and parks, or other open spaces dedicated to public purposes.
2. If the planning commission rejects or withholds approval of the plat, the subdivider may request that said plat be submitted to the board of trustees. The secretary of the planning commission shall forward the proposed plat, together with the report of the commission, stating the reason or reasons for the action taken. The board of trustees may make such findings and determinations as are deemed proper. (Ord., 8-5-1980)

CHAPTER 5

MINIMUM DESIGN STANDARDS

SECTION:

- 11-5-1: Blocks
- 11-5-2: Streets And Alleys
- 11-5-3: Lots
- 11-5-4: Easements
- 11-5-5: Dedications For Public Sites And Open Spaces
- 11-5-6: Improvements
- 11-5-7: Permanent Markers And Monuments

11-5-1: BLOCKS:

- A. Block Length: In general, intersecting streets determining block lengths shall be provided at such intervals as to serve cross traffic adequately and to meet existing streets or customary subdivision practices in the neighborhood. Where no existing plats control, the blocks in residential districts shall normally not exceed one thousand three hundred twenty feet (1,320') in length, except that in outlying subdivisions, a greater length may be permitted where topography or other conditions justify a departure from this maximum. In blocks longer than eight hundred feet (800'), pedestrianways and/or easements shall be provided and shall have a minimum width of ten feet (10'). Blocks for business use should normally not exceed six hundred feet (600') in length.
- B. Block Width: The width of the block shall normally be sufficient to allow two (2) tiers of lots of appropriate depth. Blocks intended for business or industrial use shall be of such width as may be considered most suitable for their prospective use, including adequate space for off street parking and deliveries. (Ord., 8-5-1980)

11-5-2: STREETS AND ALLEYS:

- A. Arrangement Of Streets: Arrangement of major streets in the subdivision shall conform as nearly as possible to the master plan adopted

by the planning commission, and provision shall be made for the extension of major and secondary thoroughfares. Except for courts, places and cui-de-sacs, streets normally shall connect with streets already dedicated in adjoining or adjacent subdivisions, or provide for future connections to adjoining unsubdivided tracts, or shall be a reasonable projection of streets in the nearest subdivided tracts.

- B. Minor Streets, Dead End Streets, Cui-De-Sacs: Minor streets should be so planned as to discourage their use by nonlocal traffic. Dead end streets are prohibited but places, courts or cui-de-sacs will be permitted where topography or other conditions justify their use. Cui-de-sacs shall normally not be longer than six hundred feet (600'), including a turnaround which shall be provided at the closed end, with an outside curb radius of at least fifty feet (50').
- C. Proposed Future Street System: Where the plat to be submitted includes only part of the tract owned or intended for development by the subdivider, a tentative plan of a proposed future street system for the subdivided portion shall be prepared and submitted by the subdivider.
- D. Larger Tracts: When a tract is subdivided into larger than normal building lots or parcels, such lots or parcels shall be so arranged as to permit the logical location and opening of future streets and appropriate resubdivisions, with provision for adequate utility connections for such resubdivision.
- E. Angle Of Intersections: Under normal conditions, streets shall be laid out so as to intersect as nearly as possible at right angles, except where topography or other conditions justify variations. The minimum angle of intersection of the streets generally shall be sixty degrees (60°).
- F. Adjacent To Rights Of Way: Wherever the proposed subdivision contains or is adjacent to a railroad right of way or the right of way of a limited access major thoroughfare, provision should be made for a marginal access street approximately parallel and adjacent to the boundary of such right of way, or for a street at a distance suitable for the appropriate use of land between such street and the right of way. Such distance shall be determined with the consideration of the minimum distances required for approach connections to future grade separations, or for lot depths.
- G. Alleys: Alleys shall be provided in commercial and industrial districts, except that this requirement may be waived where other definite and

assured provision is made for service access, such as off street loading, unloading and parking consistent with and adequate for the uses proposed. Except where justified by special conditions, such as the continuation of an existing alley in the same block, alleys will be discouraged in residential districts. Alleys, where provided, shall not be less than twenty feet (20') wide. Intersecting alleys shall have corner cutoffs of at least twenty feet (20') on a side, dead end alleys shall be avoided wherever possible, but if unavoidable, such dead end alleys may be approved if adequate turnaround facilities are provided at the closed end.

H. Half Streets: Dedication of half streets will not be approved, except where it is essential to the reasonable development of the subdivision and in conformity with the other requirements of these regulations, where it is found that it will be practical to require the dedication of the other half when the adjoining property is subdivided or where it becomes necessary to acquire the remaining half by condemnation so it may be improved in the public interest.

I. Right Of Way Widths:

1. For all public ways hereafter dedicated and accepted, the minimum right of way widths for streets, alleys or pedestrianways included in any subdivision shall not be less than the minimum:

MINIMUM WIDTH RIGHT OF WAY (IN FEET)

Local road	50
Collector road	60
Minor arterial street	80
Principal arterial street	80
Alleys	20

2. Where existing or anticipated traffic on primary and secondary thoroughfares warrants greater widths of rights of way, these shall be required.

3. A drainage easement, in addition to the provided right of way widths, may be required where streets parallel streams of drainage area. The width of drainage easements shall be determined by the town engineer. The town engineer shall notify the developer and the planning commission, in writing, of his determination.

- J. Pavement Widths: Minimum pavement widths for all streets measured from the face of curb, and for all alleys and walks included in any subdivision, shall not be less than the minimum dimension for each classification as follows:

MINIMUM PAVEMENT WIDTHS

Local road:	27 feet w/c ¹
Speed: Less than 25 miles per hour	
Traffic lanes: 2-11 foot through lanes	
Collector road:	37 feet w/c ¹
Speed: 30 miles per hour	
Traffic lanes: 2-11 foot through lanes, through lanes at intersection when necessary	
Minor arterial street:	48 feet w/c ¹
Speed: 35-40 miles per hour	
Traffic lanes: 4-11 foot through lanes	
Principal arterial street:	52 feet w/c ¹
Speed: 40-45 miles per hour	
Traffic lanes: 4-12 foot through lanes	

Notes:

1. With 2 foot concrete mountable curb/gutter.

- K. Street Grades: The grades in all streets, alleys and pedestrianways, or pedestrianways included in any subdivision, shall not be greater than the maximum grades for each classification as follows, except where topographical conditions unquestionably justify a departure from this maximum:

MAXIMUM GRADE PER 100 LINEAR FEET
(IN PERCENTAGE)

Local road	10
Collector road	7
Minor arterial	5
Principal arterial	5

Note: Minimum grade-6 inches/100 linear feet

L. Street Alignment:

1. The horizontal and vertical alignment on all streets, except in unusual cases, shall be as follows:

MINIMUM RADIUS OF CURVE (IN FEET)

Local road	200
Collector road	300
Minor arterial	400
Principal arterial	500

2. There shall be a tangent between all reversed curves of a length in relation to the radii of the curves so as to provide for a smooth flow of traffic, but in no case should it be less than two hundred feet (200').

3. All changes in street grade shall be connected by vertical curves of such length as to provide for the minimum sight distances required. The minimum sight distances required are as follows:

MINIMUM SIGHT DISTANCE (IN FEET)

Local road	150
Collector road	200
Minor arterial	250
Principal arterial	275

M. **Curb Radii:** Where two (2) minor streets intersect at approximately right angles, so that the smallest angle of intersection is not less than eighty degrees (80°), the curb at each block corner intersect at an angle of less than eighty degrees (80°), or where a minor street intersects with a major or secondary thoroughfare, or where two (2) or more secondary or major thoroughfares meet, cross or otherwise intersect in any combination, the curb radii at such intersections shall be subject to the approval of the town. (Ord., 8-5-1980)

11-5-3: **LOTS:**

A. **Minimum Width:** The minimum width of a lot for residential development shall be fifty feet (50') for a rectangular lot, and not less than

fifty feet (50') at the front building line for lots whose side lines are radial to curved streets and the depth of the lot shall be not less than one hundred feet (100'), except in unusual situations. In no case shall a lot in a residential district contain less than seven thousand (7,000) square feet. Excessive depth in relation to width shall be avoided.

- B. Individual Sewage Disposal Systems: In subdivisions where septic tanks or other individual sewage disposal devices are to be installed, the size of all lots included in such subdivision shall be subject to the approval of the county health department. Approval of the health department shall be based upon the state board of health requirements. The health department shall notify the developer and the planning commission in writing of his finding.
- C. Corner Lots: Corner lots for residential use shall have additional width to permit appropriate building setback from both streets.
- D. Side Lot Lines: Side lines of lots shall be approximately at right angles to street lines or radial to curved street lines.
- E. Double Frontage Lots: Double frontage lots shall be avoided.
- F. Lot On Street: Every lot shall abut on a street other than an alley.
- G. Setback, Building Lines: Setback or building lines shall be shown on all lots intended for residential use and shall not be less than the setback required by the zoning ordinance. On those lots which are intended for business use, the setback shall be at least that required by the zoning ordinance, unless special plans for the location of buildings and parking area are approved by the planning commission, and also approved by the board of trustees at the time of approval of the plat. (Ord., 8-5-1980)

11-5-4: EASEMENTS:

- A. Width: To facilitate underground installation, an easement for utilities, at least ten feet (10') wide, shall be provided along each side of a side line of lots and/or the rear line of lots where necessary to form a continuous right of way, at least twenty feet (20') in width. If necessary for the extension of main water or sewer lines or similar utilities, easements of greater width may be required along lot lines or across lots.

- B. **Connect With Established Easements:** Utility easements shall connect with easements established in adjoining properties. These easements, when approved, shall not thereafter be changed without the approval of the board of trustees by ordinance, upon the recommendation of the planning commission.
- C. **Pole Guys:** Additional easements for pole guys should be provided at the outside of turns. Where possible, lot lines shall be arranged to bisect the exterior angle so that pole guys will fall along the side lot lines.
- D. **Drainage Easements:** Drainage easements for storm sewers may be required. Easements for open channel drainage may be required where the cost for the installation of storm sewers is considered to be prohibitive. These easements may be along the side lot lines, but usually the design should be such that the drainage will be carried along the rear of the lots, if open channel drainage is to be carried in the street right of way, additional right of way width shall be provided. When the drainage is carried down the rear lot lines, the easement shall be of adequate width for workers (with trucks if need be) to enter the easement and keep it cleaned out. The size and location of such easements for open channel drainage shall be determined by the town. (Ord., 8-5-1980)

11-5-5: **DEDICATIONS FOR PUBLIC SITES AND OPEN SPACES:** In subdividing land or resubdividing an existing plat, due consideration must be given by the subdivider to the dedication or reservation of suitable sites for schools, parks, playgrounds or other public recreational areas or open spaces. Any areas so dedicated or reserved shall conform as nearly as possible to the recommendations of the planning commission in its master plan. All areas to be reserved for or dedicated to public use shall be indicated on the preliminary plat in order that it may be determined when and in what manner such areas will be dedicated to or acquired by the appropriate area. (Ord., 8-5-1980)

11-5-6: **IMPROVEMENTS:** All improvements, when constructed by the owner or developer, shall comply with the rules and specifications of the town, and the requirements set forth in appendix A, which is on file in the town office. (Ord., 8-5-1980; amd. 2013 Code)

11-5-7: PERMANENT MARKERS AND MONUMENTS:

- A. Permanent markers shall be placed at each corner of every block, or portion of a block, points of curvature and points of tangency on street lines, and at each angle point on the boundary of the subdivision. A permanent marker shall be deemed to be a steel rod or pipe, one-half inch ($\frac{1}{2}$ " or larger in diameter, extending at least three feet (3') below the finished grade. In situations where conditions prohibit the placing of markers in the locations prescribed above, offset markers will be permitted. The exact location of all markers shall be shown on the final plat, together with accurate interior angles, bearings and distances.
- B. Permanent monuments shall be placed on all quarter section points within the subdivision or on its perimeter. These monuments shall be set according to the specifications of the town for such work. (Ord., 8-5-1980)

TITLE 12

FLOOD DAMAGE PREVENTION

Subject	Chapter
Statutory Authorization, Findings Of Fact, Purpose And Methods	1
Definitions	2
General Provisions	3
Administration, Enforcement And Penalty	4
Standards For Flood Hazard Reduction	5

CHAPTER 1

**STATUTORY AUTHORIZATION, FINDINGS OF FACT,
PURPOSE AND METHODS**

SECTION:

- 12-1-1: Statutory Authorization
- 12-1-2: Findings Of Fact
- 12-1-3: Statement Of Purpose
- 12-1-4: Methods Of Reducing Flood Losses

12-1-1: **STATUTORY AUTHORIZATION:** The legislature of the state has, in 82 Oklahoma Statutes sections 1601 through 1618, as amended, delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. (Ord. 140-07, 1-9-2007)

12-1-2: **FINDINGS OF FACT:**

- A. The flood hazard areas of the town are subject to periodic inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.
- B. These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage. (Ord. 140-07, 1-9-2007)

12-1-3: **STATEMENT OF PURPOSE:** It is the purpose of this title to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- A. Protect human life and health;
- B. Minimize expenditure of public money for costly flood control projects;
- C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. Minimize prolonged business interruptions;
- E. Minimize damage to public facilities and utilities, such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
- F. Help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize future flood blight areas; and
- G. Ensure that potential buyers are notified that property is in a flood area. (Ord. 140-07, 1-9-2007)

12-1-4: **METHODS OF REDUCING FLOOD LOSSES:** In order to accomplish its purposes, this title uses the following methods:

- A. Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;
- B. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- C. Control the alteration of natural floodplains, stream channels and natural protective barriers which are involved in the accommodation of floodwaters;
- D. Control filling, grading, dredging and other development which may increase flood damage;
- E. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands. (Ord. 140-07, 1-9-2007)

CHAPTER 2
DEFINITIONS

SECTION:

12-2-1: General Definitions

12-2-1: **GENERAL DEFINITIONS:** Unless specifically defined below, words or phrases used in this title shall be interpreted to give them the meaning they have in common usage and to give this title its most reasonable application.

ACCESSORY STRUCTURE: Structures which are on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure (such as garages and storage sheds).

ALLUVIAL FAN FLOODING: Flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high velocity flows; active processes of erosion, sediment transport and deposition; and unpredictable flow paths.

APEX: 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.

APPURTENANT STRUCTURE: A structure which is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.

AREA OF FUTURE CONDITIONS FLOOD HAZARD: The land area that would be inundated by the one percent (1%) annual chance (100-year flood) based on future conditions hydrology.

AREA OF SHALLOW FLOODING:	A designated AO, AH, AR/AO, AR/AH or VO zone on a community flood insurance rate map (FIRM) with a one percent (1%) or greater annual chance of flooding to an average depth of one foot (1') to three feet (3') where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.
AREA OF SPECIAL FLOOD HAZARD:	The land in the floodplain within a community subject to a one percent (1%) or greater chance of flooding in any given year. The area may be designated as zone A on the flood hazard boundary map (FHB v1). After detailed ratemaJ<ing 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, ARIA, VO, V1-30, VE or V.
BASE FLOOD:	The flood having a one percent (1%) chance of being equaled or exceeded in any given year.
BASE FLOOD ELEVATION:	The elevation of the "base flood", as defined in this section, in feet above mean sea level.
BASEMENT:	Any area of the building having its floor subgrade (below ground level) on all sides.
BOARD:	The Oklahoma water resources board.
BREAKAWAY WALL:	A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.
CRITICAL FEATURE:	An integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

DEVELOPMENT:	Any manmade change to improved and unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.
ELEVATED BUILDING:	For insurance purposes, a nonbasement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings or columns.
EXISTING CONSTRUCTION:	For the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM, or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures".
EXISTING MANUFACTURED HOME PARK OR SUBDIVISION:	A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.
EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION:	The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
FLOOD ELEVATION STUDY:	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.

FLOOD INSURANCE RATE MAP (FIRM):	An official map of a community, on which the federal emergency management agency has delineated both the special flood hazard areas and the risk premium zones applicable to the community.
FLOOD INSURANCE STUDY (FIS):	See definition of Flood Elevation Study.
FLOOD OR FLOODING:	<p>A general and temporary condition of partial or complete inundation of normally dry land areas from:</p> <p>A. The overflow of inland or tidal waters;</p> <p>B. The unusual and rapid accumulation or runoff of surface waters from any source.</p>
FLOOD PROTECTION SYSTEM:	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.
FLOODPLAIN ADMINISTRATOR:	A person accredited by the board and designated by a floodplain board to administer and implement laws and regulations relating to the management of the floodplains.
FLOODPLAIN MANAGEMENT:	The operation of an overall program of corrective and preventive measures for reducing flood damage, including, but not limited to, emergency preparedness plans, flood control works and floodplain management regulations.

FLOODPLAIN MANAGEMENT REGULATIONS:	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.
FLOODPLAIN OR FLOOD PRONE AREA:	Any land area susceptible to being inundated by water from any source. See definition of Flood Or Flooding.
FLOODPROOFING:	Any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
FLOODWAY:	See definition of Regulatory Floodway.
FUNCTIONALLY DEPENDENT USE:	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 shipbuilding and ship repair facilities, but does not include long term storage or related manufacturing facilities.
HIGHEST ADJACENT GRADE:	The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
HISTORIC STRUCTURE:	Any structure that is: A. Listed individually in the national register of historic places (a listing maintained by the department of interior) or preliminarily determined by the secretary of the interior as meeting the requirements for individual listing on the national register;

B. Certified or preliminarily determined by the secretary of the interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the secretary to qualify as a registered historic district;

C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the secretary of interior; or

D. Individually listed on a local inventory of historic places in communities with historic **preservation** programs that have been certified either:

1. By an approved state program as determined by the secretary of the interior; or

2. Directly by the secretary of the interior in states without approved programs.

LEVEE: A manmade structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

LEVEE SYSTEM: A flood protection system which consists of a levee or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

LOWEST FLOOR: The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking or vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirement of section 60.3 of the national flood insurance program regulations.

MANUFACTURED HOME:	A structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".
MANUFACTURED HOME PARK OR SUBDIVISION:	A parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.
MEAN SEA LEVEL:	For purposes of the national flood insurance program, the national geodetic vertical datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community flood insurance rate map are referenced.
NEW CONSTRUCTION:	For the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.
NEW MANUFACTURED HOME PARK OR SUBDIVISION:	A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.
RECREATIONAL VEHICLE:	A vehicle which is: A. Built on a single chassis;

B. Four hundred (400) square feet or less when measured at the largest horizontal projections;

C. Designed to be self-propelled or permanently towable by a light duty truck; and

D. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

**REGULATORY
FLOODWAY:**

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

RIVERINE:

Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

**SPECIAL FLOOD
HAZARD AREA:**

See definition of Area Of Special Flood Hazard.

**START OF
CONSTRUCTION:**

For other than new construction or substantial improvements under the coastal barrier resources act (pub.L. 97-348), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms;

nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE:

For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally aboveground, as well as a manufactured home.

SUBSTANTIAL DAMAGE:

Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT:

Any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) 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:

A. Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

B. Any alteration of a "historic structure"; provided, that the alteration will not preclude the structure's continued designation as a "historic structure".

VARIANCE:	A grant of relief by a community from the terms of a floodplain management regulation. (For full requirements, see section 60.6 of the national flood insurance program regulations.)
VIOLATION:	The failure of a structure or other development to be fully compliant with the community 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), (d)(3), (e)(2), (e)(4) or (e)(5) is presumed to be in violation until such time as that documentation is provided.
WATER SURFACE ELEVATION:	The height, in relation to the national geodetic vertical datum (NGVD) of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas. (Ord. 140-07, 1-9-2007)

CHAPTER 3

GENERAL PROVISIONS

SECTION:

- 12-3-1: Lands Applicable
- 12-3-2: Basis For Establishing Areas Of Special Flood Hazard
- 12-3-3: Development Permit Established
- 12-3-4: Compliance
- 12-3-5: Abrogation And Greater Restrictions
- 12-3-6: Interpretation
- 12-3-7: Warning And Disclaimer Of Liability

12-3-1: **LANDS APPLICABLE:** This title shall apply to all areas of special flood hazard within the jurisdiction of the town. (Ord. 140-07' 1-9-2007)

12-3-2: **BASIS FOR ESTABLISHING AREAS OF SPECIAL FLOOD HAZARD:** The areas of special flood hazard identified by the federal emergency management agency in a current scientific and engineering report entitled "The Flood Insurance Study (FIS) For The Town Of Pocola, Oklahoma" and dated July 4, 1989, with accompanying flood insurance rate maps (FIRMs), are hereby adopted by reference and declared to be a part of this title. (Ord. 140-07, 1-9-2007)

12-3-3: **DEVELOPMENT PERMIT ESTABLISHED:** A floodplain development permit shall be required to ensure conformance with the provisions of this title. (Ord. 140-07, 1-9-2007)

12-3-4: **COMPLIANCE:** No structure or land shall hereafter be located, altered or have its use changed without full compliance with the terms of this title and other applicable regulations. (Ord. 140-07' 1-9-2007)

12-3-5: **ABROGATION AND GREATER RESTRICTIONS:** This title is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this title and another ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. (Ord. 140-07, 1-9-2007)

12-3-6: **INTERPRETATION:** In the interpretation and application of this title, all provisions shall be:

- A. Considered as minimum requirements;
- B. Liberally construed in favor of the governing body; and
- C. Deemed neither to limit nor repeal any other powers granted under state statutes. (Ord. 140-07, 1-9-2007)

12-3-7: **WARNING AND DISCLAIMER OF LIABILITY:** The degree of flood protection required by this title is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by manmade or natural causes. This title does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This title 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 title or any administrative decision lawfully made hereunder. (Ord. 140-07, 1-9-2007)

CHAPTER 4

ADMINISTRATION, ENFORCEMENT AND PENALTY

SECTION:

- 12-4-1: Floodplain Administrator
- 12-4-2: Duties And Responsibilities
- 12-4-3: Permit Procedures
- 12-4-4: Variances And Appeals
- 12-4-5: Penalty

12-4-1: **FLOODPLAIN ADMINISTRATOR:** The town board of trustees will designate the floodplain administrator by separate resolution that will administer and implement the provisions of this title and other appropriate sections of 44 CFR (emergency management and assistance - national flood insurance program regulations) pertaining to floodplain management. (Ord. 140-07, 1-9-2007)

12-4-2: **DUTIES AND RESPONSIBILITIES:** Duties and responsibilities of the floodplain administrator shall include, but not be limited to, the following:

- A. Maintain and hold open for public inspection all records pertaining to the provisions of this title.
- B. Review permit application to determine whether to ensure that the proposed building site project, including the placement of manufactured homes, will be reasonably safe from flooding.
- C. Review, approve or deny all applications for development permits required by adoption of this title.
- D. Review permits for proposed development to assure that all necessary permits have been obtained from those federal, state or local governmental agencies (including section 404 of the federal water

pollution control act amendments of 1972, 33 USC 1334) from which prior approval is required.

- E. Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the floodplain administrator shall make the necessary interpretation.
- F. Notify, in riverine situations, adjacent communities and the state coordinating agency, which is the Oklahoma water resources board, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the federal emergency management agency.
- G. Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
- H. When base flood elevation data has not been provided in accordance with section 12-3-2 of this title, the floodplain administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a federal, state or other source, in order to administer the provisions of chapter 5 of this title.
- I. 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 combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the community.
- J. 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 and AH on the community's FIRM which increases the water surface elevation of the base flood by more than one foot (1'); provided, that the community first completes all of the provisions required by said section 65.12.
- K. Become accredited by the board in accordance with 82 Oklahoma Statutes sections 1601 through 1618, as amended.

- L. After a disaster or other type of damage occurrence to structures in the town, determine if the residential and nonresidential structures and manufactured homes have been substantially damaged and enforce the substantial improvement requirement. (Ord. 140-07, 1-9-2007)

12-4-3: **PERMIT PROCEDURES:**

- A. Application; Information Required: Application for a floodplain development permit shall be presented to the floodplain administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:
1. Elevation, in relation to mean sea level, of the lowest floor (including basement) of all new and substantially improved structures;
 2. Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;
 3. A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of subsection 12-5-28 of this title;
 4. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development;
 5. Maintain a record of all such information in accordance with subsection 12-4-2A of this chapter.
- B. Factors In Determining Approval Or Denial: Approval or denial of a floodplain development permit by the floodplain administrator shall be based on all of the provisions of this title and the following relevant factors:
1. The danger to life and property due to flooding or erosion damage;
 2. The susceptibility of the proposed facility and its contents to flood damage and the affect of such damage on the individual owner;

3. The danger that materials may be swept onto other lands to the injury of others;
4. The compatibility of the proposed use with existing and anticipated development;
5. The safety of access to the property in times of flood for ordinary and emergency vehicles;
6. The costs of providing governmental services during and after flood conditions, including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
7. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;
8. The necessity to the facility of a waterfront location, where applicable;
9. The availability of alternative locations not subject to flooding or erosion damage for the proposed use. (Ord. 140-07, 1-9-2007)

12-4-4: VARIANCES AND APPEALS:

A. Variances:

1. The appeal board, as established by the board of trustees, shall hear and render judgment on requests for variances from the requirements of this title.
2. 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 this section.
3. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half ($\frac{1}{2}$) 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 subsection 12-4-38 of this chapter have been fully considered. As the lot size increases beyond the one-half ($\frac{1}{2}$) acre, the technical justification required for issuing the variance increases.

4. Upon consideration of the factors noted in this title and the intent of this title, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this title as specified in section 12-1-3 of this title.

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

6. 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.

7. 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: 1) showing a good and sufficient cause; 2) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and 3) 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 applicant 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.

8. 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: a) the criteria outlined in this section are met; and b) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

9. Any person now seeking a variance shall file a petition with the floodplain board, accompanied by a filing fee as set by the board of trustees by separate resolution.

10. A copy of any variance issued shall be sent to the OWRB within fifteen (15) days of issuance.

B. Appeals:

1. The appeal board shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision or determination made by the floodplain administrator in the enforcement or administration of this title.

2. Any person or persons aggrieved by the decision of the appeal board may appeal such decision in the courts of competent jurisdiction.

C. Records And Reporting Required: 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. (Ord. 140-07, 1-9-2007)

12-4-5: PENALTY: No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this title and other applicable regulations. Violation of the provisions of this title by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor, subject to penalty as provided in section 1-4-1 of this code, and, in addition, shall pay all costs and expenses in such amount as shall be set by the board of trustees by separate resolution. Nothing herein contained shall prevent the town from taking such other lawful action as is necessary to prevent or remedy any violation. (Ord. 140-07, 1-9-2007; amd. 2013 Code)

CHAPTER 5

STANDARDS FOR FLOOD HAZARD REDUCTION

SECTION:

- 12-5-1: General Standards
- 12-5-2: Specific Standards
- 12-5-3: Subdivision Proposals
- 12-5-4: Areas Of Shallow Flooding (AO/AH Zones)

12-5-1: **GENERAL STANDARDS:** In all areas of special flood hazard, the following provisions are required for all new construction and substantial improvements:

- A. **Anchoring:** All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- B. **Methods And Practices:** All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
- C. **Resistant Materials:** All new construction or substantial improvements shall be constructed with materials resistant to flood damage;
- D. **Service Facilities:** All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
- E. **Water Supply Systems:** All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;

- F. Sanitary Sewage Systems: New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from the systems into floodwaters; and
- G. On Site Waste Disposal Systems: On site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding. (Ord. 140-07, 1-9-2007)

12-5-2: SPECIFIC STANDARDS: In all areas of special flood hazard where base flood elevation data has been provided as set forth in section 12-3-2 and subsection 12-4-2H of this title, and subsection 12-5-3C of this chapter, the following provisions are required:

- A. Residential Construction: New construction and substantial improvement of any residential structure shall have the lowest floor (including basement) elevated to or above the base flood elevation. A registered professional engineer, architect or land surveyor shall submit a certification to the floodplain administrator that the standard of this subsection, as proposed in subsection 12-4-3A1 of this title, is satisfied.
- B. Nonresidential Construction: New construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to or above the base flood level or, together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification, which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed, shall be maintained by the floodplain administrator.
- C. Enclosures: New construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by

allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:

1. A minimum of two (2) openings on separate walls having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
2. The bottom of all openings shall be no higher than one foot (1') above grade.
3. Openings may be equipped with screens, louvers, valves or other coverings or devices; provided, that they permit the automatic entry and exit of floodwaters.

D. Manufactured Homes:

1. Require that all manufactured homes to be placed within zone A on a community's 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.
2. Require that manufactured homes that are placed or substantially improved within zones A1-30, AH and AE on the community's FIRM on sites: a) outside of a manufactured home park or subdivision; b) in a new manufactured home park or subdivision; c) in an expansion to an existing manufactured home park or subdivision; or d) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
3. 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 this subsection be elevated so that either:

a. The lowest floor of the manufactured home is at or above the base flood elevation; or

b. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty six inches (36") in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

E. Recreational Vehicles: Require that recreational vehicles placed on sites within zones A1-30, AH and AE on the community's FIRM either: 1) be on the site for fewer than one hundred eighty (180) consecutive days; or 2) be fully licensed and ready for highway use; or 3) meet the permit requirements of subsection 12-4-3A of this title, and the elevation and anchoring requirements for "manufactured homes" in subsection D 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.

F. Accessory Structures:

1. Structure is low valued and represents a minimal investment.

2. Structure shall be small and not exceed six hundred (600) square feet in size.

3. Structure shall be unfinished on the interior.

4. Structure can be used only for parking and limited storage.

5. Structure shall not be used for human habitation (including work, sleeping, living, cooking or restroom areas).

6. Service facilities, such as electrical and heating equipment, must be elevated to or above the BFE or floodproofed.

7. Structure is constructed and placed on building site so as to offer the minimum resistance to the flow of floodwaters.

8. Structure is designed to have low flood damage potential, i.e., constructed with flood resistance materials.

9. Structure is firmly anchored to prevent flotation, collapse and lateral movement.

10. Floodway requirements must be met in the construction of the structure.

11. Openings to relieve hydrostatic pressure during a flood shall be provided below the BFE.

12. Structure is to be located so as not to cause damage to adjacent and nearby structures. (Ord. 140-07, 1-9-2007)

12-5-3: SUBDIVISION PROPOSALS:

- A. All subdivision proposals, including the placement of manufactured home parks and subdivisions, shall be consistent with sections 12-1-2, 12-1-3 and 12-1-4 of this title.
- B. All proposals for the development of subdivisions, including the placement of manufactured home parks and subdivisions, shall meet floodplain development permit requirements of sections 12-3-3 and 12-4-3 of this title, and the provisions of this chapter.
- C. Base flood elevation data shall be generated for subdivision proposals and other proposed development, including the placement of manufactured home parks and subdivisions, which is greater than fifty (50) lots or five (5) acres, whichever is lesser, if not otherwise provided pursuant to section 12-3-2 or subsection 12-4-2H of this title.
- D. All subdivision proposals, including the placement of manufactured home parks and subdivisions, shall have adequate drainage provided to reduce exposure to flood hazards.
- E. All subdivision proposals, including the placement of manufactured home parks and subdivisions, shall have public utilities and facilities, such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage. (Ord. 140-07, 1-9-2007)

12-5-4: AREAS OF SHALLOW FLOODING (AO/AH ZONES):

Located within the areas of special flood hazard established in section 12-3-2 of this title, are areas designated as shallow flooding. These areas have special flood hazards associated with flood depths of one foot (1') to three feet (3') 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:

- A. All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated to 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. All new construction and substantial improvements of nonresidential structures:
 - 1. Have the lowest floor (including basement) elevated to 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
 - 2. 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, 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.
- C. A registered professional engineer or architect shall submit a certification to the floodplain administrator that the standards of this section, as proposed in section 12-4-3 of this title are satisfied.
- D. Require within zones AH or AO adequate drainage paths around structures on slopes, to guide floodwaters around and away from proposed structures. (Ord. 140-07, 1-9-2007)

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