PART I -BLACKWELL CITY CHARTER[1]

PREAMBLE

The people of the City of Blackwell, Oklahoma, by virtue of the authority vested in them, do hereby ordain and establish this Charter for the government of said city:

ARTICLE I. CITY BOUNDARIES AND GENERAL POWERS

Sec. 1. Boundaries of city.

The boundaries of the City of Blackwell, Oklahoma, shall be as defined at the time this Charter was adopted and approved by the Governor of the State of Oklahoma, and thereafter as enlarged or reduced in the manner provided by law.

Sec. 2. Powers in general.

There is hereby created under the authority of the constitution and the laws of the State of Oklahoma, a municipal corporation with powers of perpetual succession under the name of "The City of Blackwell," and said municipality shall be a successor to the present City of Blackwell, which is a city of the first-class organized and existing under the laws of the State of Oklahoma. Said municipality so created under this Charter shall succeed to and own all the rights, privileges, franchises, powers and immunities now belonging to the present municipality, and shall be liable for all debts and obligations of the present municipality, with power to adopt a common seal and to alter same at pleasure, to sue and be sued, to make contracts, to take and acquire property by purchase, condemnation, gift or otherwise and to hold, lease, mortgage, convey or otherwise dispose of any of its property within and without the limits of said city, and it shall have any and all powers, rights, privileges, franchises and immunities as are now granted and conferred or which may hereafter be granted and conferred by the Charter of said city or by the constitution and laws of the State of Oklahoma.

Sec. 3. Power to own, lease, acquire, etc., public utilities.

The City of Blackwell shall have power to own, hold, lease, acquire or purchase in whole or in part any public utilities and to operate the same after its acquisition for the benefit of said city and the inhabitants thereof. Such power shall include, but not be limited to, the right to own and operate or lease the water/wastewater system, electric systems, paving plants, transportation systems, heating plants, incinerating and cremating systems or plants and any and all other public utilities or works that said city may desire to acquire, own, lease or operate for the use of said city and the inhabitants thereof, and for such purposes, such city may acquire such public utilities either by purchase, construction, lease or otherwise, and after its acquisition to operate same for the benefit of said city and the inhabitants thereof, and for the purpose of acquiring sites, said city may own and hold real estate and acquire by purchase, gift or by the right of eminent domain conferred upon the municipalities by the laws of the State of Oklahoma and the

[1] As Amended through August 8, 2017.

constitution thereof, with the power to vote and issue bonds to acquire any such public utilities as provided by the laws and constitution of the state.

Sec. 4. Power of city to receive and hold property for charitable purposes.

The City of Blackwell is hereby vested with full power under the constitution and laws of Oklahoma, to receive and hold property, both real and personal, by gift or otherwise for charitable and humane purposes, with full power to use such means as may be necessary to put in force and carry out the terms of any gift, donation or bequest for the uses and purposes for which said gift, donation or bequest may be made.

Sec. 5. Powers not to be construed as limiting or impairing.

The specification of particular powers by any provision of this Charter shall not be construed as limiting or impairing the general grant of power and the rights and powers of this municipality which extends to all matters of local and municipal government, hereby reserving to itself all powers granted to municipalities under the constitution and laws of the State of Oklahoma.

ARTICLE II. - CITY COUNCIL

Sec. 1. City council—Created; membership; terms; powers; wards.

A. The form of government provided for in this Charter shall be the council-manager form of government. All powers of the city shall be exercised in the manner prescribed by this Charter, or, if the manner is not thus prescribed, then in such manner as the council may prescribe by ordinance or as may be set out in the laws and constitution of the State of Oklahoma. All references in this Charter to "commission," "city commission," "board of commissioners," or "commissioner" shall be changed to "council," "city council," or "councilor," as appropriate.

B. There shall be a city council consisting of five electors of the city who shall each hold office for a term of three years or until their successors are elected and qualified. The city shall be divided into four wards as nearly equal in population as practicable as provided in paragraph E of this section or as the wards may hereafter be constituted by ordinance. Each ward shall be represented by a single city councilor on the city council and all such ward city councilors shall be designated as city councilor for ward 1, city councilor for ward 2, city councilor for ward 3 and city councilor for ward 4, as the case may be. In addition to satisfying the other qualifications of city councilors provided in this Charter, the city councilors of each ward shall reside within the boundaries of their respective wards at the time of their election and shall continue to be a resident of said ward throughout each ward city councilor's term of office; provided, that all ward city councilors shall be elected at large by the electors of the entire city. The fifth member of the city council shall be elected at large without regard to residency in any particular ward of the city and such city councilor at large shall be designated the mayor of the City of Blackwell. The city councilor currently serving at the time of the passage of this amendment as city councilor of public property shall be designated as city councilor for ward 1 and the city councilor currently serving at the time of the passage of this amendment as city councilor of public finance shall be designated as city councilor for ward 4 and each shall

continue to serve during the term for which originally elected. If at any time a seat on the city council from a particular ward is or becomes vacant, the remaining city councilors shall appoint a qualified elector who resides within such ward to the city council pursuant to the provisions of article XII, section 3 of this Charter. A ward city councilor's office will be considered vacant when such city councilor moves his or her residence outside the boundaries of the ward such city councilor was elected to represent; provided, a change in ward boundaries shall not disqualify such city councilor from completing the term for which he or she was elected.

C. At special primary and general elections to be held within 90 days of the final passage and approval by the governor of this state of this amendment, as provided in article X, section 1 of the Charter, as amended, a city councilor for ward 2 and a city councilor for ward 3 shall be elected to the city council with the city councilor for ward 3 being elected to an initial term to expire on the first Tuesday in May, 2003 and the city councilor for ward 2 being elected to an initial term to expire on the first Tuesday in May, 2004. On the first Tuesday in April, 2003, and every three years thereafter, there shall be elected one city councilor for ward 3 and one city councilor for ward 4; on the first Tuesday in April, 2004, and every three years thereafter, there shall be elected one city councilor for ward 1 and one city councilor for ward 2; on the first Tuesday in April, 2005, and every three years thereafter, there shall be elected the city councilor at large which said city councilor is designated as the mayor of the City of Blackwell.

D. Each of the city councilors shall hold office until their successors are elected and qualified. The time established herein for holding regular city elections shall correspond with the date(s) established by laws of the state for the holding of regular municipal elections in cities of the first class, and if the date for holding municipal elections in cities of the first class is hereafter changed by state law, then by virtue of such change, the date fixed in this Charter for the holding of regular city elections under this Charter shall at once be changed so as to correspond with the date fixed by state law.

E. All the powers of the city except such as are vested in the board of education and except as otherwise provided by this Charter or by the constitution of the state, are hereby vested in the city council, and except as otherwise prescribed by this Charter or by the constitution of the state, the city council may, by ordinance or resolution, prescribe the manner in which any power of the city shall be exercised. In the absence of such provision, such power shall be exercised in the manner now or hereafter prescribed by the general laws of the state applicable to municipalities.

F. As soon as practicable following each federal census, the city council shall review the wards and ward boundaries of the city. The city council shall by appropriate ordinance make changes in the wards, if necessary, to ensure that the population of the various wards shall be substantially equal and that the wards are formed of compact and contiguous territory, provided that no boundary change shall be made within a three-month period prior to any election. As initially constituted, the boundaries of the wards of the city are described as follows, it being defined and understood that the boundaries of wards 1, 3 and 4 which do not abut the boundaries of other wards shall be the same as the corporate limits of the City of Blackwell:

Ward No. 1. Beginning on the city limits line at the intersection of the east right-of-way line of North Main Street with the north right-of-way line of Perry Avenue, thence east to the east right-

of-way line of North "B" Street, thence south to the north right-of-way line of Doolin Avenue, thence east 560 feet along the north right-of-way line of Doolin Avenue, thence south 818 feet, thence southeasterly and parallel to the Chikaskia River to a point 900 feet north of the center of section 23, Township 27 North (27N), Range One West (1W), thence south 940 feet of that point to the south right-of-way line of East Blackwell Avenue, thence east for 1,305 feet to a point on the west right-of-way line of "I" Street, thence south to the southwest corner of "I" Street and Bridge Avenue, thence east 720 feet, thence south 250 feet, thence east 60 feet, thence south 500 feet to the south right-of-way line of College Avenue, thence west 725 feet to the east right-of-way line of South "I" Street, thence south on the east right-of-way line of South "I" Street to the south right-of-way line of Lincoln Avenue, thence west on the right-of-way line to a point due south of the east boundary of Riverside Park, thence south 520 feet on the right-of-way line, thence west 416.7 feet to the east right-of-way line of South "E" Street, thence west 832 feet along the south line of the public alley to the west right-of-way line of the abandoned ATSF Railroad, thence south along the curved railroad right-of-way to the south right-of-way line of East Chrysler Avenue, thence west to the east right-of-way line of South Main Street, thence north on the east right-of-way line of Main Street to the point of beginning at North Main Street and Perry Avenue.

Ward 2. Beginning at the intersection of the east right-of-way line of 13th Street with the south right-of-way line of West McKinley Avenue, thence east on the West McKinley Avenue right-of-way line to the west right-of-way line of Main Street, thence south on the west right-of-way line of Main Street to the north right-of-way line of West Ferguson Avenue, thence west on the West Ferguson Avenue north right-of-way line to the east right-of-way line of 13th Street, thence north on the east right-of-way line of North 13th Street to the point of beginning.

Ward 3. Beginning at the city limits line at the intersection of the west right-of-way line of North Main Street and the north right-of-way line of Perry Avenue, thence south on the west right-of-way line of North Main Street to the north right-of-way line of West McKinley Avenue, thence west on the north right-of-way line of McKinley Avenue to the west right-of-way line of North 13th Street, thence south to the north right-of-way line of West Ferguson Avenue, thence west to the east right-of-way line of South 29th Street, thence north to the south railroad right-of-way line, thence west to the east boundary of the Country Club Estates subdivision, thence 2034 feet south, thence 270 feet east, thence 523 feet south to the north right-of-way line of West Ferguson Avenue, thence west to the east right-of-way line of South 44th Street, thence north to the north railroad right-of-way line, thence east to the half-section line of section 20, Township 27 North (27N), Range One West (1W), thence north to the south right-of-way line of State Highway 11, thence west 2,432 feet, thence south 208 feet, thence west to the east right-of-way line of South 44th Street, thence south 33 feet, thence south 89°39'01" west for 810.0 feet to the east right-of-way line of the southeast ramp of intersection 222 (I-35) thence southwesterly on the east right-of-way line of the aforesaid ramp to a point 1,180 feet south of the centerline of State Highway 11, thence west and parallel to State Highway 11 to the half-section line of section 19, Township 27 North (27N), Range One West (1W), thence north 925 feet, thence west 954.74 feet, thence north 365 feet to the south right-of-way line of State Highway 11, thence east on the right-of-way line a distance of 956.78 feet to a point on the half-section line of section 19, Township 27 North (27N), Range One West (1W), which is 58 feet south of the centerline of State Highway 11, thence southeasterly on the west right-of-way line of the southwest ramp of intersection 222

(I-35) to a point 1,180 feet south of the centerline of State Highway 11; and thence beginning at a point 125 feet north and 708 feet east of the northwest corner of section 20, Township 27 North (27N), Range One West (1W), thence north 483 feet, thence west 263 feet, thence north 759 feet, thence west 412 feet to the east right-of-way line of North 44th Street, thence north to the half-section line of section 17, Township 27 North (27N), Range One West (1W), thence south 89°39'44" west to a point on the east right-of-way of I-35, thence south and east on the right-of-way line to a point on the west right-of-way line of 44th Street that is 156 feet north of the north section line of section 19, Township 27 North (27N), Range One West (1W), thence south 34 feet, thence east 741 feet, thence north three feet, thence east 508.54 feet, thence north 597 feet, thence east and parallel to State Highway 11 to the east right-of-way line of North 13th Street, thence south 72 feet, thence east 843.21 feet, thence north 415.7 feet, thence east 415.0 feet to the west right-of-way line of North 9th Street, thence north to the half-section line of section 15, Township 27 North (27N), Range One West (1W), thence east to the east railroad right-of-way line, thence southeasterly along the east railroad right-of-way line to a point 321 feet north of the north right-of-way line of State Highway 11 (Doolin Avenue), thence east to a point 160 feet west of the west right-of-way line of North Main Street, thence north to the north right-of-way line of Perry Avenue, thence east 160 feet to the west right-of-way line of North Main Street.

Ward 4. Beginning at the intersection of the south right-of-way line of West Ferguson Avenue and the west right-of-way line of South Main Street, thence south to the south right-of-way line of West Chrysler Avenue, thence west to the west right-of-way line of South 13th Street, thence north to the south right-of-way line of Laura Lane, thence west to the west line of Beverly Boulevard, thence north to the half-section line of section 28, Township 27 North (27N), Range One West (1W), thence west to the center of section Twenty-eight (28), Township 27 North (27N), Range One West (1W), thence north to the south right-of-way line of West Ferguson Avenue, thence east along the south right-of-way line of West Ferguson Avenue to the west right-of-way line of South Main Street.

Sec. 2. Same—Qualifications.

Each member of the city council for at least one year prior to his election shall have been, and during his term of office shall continue to be, a resident of the City of Blackwell, Oklahoma, and must have attained the age of 25 years at the time of his election and shall have all the qualifications of an elector of said city.

Sec. 3. Same—Compensation; oath of office; bond.

The compensation of each member of the city council of the City of Blackwell, Oklahoma, shall be $1,200.00 per annum, payable monthly. The afore-designated salary of $1,200.00 per annum shall be neither increased nor decreased during the term for which such city councilor shall have been elected; nor shall there be an increase or decrease of compensation of any successor appointed to fill the unexpired term of any city councilor. This increase in compensation shall only become effective and payable to such members of the city council of the City of Blackwell, Oklahoma, who shall have been elected after this immediate section shall have become effective and in full force and effect in the manner as provided by the laws of the State of Oklahoma and the Charter of the City of Blackwell, Oklahoma. Each city councilor before entering upon the

discharge of his duties of said city council shall first qualify by taking the oath of office in the form as prescribed by the constitution of the State of Oklahoma. All other officers and employees of the city shall give such bond as may be prescribed by ordinance and the bonds hereby fixed may be increased by ordinance duly passed by the city council; the costs of all surety bonds to be paid by the City of Blackwell, Oklahoma.

Sec. 4. Mayor, vice mayor, duties.

A. The city councilor at large shall be designated as mayor of the City of Blackwell. The mayor shall serve as chairman of the city council and shall preside at all meetings of the city council when present. The mayor shall sign all ordinances, resolutions, contracts and other instruments requiring the assent of the city. The mayor shall have the power to administer oaths and to perform such other functions and exercise such power as provided by ordinance or resolution of the board of city councilors, and in the absence of any specific authorization, the general laws of the state as they apply to a mayor of a municipality operating under the council-manager form of government.

B. At the first meeting in May of each year, the board of city councilors shall elect from among their members a vice mayor who shall fulfill the duties and obligations of the mayor in the mayor's absence or disqualification.

Sec. 5. Meetings of the council; city clerk to act as secretary, appointment of Chief Financial Officer.

All regular meetings of the council shall be held at the city hall in said city or such other place as designed by the council in conformance with the Oklahoma Open Meeting Act and upon the election and qualification of said councilors, they shall at once meet and organize with the mayor of the City of Blackwell to act as chairman of the council. A city clerk of said city, who shall act as secretary to the council, and a Chief Financial Officer of said city, shall be appointed by the councilors.

Sec. 6. Duties of city clerk.

The city clerk shall perform such duties as devolve upon a clerk of a city council under the council-manager form of government pursuant to the Law and constitution of the State of Oklahoma, except as expressly modified herein. The city clerk shall be appointed by the city manager subject to the approval of the mayor and city council. After approval, the city clerk can be disciplined or removed only by the city manager.

Sec. 7. Department of finance.

Subject to and in coordination with the Chief Financial Officer:

The city clerk shall be director, or head, of the department of finance, and shall have supervision and control thereof. Except as the city council may otherwise provide by ordinance, the city clerk shall collect or receive revenue and other money for the city and shall deposit the same in an

account or accounts maintained in a depository or depositories as directed by the City Council. The city clerk shall maintain or have maintained a general accounting system for the city government.

Sec. 8. Chief Financial Officer

A. Purpose.

In order to ensure compliance with the financial internal control policies of the City and provide for professional fiscal management of the public funds, it is deemed necessary for the City Council to provide for a Chief Financial Officer.

B. Chief Financial Officer: Appointment and Removal; Principles; Requirements.

The Council shall appoint and remove the Chief Financial Officer, subject to the recommendation of the City Manager. The Chief Financial Officer shall perform duties in accordance with generally accepted accounting principles for local governments. The Chief Financial Officer shall be a certified public accountant with experience in governmental accounting, auditing, and financial procedures, with experience as an auditor or comptroller with the responsibility for financial statement preparation and financial system oversight.

C. Duties. The Chief Financial Officer shall:

1. Prepare all annual financial statements, including (i) the preparation of the notes to the financial statements and management discussion and analysis, (ii) the review of general ledger (at least a monthly review for obvious posting and account balancing errors) and preparation of subsidiary schedules for the City Auditor, and (iii) the presentation of such financial statements to the Council each month or whenever requested;

2. Resolve all material accounting and posting questions that arise, as well as being available to consult with the City Auditor during the audit;

3. Assist in the preparation of the budget;

4. Monitor and implement other necessary or required internal controls as well as supervise financial system operations;

5. Prepare and maintain an accounting policy and procedures manual in accordance with City's financial operation to assure compliance with generally accepted accounting principles.

D. Although the Chief Financial Officer is appointed by the Council and responsible to ensure adequate internal controls, the Chief Financial Officer shall perform such work as directed by the City Manager.

E. Nothing herein should be construed to prevent the City Manager or the City Council from employing person(s) or entities to perform financial related services.

F. All other references to the word "Treasurer" in the Blackwell City Charter are hereby replaced with the words "Chief Financial Officer".

Sec. 9. Transaction of business by city councilors; failure to comply with duties.

The city councilors shall devote so much of their time as may be necessary for the transaction of the city's business as provided under the terms of this Charter. Failure to comply with the provisions of this section shall be grounds for the removal of any city councilor.

Sec. 10. Authority of city councilors to request reports from city officers and employees.

A majority of the councilors may request, at any time, that the city manager provide a report in writing at any time concerning any department of the city, whereupon the city manager shall forthwith make such report to the city council.

Sec. 11. City officers and employees—Appointment, term.

There is hereby created the office of municipal judge; the office of city attorney and the office of chief of police; and such offices shall be filled by appointment by the mayor at the first meeting of the city council, subject to confirmation of the council, reserving the right to the mayor to vote upon confirmation. All other employees of said city, shall be appointed by the head of the department under which their duties mainly fall; provided, however, that such appointment shall be subject to the confirmation of the city council. The officers and employees provided for under this section shall hold their positions at the will and pleasure of the appointive power.

Sec. 12. Same—Compensation.

All elected officers of the city shall receive the salary and compensation in force and effect at the time of the election or appointment of such officer, and none other; and such salary and compensation shall neither be increased nor decreased during the term of office. No officer or employee shall draw more than one salary from the city for any and all services performed.

Sec. 13. Nepotism prohibited.

The laws of the State of Oklahoma relating to nepotism shall apply to the officers and employees of this city, and no officer or employee shall be employed by said city who is a relative either by blood or marriage of the officer making the appointment within the degree of relationship prohibited by the laws of the State of Oklahoma; and the violation of this section shall work a forfeiture of the office of both the appointee and the officer making the appointment.

Sec. 14. Eligibility of city councilor to fill office created by city council.

A city councilor shall not be eligible to fill any office created by the city council while such city councilor was a member of the council until one year after the expiration of the term of office of such city councilor.

Sec. 15. Purchase of property by city council.

A. Except as provided in subsection B hereinbelow, the city council shall have full power to purchase any real and personal property for the use of the city and to pay for the same or to sell any real or personal property of the city when, according to the judgment of a majority of them, it is in the best interests of the city to purchase or sell the property.

B. The City may not sell, lease, convey or otherwise dispose of, in whole or in part, its municipal utilities (including water, sewer, electric or future acquired utility systems) unless such sale, lease, conveyance, or other disposal of such utility shall be authorized by vote of a 2/3rd of the registered voters of the City voting on the question at an election to be held for such purpose. This section shall not apply to any sale or lease of municipal utilities to a public trust with the City as sole beneficiary. The sale in whole of any of the foregoing municipal utilities, if authorized by the vote as provided hereinabove, must be at least equal to or greater than the fair market value price determined by an independent appraisal expert selected by the City. Unless restricted by written instrument, the sale or lease of any real or personal property not constituting or a part of the aforementioned municipal utilities, may be sold or leased, in whole or in part, without such vote and election. In addition, this section shall not be construed to require an election and vote for the sale of surplus or obsolete personal or real property which formally may have been used as a part of the water, sewer or electric utility system. Notwithstanding any provision contained in this section to the contrary, the registered voters may file a referendum on the sale of any city-owned real property in accordance with state law and the sale of such real property shall be stayed until such referendum process has been determined.

ARTICLE III. CITY COUNCIL MEETINGS

Sec. 1. City council; meetings; quorum; voting powers.

The city council created in this Charter is hereby made the legislative body with full powers to enact ordinances, pass resolutions and do all things and transact all such business for said city acting as a legislative body, not inconsistent with the constitution of the State of Oklahoma and the laws thereof and not contrary to the provisions of this Charter. Said city council is hereby vested with complete legislative powers for said city within the purview of local government as instituted by this Charter and within the powers granted to the inhabitants of cities under the constitution and laws of the State of Oklahoma. A majority of all the members elected to the city council shall constitute a quorum to do business, but a less number may adjourn from day to day and compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance. It is specifically provided that where any provision of the charter, an ordinance or resolution which existed prior to April 2, 2002, and which provides for action by, for or on behalf of the city council to be exercised by two city councilors, or which provides for action by any single city councilor, other than powers granted to the mayor or vice-mayor, then all such provisions shall be interpreted and understood as requiring such action to be approved by affirmative vote of a majority of the city council following its initial expansion to five members. The affirmative vote of at least three of the members shall be necessary to adopt any ordinance or resolution, and the vote upon the passage upon all ordinances and resolutions shall be "yeas" and "nays" and entered upon the journal. The chairman of the city council shall have a

vote on all questions but shall have no veto power. All ordinances or resolutions shall be signed by the chairman (mayor) or acting chairman (vice-mayor), duly attested by the secretary (city clerk) or acting secretary (deputy city clerk) and then recorded and, excepting resolutions not required by law or elsewhere in this Charter to be published, then published; whereupon the same shall be in force and effect.

Sec. 2. Procedure for passage of ordinances.

Each proposed ordinance or resolution shall be introduced in written or printed form and shall not contain more than one subject, which shall be clearly stated in the title, but general appropriation ordinances may contain the various subjects and accounts for which moneys are to be appropriated. The enacting clause of all ordinances passed by the city council shall be: "Be it ordained by the city council of the City of Blackwell, Oklahoma." No ordinance, unless it be an emergency measure, shall be passed until it has been read at two regular meetings not less than one week apart; or the requirement of such reading has been dispensed with by an affirmative vote of two of the members of the city council. No ordinance or resolution or section thereof shall be revised or amended unless the new ordinance or resolution contain the entire ordinance or resolution or section being revised or amended; and the original ordinance, resolution, section or sections so amended shall be repealed.

Sec. 3. Effective date of ordinances, resolutions.

No ordinance shall be in force and effect until the expiration of 30 days from the date of the passage and approval of the ordinance except where 3/4th of all the members of the city council concur therein; then the ordinance may take effect and be in force at any time fixed by the city council where the matter contained in the ordinance relates to the preservation of the public peace, property, health or safety or providing for the usual daily operations of a municipal department in which emergency is set forth and defined in a preamble thereto; and all ordinances appropriating money may be passed as emergency measures.

Sec. 4. Publication of ordinances.

All ordinances before becoming effective must be published in one issue of the official city paper, except as otherwise provided by the constitution and laws of the State of Oklahoma, except that appropriate ordinances shall not be required to be published as herein provided. No ordinance shall embrace more than one subject and the title of the ordinance shall be clearly expressed therein.

Sec. 5. Meetings of city council, when held; designation of official city paper.

The city council shall meet at the council meeting room or at the city hall, or at any other suitable place in the city to be designated by the city council, at least twice per month on such days and at such times as designated by the City Council and in accordance with state law for the transaction of necessary business and at such other times as may be provided by ordinance, resolution or motion of the city council. The city council shall designate an official city paper, and all legal publications required to be published by law or by this Charter shall be published in the official

city paper. But it is provided, however, that the official city paper shall not be designated until the city council shall call for sealed bids by advertisement in one issue of some paper of general circulation published in said city at least ten days before such award is to be made. The bidders shall file with the city clerk sealed bids covering the kind of printing to be done and the price to be charged therefore; and it is hereby made mandatory upon the city council to award the contract for the city's official paper to a paper published in said city of general circulation therein making the lowest bid for publishing; provided, however, that the city council may reject all bids if, in their judgment, such bids are too high and thereupon re-advertise for bids.

Sec. 6. Contracts involving more than $5,000.00; procedure for letting; contracts under $5,000.00.

All contracts involving an expenditure of $5,000.00 or more shall be made by the city council only after the council shall have first procured specifications therefor, and before any such contract is made the council must cause a notice to be published in the official city paper setting forth for what purpose the expenditure is to be made and calling for sealed bids; and the contract shall be let only after the bids have been made and then only to the lowest and best bidder. The council, however, may reject any and all bids if in their judgment the bids are unsatisfactory and may thereupon re-advertise for other bids; and before any bid is accepted by the council it must require of the successful bidder a statement signed by him setting forth that he was not in collusion with any other bid or bidders and that he was not apprised in advance of any other bidder and that he was not a party interested in the filling out or making of said proposed contracts among other bidders, and if such statement is untrue in any particular the contract shall be rendered void and of no effect; and it is provided, however, that the acceptance of any bid shall not bind the city to the successful bidder until a contract therefor has been properly reduced to writing and signed by the proper officers; or in lieu of letting such work by contract or making such purchases by contract, the city may do such work or furnish the material itself direct without the aid of a contractor. This specification herein provided for shall be done under an estimate made by the city engineer of said city or such other proper employee as the city council may designate.

It is expressly provided that on all contracts involving an expenditure of less than $5,000.00, they shall be made by the city council of the City of Blackwell only after the council shall have first procured specifications therefore, and the city council then may proceed to make any such contract involving an expenditure of $5,000.00 or less, without the necessity of publishing notice relative to the purpose of the expenditure or for calling for sealed bids. However, if the city council does not unanimously agree in the approval of any contract involving expenditures of less than $5,000.00, then in such event the city council shall cause notice to be published indicating the purpose of the expenditures and calling for sealed bids, all in the manner and in accordance with the procedure to be followed for contracts involving an expenditure of $5,000.00 or more as immediately above provided.

Sec. 7. Rules of procedure at meetings of boards.

The city council shall make its own rules of procedure and may make such rules as it may see fit to insure the attendance of all members at the regular meetings.

Sec. 8. Right of people to propose Charter amendments reserved.

The people of the City of Blackwell hereby reserve to themselves the right to propose amendments to this Charter as provided by the constitution and laws of the State of Oklahoma.

Sec. 9. Recording of ordinances, resolutions in book.

All ordinances and resolutions upon their final passage shall be recorded in a book kept for that purpose and shall be authenticated by the signatures of the presiding officer and the city clerk.

ARTICLE IV. CITY MANAGER

Sec. 1. City manager—Authority of city to appoint; compensation; special election.

The city council shall appoint a city manager, who shall be the administrative head of the municipal government under the direction and supervision of the city council; and the city manager shall hold office at the pleasure of the city council. The city manager shall be appointed without regard to political beliefs and shall be a resident of the City of Blackwell within six (6) months of appointment and shall remain a resident of the City during the City Manager's term of employment. The city council may designate some qualified person to execute the function of the office of city manager during the absence or disability of the city manager.

The salary of the city manager shall be as from time to time determined by the city council and a majority of the city council shall be necessary for the passage of any ordinance fixing or changing such salary.

Sec. 2. Same—Powers and duties.

The city manager shall have the following powers and duties: (1) to see that the laws and ordinances are enforced; (2) to appoint, discipline and remove all heads of departments and all subordinate officers and employees of the city except the municipal judge, and the city attorney, all appointments to be made upon merit and fitness alone; (3) to exercise control over all departments and divisions created herein or that hereafter may be created by the city council; (4) to see that all terms and conditions imposed in favor of the city or its inhabitants in any public utility franchise are faithfully kept and performed and upon knowledge of any violation thereof to call the same to the attention of the city attorney who is hereby required to take such steps as are necessary to enforce the same; (5) to attend all meetings of the city council with a right to take part in the discussions but having no vote; (6) to recommend to the city council for adoption such measures as he may deem necessary or expedient; (7) to act as budget officer and to keep the city council fully advised as to the financial conditions and needs of the city; and (8) to perform such other duties as may be prescribed by the Charter or be required by ordinance or resolution of the city council or in the absence of such Charter provision, ordinance or resolution, to perform such duties of a city manager under the council-manager form of government provided by the laws and constitution of the State of Oklahoma to the extent the same are not in conflict with the provisions of this Charter or the ordinance of the city.

ARTICLE V. MUNICIPAL COURT

Sec. 1. Municipal Court.

A municipal court is hereby established for the City of Blackwell and to preside over said court there is hereby created one municipal judge; and all proceedings coming before the municipal court in said city shall be heard and determined by the municipal judge. Such court shall have jurisdiction as follows: (1) to have original jurisdiction, to hear and determine all violations of the ordinances of said city and violations of this Charter; (2) jurisdiction in proceedings had for the collection of licenses, fees and all other revenues as provided by ordinance, except such actions as may fall within the exclusive jurisdiction of other courts, or such other actions for violation of city ordinances as may be made triable before other courts by the constitution and laws of the state.

An appeal may be had and taken from said municipal court in the same manner and in the same way and within the same time and to the same court as is provided or may hereinafter be provided by the laws and the constitution of the State of Oklahoma for appeals from police courts of cities of the first class existing under the laws of Oklahoma; and the appeal bond, in case of appeal, to be conditioned the same as is or may be provided by the laws of the State of Oklahoma providing for appeals from police courts of cities of the first class.

In all offenses charged before the municipal court the accused shall be entitled to release on an appearance bond until trial in such an amount as may be fixed by the municipal judge and all forfeitures of bonds, including appeal and appearance bonds, shall be collected by an appropriate action instituted by the city attorney of said city. Such actions may be brought in any court having jurisdiction of such matters under the laws of the state. All moneys collected in such proceedings shall be turned in to the city treasury.

Sec. 2. Municipal judge; compensation.

The municipal judge shall receive a salary set by the city council from time to time. The municipal judge assesses fines, costs and fees as provided by ordinance.

Sec. 3. Authority of city council to remit fines, grant pardons.

The city council is hereby vested with power to remit fines and to grant pardons in all cases arising out of convictions occurring before the municipal judge.

Sec. 4. Duty of city attorney to file complaints, institute proceedings, disposition of fines.

It is hereby made the duty of the city attorney in all cases of arrest for violation of the city ordinances and this Charter to immediately cause to be filed before the municipal judge a complaint in writing against such accused person, and the accused person must thereupon be arraigned forthwith before the municipal judge for his plea; and if the plea be "not guilty" a trial of the accused must then be had at once if all witnesses are available to provide testimony, or at

such later time as the case may be continued by order of the municipal judge. All fines, costs and fees collected in criminal actions shall be turned into the city treasury.

ARTICLE VI. – ELECTIONS

Sec. 1. Elections—When held.

Regular municipal elections and primary elections shall be held at the time provided by the general election laws of the state for the holding of primary elections and regular municipal elections in cities of the first class in said state. Any matter which by the terms of this Charter may be submitted to the electors of the city at any special election may be submitted at a primary election or at a regular municipal election.

Sec. 2. Same—Ballots.

The ballots used in all elections provided for in this Charter shall be without party marks or designations. The ballots shall in all other respects conform as nearly as may be to the ballots prescribed by the general election laws of the state.

Sec. 3. Candidates for office of city councilor—Petition required.

Candidates for the office of city councilor shall be nominated only by a non-partisan primary election. Any elector qualified under the laws of the state or this Charter to hold the respective office to which he aspires may become a candidate for any office by filing an application signed by himself setting forth that he desires to become a candidate before the primary election, naming the office and stating that the applicant is a qualified elector, and qualified under the laws of Oklahoma and under this Charter to hold the office for which he desires to become a candidate, such application or petition to be filed within the time as provided for the filing of candidates' names to be voted upon at a municipal primary election under the general election laws of the State of Oklahoma, and such candidate so complying with the conditions herein shall have his name placed upon the ballot to be voted on at the primary election for the office for which he is a candidate.

Sec. 4. Same—Election; procedure when tie vote.

The two candidates for each specific office of city council who receive the greatest number of votes in a primary election for the office shall be placed on the ballot at the next municipal election. The candidate at the general municipal election for the office who receives the highest number of votes shall be declared elected. Provided, any candidate who receives a majority of all votes cast for a specific office at a primary election shall be declared elected to such office without the necessity of a general municipal election. A tie between two or more candidates for any office of city council shall be decided by lot under the direction of the election authorities, as provided by the general election laws of the state.

Sec. 5. Elections to be controlled by state election laws.

All elections shall be conducted, and the results canvassed and certified, by the election authorities prescribed by the general election laws, and except as otherwise provided by this Charter or by ordinances or resolutions of the city council hereafter enacted, the general election laws of the state shall control in all such elections.

ARTICLE VII. FINANCE

Sec. 1. Budget.

The annual budget for the city shall be prepared in accordance with the Oklahoma Municipal Budget Act as it may be amended from time to time, and it shall be the duty of the city manager to see that the budget is prepared and presented in accordance with that act. The budget may be amended from time to time as authorized by the laws and constitution of the State of Oklahoma.

Sec. 2. Increase in rate of taxation; when authorized, election required.

The rates of taxation may be increased for the purpose of erecting or improving public buildings or public property of said city when the rate of such increase and the purpose for which it is intended shall be submitted to a vote of electors of said city and a majority of the qualified electors of such election assent thereto.

Sec. 3. Issuance of new bonds; authority to refund indebtedness.

Said city is hereby empowered to refund its indebtedness at any time, as provided by the constitution and laws of the state, and to issue new bonds as may be provided by the laws of this state.

Sec. 4. County funds payable to city; Chief Financial Officer to receive.

The Chief Financial Officer shall receive from the county treasurer all moneys and evidences of indebtedness which may be payable to said city, which payments shall include all penalties collected on city taxes and assessments and including special assessments.

Sec. 5. Authority of city council to create a sinking fund.

The city council shall from time to time create a sinking fund for the payment of the city's indebtedness and to make a proper levy therefor.

Sec. 6. Moneys voted for special purpose; restrictions on expenditures.

All moneys voted by the people for a special purpose shall be spent by the city council for this purpose and no other; and such funds shall be kept sacred for the purpose for which the same were voted by the people.

Sec. 7. City development funds; submitted in annual budget; source of revenue.

It shall be the duty of the city council of the City of Blackwell to include in the budget of the City of Blackwell an item of an amount to be used according to the discretion of the city council for promotion and advertisement of the social, cultural, industrial and recreational advantages and opportunities of the City of Blackwell; and which item will be an amount equal to 0.5 percent of the revenue from the operation of the electrical light and power system of the City of Blackwell during the preceding fiscal year, or $5,000.00, whichever is smaller.

ARTICLE VIII. CHARTER AMENDMENTS

Sec. 1. Amendment of charter; procedure.

The Charter of the city may be amended at any time as provided by Title 11, Article XIII, Section 13-111 of the Oklahoma Statutes, as amended.

ARTICLE IX. MISCELLANEOUS PROVISIONS

Sec. 1. City clerk to act as secretary to city council.

The city clerk shall act as the secretary to the city council.

Sec. 2. Existing ordinances to remain in force and effect.

Except where in conflict with the provisions of this Charter, the present ordinances of the City of Blackwell shall remain in force and effect until changed, altered or repealed by the city council.

Sec. 3. Quarterly fiscal report by board required; annual audit of records.

The city council at the end of each quarter of the fiscal year, shall cause to be printed a detailed, itemized statement of all receipts and expenses of the city and a summary of its proceedings during the preceding quarter. At the end of each fiscal year, the city council shall cause a complete examination of all books and accounts of the city to be made by competent accountants, the result of which examination shall be placed on file with the city clerk and shall be subject to the inspection of the public at large.

Sec. 4. Authority of city council and municipal judge to administer oaths; fixing of city salaries.

Each city councilor and the municipal judge are hereby given power to administer oaths. Each city councilor and the municipal judge are hereby given power to administer oaths. All salaries of officers and employees of said city, except the salary of the members of the city council which shall be fixed by ordinance, shall be fixed by the City Council by ordinance resolution, contract or motion.

Sec. 5. Authority of city council to employ police officers; powers of police.

Aside from the chief of police, the city council may employ such other members of the police force as may be required to preserve the peace and good order of said city, and such members of the police department, in addition to the powers of enforcing ordinances of the city, shall have the same police powers as are given to a constable in making arrests and in preserving the peace of said city, with power over territory outside the city but in its control, as may be conferred by the laws of the state.

Sec. 6. Members of city council, current officers and employees to continue.

The current members of the city council shall fulfill the terms for which they were originally elected and shall serve until the election and qualification of their successor. All other officers and employees shall remain in their respective positions until changed by the city council or the city manager, as provided in this Charter, and until the successors to such positions are chosen and qualified, or until their services are dispensed with by the appointing authority.

Sec. 7. Change of form of city government not to affect debts, obligations, penalties, etc.

No existing right, action, suit or contract shall be affected by the change in the form of government of this city, but shall continue as though no such change had taken place; and all debts, penalties and forfeitures that shall have accrued or which may hereafter accrue by virtue of anything heretofore done or existing, shall inure to the benefit of the City of Blackwell and may be sued for and recovered by said city as though this Charter had not been adopted.

ARTICLE X. - ADOPTION PROCEDURES FOR CHARTER

Sec. 1. Special election upon adoption of charter.

If this Charter be adopted by the electors of the city and approved by the governor of the state, then it is provided that on a Tuesday within 90 days after approval by the governor, there shall be held in the City of Blackwell a special primary election for city councilors of the City of Blackwell for Ward No. 2 and Ward No. 3 as provided in article II, section 1 of this Charter, as amended. On the second Tuesday following said special primary election, there shall be held a special general city election for the election of city councilors to fulfill ward No. 2 and ward No. 3 if such special general election is required pursuant to this section. The date of the special primary election shall be set by the city council, and the election shall be conducted as provided by the laws of the State of Oklahoma governing elections and as provided for under the provisions of this Charter, with the provisions of this section controlling for this special election to initially expand the city council to five members over any conflicting provisions of this Charter governing other special or general elections. If only one person is a candidate for an office to be filled, such person shall be not only nominated, but shall also be elected ipso facto without the necessity of any election, and such person's name need not appear on any primary or general election ballot. If one of the candidates for an office receives a majority of all votes cast in the primary election for all candidates for that office, such candidate shall not only be nominated, but shall also be elected ipso facto without the necessity of a general election, and

such candidate's name need not appear on the ballot for the general election. In case of a failure to nominate because of a tie in the primary election, the nominee or nominees (as the case may be) shall be determined from among those tying, fairly by lot, by the county election board as provided by the general election laws of the state. If one of the two candidates for an office nominated in a primary election dies or withdraws before the general election, the remaining candidate shall be elected ipso facto without the necessity of a general election and such candidate's name need not appear on the ballot for the general election. The city councilors elected at said special election shall forthwith qualify by giving their respective bonds and taking the oath of office and shall hold their offices as provided in article II, section 1 of this Charter, as amended.

ARTICLE XI. INITIATIVE AND REFERENDUM

Sec. 1. Initiative and referendum petitions; contents, requirements.

All initiative and referendum petitions provided for under the terms of this Charter shall be governed as provided by state law.

ARTICLE XII. RECALL

Sec. 1. Removal of member of city council; procedure.

Any member of the city council may be removed by the qualified voters of the City of Blackwell in the following manner:

(1) A petition must first be filed with the city clerk of said city asking the recall of the officer sought to be removed, and the petition must be signed by 50 qualified electors of said city. Said petition need not set out any charge or ground for the removal of the councilor. The petition must be verified by one of the signers. The city clerk shall immediately provide a copy of the petition to the councilor whose removal is sought. Thereupon said petition shall be immediately published in two consecutive issues of a newspaper in general circulation in the city. If the publication is made as herein required, then said petition shall be kept at the office of the city clerk of said city without any threats, coercion or intimidation brought against any such signer by any city employee or officer; and any qualified elector of said city who desires to do so may sign said petition; and said petition shall be kept open for signatures for a period of 30 calendar days on and after the last publication of said petition in the official city paper; and said petition during said period of time, must be signed by qualified voters of said city equal in number to at least 25 per centum of the highest number of votes cast for the office of any city councilor at the last preceding municipal election. If 25 per centum of the qualified electors of said city sign petition within said time, then it is made the duty of the city council to submit the question of the removal of the said councilor to a vote of the people of said city at a special election held for that purpose within 30 days, or as soon as possible under the election laws of the State of Oklahoma.

(2) No voter may be solicited to sign said petition after the initial petition has been filed with the city clerk; and signatures to said petition may be affixed thereto only by the signer in person at the office of said city clerk; and if any elector signs said petition upon the solicitation of any

person, then the name of such elector so solicited shall not be counted as a qualified signer to said petition.

(3) The city councilor sought to be removed, shall be disqualified from passing upon the petition, or in any manner vote or decide upon any matter arising out of the question of removal of said councilor.

(4) The members of the city council not under charge shall constitute the city council; and the council so constituted shall decide all matters affecting the sufficiency of the petition for removal and the ordering of the election thereon.

(5) Immediately after the expiration of the 30-day period in which said petition may be signed, it is made the duty of the city council to canvass said petition and said council shall certify whether said petition is sufficient or insufficient; and their finding shall be spread upon the records of said city. If the city council finds that said petition contains a sufficient number of names as required by this Charter to call an election to submit the question of removal of such councilor to a vote of the people of said city; then and in that case, the city council must, within ten days, cause an election to be called in said city for the purpose of submitting to the vote of the people the question of the removal of said councilor from office. The date of the election must be fixed not later than 60 days from the date of last publication of the petition for removal in the official city paper as required by this section, unless such time must be extended by the election laws of the State of Oklahoma.

(6) Said election shall be held under the supervision of the county election board. The ballots to be voted in said election shall be in the following form: "Shall (name of councilor) be removed from the office of (name of office)?"

□ YES
□ NO

The voter who desires to vote for the removal of the councilor shall stamp in the square to the left of the word, "yes"; the voter who desires to vote against the removal of the councilor shall stamp in the square to the left of the word, "no."

If a majority of the duly qualified electors voting at such official election shall vote "yes" at said election; then and in that case, the councilor shall be removed and shall no longer be permitted to convene as a member of the governing body and his office become at once vacant immediately upon the canvassing and the announcing of the vote. The vacancy shall be filled by appointment by the city council, and the person so appointed shall hold office until the next succeeding city election, or until his successor is elected and qualified. Public money shall not be expended on any appeal or other legal action in support of any councilor who is removed under this recall procedure.

Said election shall be called and conducted and the result announced in all respects as other city elections.

Sec. 2. Filing of recall petition; when permitted.

No recall petition shall be filed against any councilor until he shall have held his office for at least four months nor within six months after an election has been held upon a previous petition for recall of same councilor; and no person who has been recalled from office, or who has resigned while recall proceedings were pending against him, shall be appointed to an office or become a candidate for an office of the city within three years after such recall or resignation.

Sec. 3. Vacancies in city council.
Any vacancy in the city council, whether caused by death, resignation, removal or recall, shall be filled by appointment of the city council, and he shall hold office until the next succeeding city election, at which time his successor shall be elected to fill out the unexpired term.

ARTICLE XIII. LIBRARY

Sec. 1. Public library.

(a) Establishment and maintenance. There is hereby established in and the City of Blackwell, Kay County, Oklahoma, shall maintain, a public library and reading room within said city for the use and benefit of the inhabitants of said city. There is hereby levied, charged and assessed an annual tax of two mills on the dollar, in addition to all other taxes, on all taxable property of said city for said purpose. And it is hereby made the mandatory duty of all city, county, and state authorities as the same now exists or may hereafter be created, to levy and collect said tax in like manner with other general taxes of said city for a period of ten years, in said manner, and thereafter for such amount and for such time as said council may deem necessary therefore, to be known as the "library fund." And when collected, said fund shall be deposited in the city treasury of said city to the credit of the library fund, and shall be by that officer kept separate and apart from all other moneys of said city, and shall be paid out only upon the properly authorized vouchers of the library board, as herein provided.

(b) Separate building fund. Sixty percent of all moneys paid into said library fund shall be and is hereby set apart as a building fund and shall remain in said treasury until said amount with interest thereon, together with other receipts from other sources, amounts to $20,000.00, at which time the library board shall use said fund to purchase a site in said city and erect and maintain thereon a building for said library and reading room.

(c) Appointment and compensation of directors. It is hereby made the mandatory duty of the mayor by and with the advice and consent of the city council, to appoint a board of six directors for said library and reading room. Said directors to be chosen from the citizens at large with reference to their fitness for such office, and no director shall receive compensation as such director.

(d) Term of office of directors and removal. Said directors shall hold office: one-third for one year, one-third for two years, and one-third for three years, from the first day of May following their appointment, and at the first regular meeting shall cast lots for the respective terms. Annually thereafter, the mayor and the city council shall, before the first day of May, appoint as

before, two directors to take the place of the retiring directors, who shall hold office for three years, and until their successors are appointed. The mayor and the city council may, at any time, remove any director for misconduct or neglect of duty. Vacancies in the board of directors, occasioned by removals, resignations or otherwise, shall be reported to the city council, and be filled in like manner as original appointments.

(e) Powers and duties of board. Said directors shall, immediately after their appointment, meet and organize by the election of one of their number as president, and by the election of such other officers as they may deem necessary. They shall make and adopt such by-laws, rules and regulations for their own guidance and for the government of the library and reading room as may be expedient, not inconsistent with this Charter and the laws of Oklahoma.

They shall have the exclusive control of the expenditures of all moneys collected and placed to the credit of the library fund, and of the construction of any library building, and of the supervision, care and custody of the grounds, rooms, buildings constructed, leased or set apart for that purpose. Said board shall have the power to lease and obtain rooms for the use of said library and shall have the power to appoint a suitable librarian and necessary assistants, and fix their compensation, and shall also have power to remove said appointees, and shall in general carry out the spirit and intent of this Charter.

Said board shall have the power, with the approval of the city council, to purchase ground and erect thereon a suitable building for the use of said library.

Said Board shall have the power to accept or in its discretion to decline, donations tendered as herein provided, for the purpose of maintaining and augmenting collections other than collections of printed books and periodicals, may in its discretion expend moneys or incur obligations not exceeding in any one year ten percent of the whole amount paid into the library fund for such year.

(f) Rules and regulations. A library and reading room hereby established shall always be subject to such reasonable rules and regulations as the library board may adopt, in order to render the use of said library and reading room of the greatest benefit to the greatest number. Said board may exclude from the use of said library and reading room any and all persons who shall willfully violate such rules.

(g) Annual report. Said board of directors shall make on or before the first day of April in each year, an annual report to the city council, stating the condition of their trust on the first day of March of that year; the various sums of money received from the library fund, and other sources, and how said moneys have been expended, and for what purposes; the number of books and periodicals on hand; the number added by purchase, gift or otherwise during the year; the number lost or missing; the number of persons attending; the number of books loaned out; and the general character and kind of books, with such other statistics, information and suggestions as they may deem of general interest.

(h) City Council may provide penalties. The city council of said city shall have the power to pass ordinances imposing suitable penalties for the punishment of persons committing injury upon

library or other property thereof, and for injury to or failure to return any book belonging to said library within the time provided by the rules of the library board.

(i) Board to be trustees of donations. Any person desiring to make donation of money, personal property or real estate, for the benefit of said library or for the establishment, maintenance or endowment of public lectures in connection with such library upon any subject designated by the donor in the field of literature, science and the arts (except that lectures in the interest of any political party, politics or sectarian religion are expressly prohibited), shall have the right to vest the title to the money, personal property or real estate so donated in the board of directors, to be held and controlled by said board when accepted according to the terms of the deed, gift, devise or bequest of such property; and as to such property, the board shall be held and considered to be special trustee.

(j) Existing library. Any library already existing or hereafter established in said city may be transferred by the society, association or individual owning the same to the said board of directors on such terms not inconsistent with the object of this Charter as may be mutually agreed upon, and as to such property said board of directors shall be held and considered to be special trustees.

ARTICLE XIV. GENERAL PROVISIONS

Sec. 1. Interpretations.

Words used in the masculine gender shall include the feminine and neuter, unless a contrary intention plainly appears. Words used in the singular number shall include the plural, and the plural the singular, except where a contrary intention plainly appears.

Sec. 2. Person defined.

The word "person" shall mean and includes firm, association or corporation, as well as a human being, except where a contrary intention plainly appears.

Note: End of Blackwell City Charter and beginning of Blackwell Municipal Code 2019

Chapter 1 - GENERAL PROVISIONS

Chapter 1 - GENERAL PROVISIONS

Sec. 1-1. How Code designated and cited.

The ordinances embraced in this and the following chapters and sections shall constitute and be designated the "Code of Ordinances, City of Blackwell, Oklahoma" and may be so cited.

(Code 1967, § 1-1)

State Law reference— Revision of ordinances and publication thereof in book form, 11 O.S. § 14-108.

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

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

City. The term" city" means the City of Blackwell, in Kay County, Oklahoma.

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

Computation of time. Whenever a notice is required to be given or an act to be done 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 excluded in computing the time, but the day on which such proceeding is to be had shall be included.

Conflicting provisions. If the provisions of different chapters or articles of this Code conflict with or contravene each other, the provisions of each chapter or article shall prevail as to all matters and questions growing out of the subject matter of that chapter or article.

Councilor. The term "councilor" means a member of the city council.

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

Delegation of authority. Whenever any authority, duty or other activity is charged to a city officer or employee, it may be done as well by such person's duly appointed agent, so long as not prohibited by ordinance, Charter or the laws or constitution of the state, and so long as such officer or employee retains supervision over the discharge of the duly delegated authority, duty or activity.

Gender. A term importing the masculine gender only shall extend and be applied to females and to firms, partnerships and corporations as well as to males.

Highway. The term "highway" means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

State Law reference— Similar provisions, 47 O.S. § 1-122.

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

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

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

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

Officers, departments, etc. Whenever any officer, department, board, commission or other agency is referred to by title alone, such reference shall be construed as if followed by the words "of the City of Blackwell, Oklahoma."

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

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

Person. The term "person" shall extend and be applied to associations, corporations, firms, partnerships and bodies politic and corporate as well as to individuals. Whenever used with respect to any penalty, the term "person," as applied to partnerships or associations, shall mean the partners or members thereof, and as applied to corporations, the officers thereof.

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

Premises. The term "premises" means land, buildings or other structures, vehicles, watercraft, or parts thereof.

Property. The term "property" includes real and personal property.

Right-of-way. The term "right-of-way" means any land dedicated to the city or owned by the city for public purposes. The term "right-of way" includes easements but does not include parks, playgrounds or public buildings.

Shall. The term "shall" is mandatory and not merely directory.

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

Signature or subscription. The terms "signature" or "subscription" includes a mark when a person cannot write.

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

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

Street. The term "street" includes any highway, alley, street, avenue or public space, square, bridge, viaduct, underpass, overpass, tunnel or causeway in the city, dedicated or devoted to public use.

Tenant, occupant. The terms "tenant" and "occupant," when applied to a building or land, includes any person who occupies or is in possession of the whole or part of such building or land, whether alone or with others.

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

Written or in writing. The terms "written" or "in writing" shall be construed to include any representation of words, letters or figures, whether by printing or otherwise.

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

(Code 1967, § 1-3)

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

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

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

(c) All references to chapters or sections are to chapters or sections of this Code unless otherwise specified.

(Code 1967, § 1-2)

Sec. 1-4. Penalties for violation of Code.

a) In this section, the term "violation of this Code" means any of the following:

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

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

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

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

(1) If the violation of this Code is a class A offense, it shall be punished by a fine not exceeding $500.00 plus costs, state assessments and fees, by imprisonment not exceeding 60 days, or by both such fine, costs, state assessments, fees and imprisonment;

(2) If the violation of this Code is a class B offense, it shall be punished by a fine not exceeding $200.00 plus costs, state assessments and fees;

(3) If the violation of this Code is a class C offense, it shall be punished by a not exceeding $500.00 plus costs, state assessments and fees;

(4) If the violation of this Code is a class D offense, it shall be punished by a fine not exceeding $1,000.00 plus costs, state assessments and fees; by imprisonment not exceeding 90 days, or by both such fine costs, state assessments, fees and imprisonment.

(c) The maximum fine or deferral fee in lieu of a fine for traffic-related offenses relating to speeding or parking shall not exceed Two Hundred Dollars ($200.00). No penalty, including fine and costs, shall be greater than that established by statute for the same offense. In the absence of any other penalty, an offense shall be a class A offense.

(d) Except as otherwise provided by state law, the following fees and costs shall be charged:

(1) Court costs In the amount of thirty dollars ($30.00) plus the fees and mileage of jurors and witnesses shall be charged and collected by the clerk of the municipal court in all cases other than those in which the defendant is acquitted or found not guilty or those which are dismissed upon motion of the defendant or the city attorney.

(2) The court clerk shall charge a fee of thirty-five dollars ($35.00) for the initial filing of any bond for the subsequent court appearance of a defendant, which shall be assessed as an additional court cost to the defendant. The court clerk shall remit funds to a fund of the city that shall be used to defray the costs of housing municipal prisoners.

(3) The court clerk shall charge a fee of thirty dollars ($30.00), which shall be in addition to and not in substitute for any and all fines and penalties provided for by this section or code, upon conviction of any offense, including traffic offenses, but excluding parking violations. "Conviction" for purposes of this section, shall mean any final adjudication of guilt and includes any deferred or suspended sentence. The court clerk shall remit funds to a nontransferable interest-bearing account and used solely and exclusively for the acquisition, operation, maintenance, repair and replacement of data processing equipment and software related to the administration of the criminal justice system and costs of prosecution.

(4) The court clerk shall charge a fee of five dollars ($5.00), which shall be in addition to and not in substitute for any and all fines and penalties provided for by this section or code upon

any conviction of the crime of possession of marijuana or the crime of possession of paraphernalia. "Conviction", for purposes of this section, shall mean any final adjudication of guilt and includes any deferred or suspended sentence. The court clerk shall remit the monies in the fund on a monthly basis directly to the bureau of narcotics drug education revolving fund.

(5) The court clerk shall charge a fee of nine dollars ($9.00), which shall be in addition to and not in substitute for any and all fines and penalties provided for by this section or code, upon conviction of any offense, including traffic offenses but excluding parking and standing violations, punishable by a fine of ten dollars ($10.00) or more. "Conviction", for purposes of this section, shall mean any final adjudication of guilt and includes any deferred or suspended sentence. The court clerk shall remit on a monthly basis eight dollars ninety- two cents ($8.92) of every Nine Dollar ($9.00) fee imposed to the council on law enforcement education and training.

(6) The court clerk shall charge a fee of five dollars ($5.00), which shall be in addition to and not in substitute for any and all fines and penalties provided for by this section or code, upon conviction of any offense, including traffic offenses but excluding parking and standing violations, punishable by a fine of ten dollars ($10.00) or more. "Conviction", for purposes of this section, shall mean any final adjudication of guilt and includes any deferred or suspended sentence. The court clerk shall remit the monies on a monthly basis to the AFIS fund.

(7) The court clerk shall charge a fee of five dollars ($5.00), which shall be in addition to and not in substitute for any and all fines and penalties provided for by this section or code, upon conviction of any offense, including traffic offenses but excluding parking and standing violations, punishable by a fine of ten dollars ($10.00) or more. "Conviction", for purposes of this section, shall mean any final adjudication of guilt and includes any deferred or suspended sentence. The court clerk shall remit the monies on a monthly basis to the forensic science improvement revolving fund.

(8) The court clerk shall charge a fee of fifty dollars {$50.00), which shall be in addition to and not in substitute for any and all fines- and penalties provided for by this section or code, upon conviction of any alcohol related offense. "Conviction", for purposes of this section, shall mean any final adjudication of guilt and includes any deferred or suspended sentence. The court clerk shall remit the monies to a fund of the city that shall be used to defray costs for enforcement of laws relating to juvenile access to alcohol, other laws relating to alcohol and other intoxicating substances, and traffic related offenses involving alcohol or other intoxicating substances.

(9) When a deferred sentence is imposed, the court clerk shall charge a deferral fee of Fifty Dollars ($50.00) and an administrative fee of up to five hundred dollars ($500.00), as directed by the court.

(10) The court shall require a person who is actually received into custody at the jail facility, for any offense, to reimburse the City for the costs of incarceration, both before and after conviction, upon conviction or receiving a deferred sentence. The costs of incarceration shall be collected by the Court Clerk as provided for the collection of other fines and costs. Costs of

incarceration shall include booking, receiving and processing out, housing, food, clothing, medical care, dental care and psychiatric services. In the event the City has a contract with the County for the provision of jail services which provides for a barter of services for jail cells, the cost of incarceration charged the criminal defendant shall be in the same amount as the normal and customary amount charged by the County to third parties for such costs of incarceration.

e) Except as may be provided in this code respecting any particular offense, and in such event such specific provision shall apply, the fine and bond schedule attached hereto as Exhibit A and on file in the Office of the Court Clerk shall be the fine and bond amount to be paid by all defendants for all charges brought in the Blackwell Municipal Court not of Record. In addition, notwithstanding the stated amount of the state assessment fees as set out in subsection (d)(4), (5), (6) and (7) hereinabove, in the event the Oklahoma Legislature increases such state assessment fees amount, upon such stated effective date, such amended state assessment fees shall be charged and collected as if such higher amounts were fully set out herein.

(f) Except as otherwise provided:

(1) With respect to violations that are continuous with respect to time, each day that the violation continues is a separate offense.

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

(g) Any person fined for a violation of this Code who is financially able but refuses or neglects to pay the fine or costs may be compelled to satisfy the amount owed by working on the streets, alleys, avenues, areas and public grounds of the city, subject to the direction of the city manager, at a rate of $50.00 per day for useful labor, until the fine and costs are satisfied.

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

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

(j) The Bond/Fine Schedule is as follows:

State Law reference— Penalties for ordinance violations, 11 O.S .§ 14-111(C).

(Ord. No. 2735, § 3(1.4), 11-16-2004; Ord. 2017-15, 6-15-2017)

State Law reference— Penalties for ordinance violations, 11 O.S. § 14-111(C).

Sec. 1-5. Severability of parts of Code.

It is hereby declared to be the intention of the city council that the sections, paragraphs, sentences, clauses and phrases of this Code are severable and, if any phrase, clause, sentence,

paragraph or section of this Code shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code, since the same would have been enacted by the city council without the incorporation in this Code of any such unconstitutional phrase, clause, sentence, paragraph or section.

(Code 1967, § 1-6)

Sec. 1-6. Effect of repeal of ordinances.

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

(Code 1967, § 1-7)

Sec. 1-7. Publication of proposed Charter amendments.

Any proposed Charter amendment to be submitted to the electors of the city, whether proposed by the city council or by initiative petition, shall be published in a newspaper of general circulation within the city once each week for four consecutive weeks, the last publication of which shall not be less than seven days prior to the date the election to consider such Charter amendment is to be held.

(Ord. No. 2663, § 1.9, 1-31-1996)

Sec. 1-8. - Supplementation of Code.

(a) Supplements to this Code shall be prepared and printed whenever authorized or directed by the city. A supplement to the Code shall include all substantive permanent and general parts of ordinances adopted during the period covered by the supplement and all changes made thereby in this Code. The pages of a supplement shall be so numbered that they will fit properly into this Code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.

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

(c) When preparing a supplement to this Code, the person authorized to prepare the supplement may make formal, non-substantive changes in ordinances or resolutions and parts of ordinances or resolutions included in the supplemental, insofar as it is necessary to do so to embody them into a unified code. For example, the person may:

    (1) Organize the ordinance material into appropriate subdivisions.

(2) Provide appropriate catch-lines, headings and titles for sections and other subdivisions of the Code printed in the supplement and make changes in such catch-lines, headings and titles.

(3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers.

(4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections _____ / _____ / _____ to _____ / _____ / _____ " (inserting section numbers to indicate the sections of the Code that embody the substantive sections of the ordinance incorporated into the Code).

(5) Make other non-substantive changes necessary to preserve the original meaning of ordinances inserted into the Code.

(d) In no case shall the person make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

Sec. 1-9. Provisions deemed continuation of existing ordinances.

The provisions of this Code, insofar as they are substantially the same as legislation adopted by the city relating to the same subject matter, shall be construed as reinstatements and continuations thereof and not as new enactments.

Sec. 1-10. Code does not affect prior offenses or rights.

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

(b) The adoption of this Code does not authorize any use or the continuation of any use of a structure or premises in violation of any city ordinance on the effective date of this Code.

Sec. 1-11. Certain ordinances not affected by Code.

(a) Nothing in this Code or the ordinance adopting this Code affects the validity of any ordinance or portion of an ordinance not codified in this Code:

(1) Establishing or amending the Charter;

(2) Annexing property into the city or describing the corporate limits;

(3) De-annexing property or excluding property from the city;

(4) Promising or guaranteeing the payment of money or authorizing the issuance of bonds or other instruments of indebtedness;

(5) Authorizing or approving any contract, deed or agreement;

(6) Making or approving any appropriation or budget;

(7) Providing for salaries of employees or other employee benefits or job descriptions for employee positions;

(8) Granting any right or franchise.

(9) Adopting or amending the comprehensive plan;

(10) Levying or imposing any special assessment;

(11) Dedicating, establishing, naming, locating, relocating, opening, paving, widening, repairing or vacating any street;

(12) Establishing the grade of any street or sidewalk;

(13) Dedicating, accepting or vacating any plat or subdivision or providing for subdivision or platting regulations;

(14) Levying or imposing or otherwise related to taxes not codified in this Code;

(15) Amending the zoning map or zoning atlas, or rezoning specific property or otherwise pertaining to zoning;

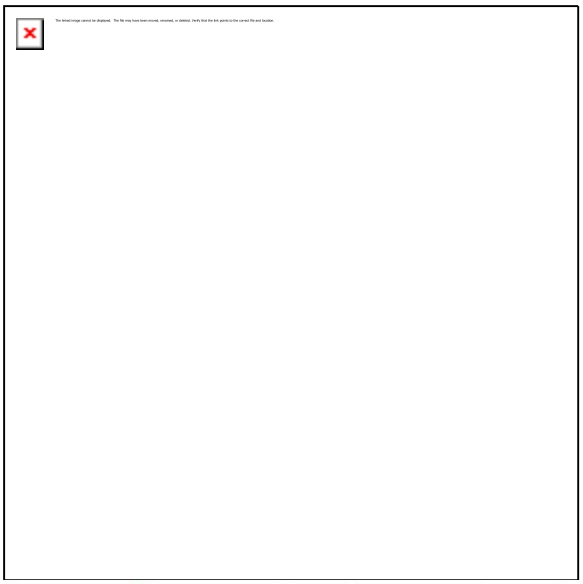
(16) That is temporary, although general in effect;

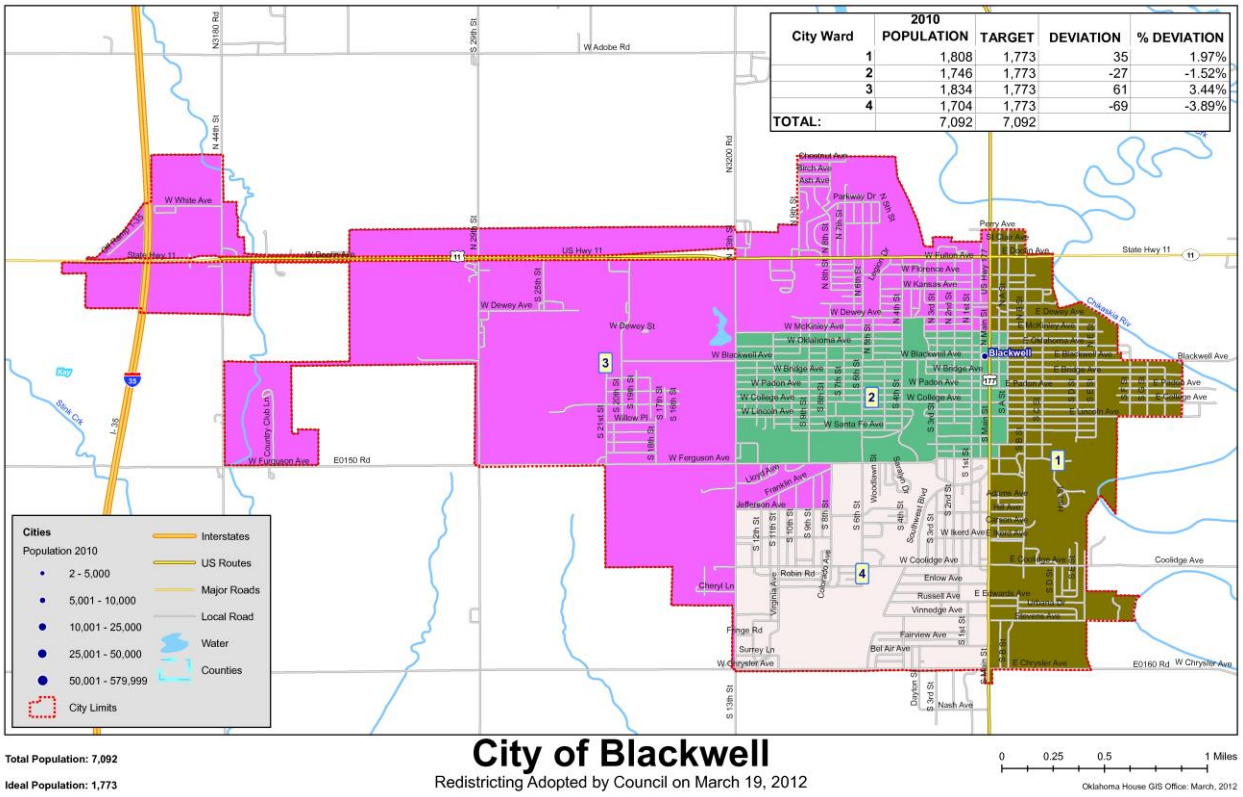
(17) That is special, although permanent in effect; or

(18) The purpose of which has been accomplished.

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

Sec. 1-12. - Ward boundaries.





Total Population: 7,092

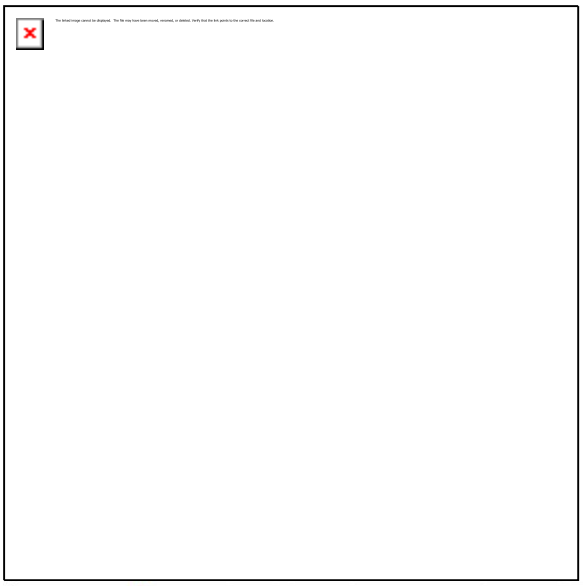
Ideal Population: 1,773

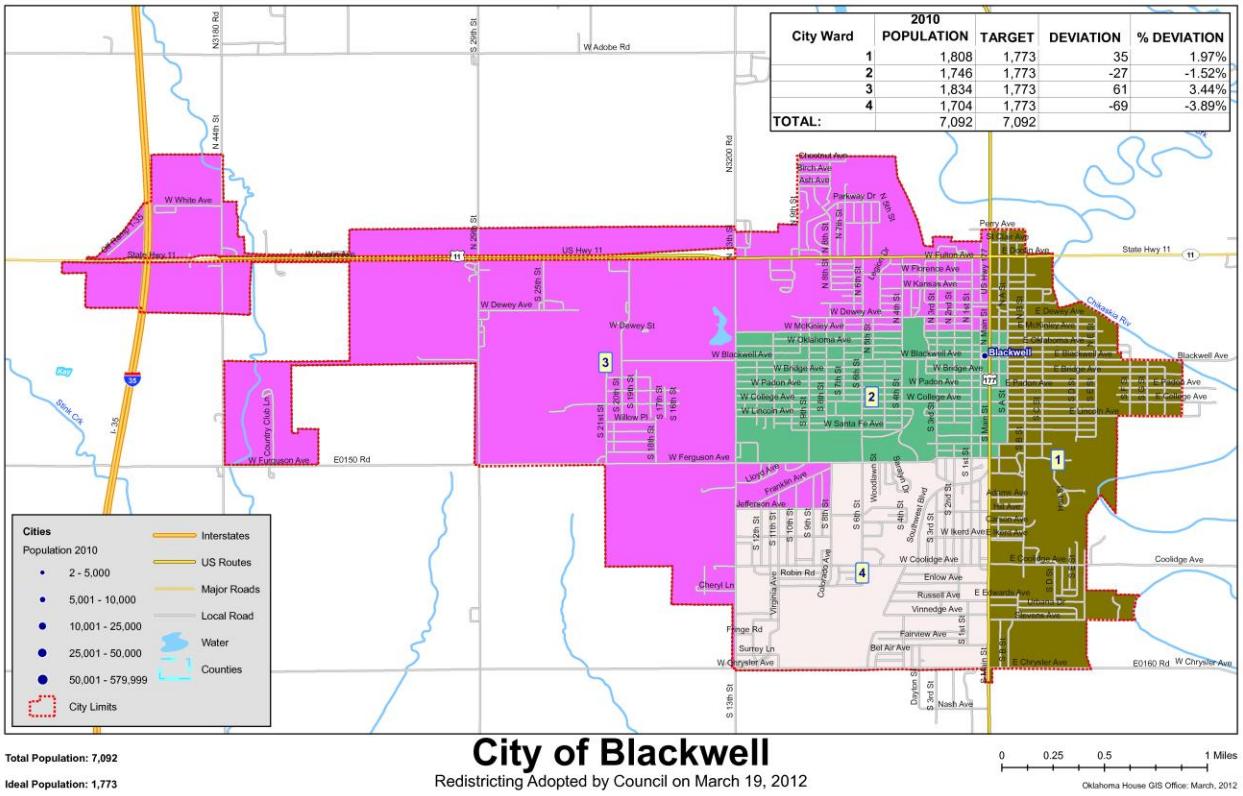
City of Blackwell

Redistricting Adopted by Council on March 19, 2012

0 0.25 0.5 1 Miles

Oklahoma House GIS Office: March, 2012





(Ord. No. 2799, § 1(Exh. A), 3-19-2012)

Sec. 1-113 Adoption by Reference of Titles 21, 37, 37A and Certain Sections of Title 47 and Title 63 of the Oklahoma Statutes, as Amended, as Municipal Ordinances; Drugs and Related Substances.

A. Title 21 of the Oklahoma Statutes, as amended, is hereby adopted and incorporated herein by reference, but only to the extent such sections provide for criminal

misdemeanor offenses, and are enforceable by the city within the city limits as if set out at length herein. Unless otherwise specifically provided otherwise in this Code, all violations of such sections shall be punishable by a maximum fine of $500.00, plus court costs, fees and state assessments, provided however, if the penalty including costs for the state offense is less than the amount as provided hereinabove, then the fine and costs shall not exceed the amount charged by statute for the same offense.

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

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

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

E. Drugs and Related Substances:

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

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

“Marijuana” shall be defined as all parts of a plant of the genus cannabis, whether growing or not; the seeds of a plant of that type; the resin extracted from a part of a plant of that type; and every compound, manufacture, salt, derivative, mixture, or preparation of a plant of that type or of its seeds or resin. "Marijuana" does not include the mature stalks of the plant, fiber produced

from the stalks, oils or cake made from the seeds of the plant, or any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted from the mature stalks, fiber, oil or cake, or the sterilized seed of the plant that is incapable of germination.

2. Possession of Illegal Drugs:

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

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

3. Possession of Marijuana:

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

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

(Ord. No. 2017-22, 6-15-2017; Ord. No. 2018-12, 8-16-2018)

Chapter 2 – ADMINISTRATION

ARTICLE I. - IN GENERAL

ARTICLE II. - CITY COUNCIL

ARTICLE III. - OFFICERS AND EMPLOYEES

ARTICLE IV. - DEPARTMENTS AND OTHER AGENCIES

DIVISION 1. - GENERALLY

DIVISION 2. - FIRE DEPARTMENT

DIVISION 3. - POLICE DEPARTMENT

DIVISION 4. - EMERGENCY MANAGEMENT ORGANIZATION

ARTICLE V. - BOARDS AND COMMISSIONS

DIVISION 1. - GENERALLY

DIVISION 2. - PLANNING COMMISSION

ARTICLE VI. - CITY RECORDS

Chapter 2 - ADMINISTRATION

State Law reference— Municipalities generally, 11 O.S. § 1-101 et seq.

ARTICLE I. IN GENERAL

Sec. 2-1. Ordinance provisions to be applicable to all additions to city.

The ordinances of the city, including all provisions now in force and all provisions hereafter enacted, are hereby extended to cover and include all property now owned or at any time hereafter acquired by said city either by purchase, donations, bequests, or otherwise, and located within or without the city limits.

(Code 1952, title 8, ch. 3, § 26; Code 1967, § 2-1)

State Law reference— Municipal jurisdiction of real property and navigable streams, 11 O.S. § 22-116

Secs. 2-2—2-20. - Reserved.

ARTICLE II. CITY COUNCIL

Sec. 2-21. Meetings generally.

The City Council of the City of Blackwell and the Blackwell Municipal Authority shall meet in regular session on the first and third Thursday of each month during the year, except city-observed holidays, beginning at the hour of 6:00 p.m. Said meetings will be conducted at the Municipal Complex, located at 221 W. Blackwell Ave., Blackwell, Oklahoma.

(Code 1952, title 7, ch. 3, § 24; Code 1967, § 2-5; Ord. No. 2795, § 1, 12-5-2011)

Sec. 2-22. Accounts and claims.

Bills and accounts against the city may be considered or allowed at any meeting of the city council. All claims against the city shall be fully itemized and shall be accompanied by a purchase order issued by the city clerk. No account or claim shall be paid unless audited and allowed by the city clerk; provided, however, that the city clerk is authorized to pay the following taxes and invoices as they become due, without a purchase order or further approval of the city council:

(1) Taxes, including, but not limited to, withholding, social security or unemployment compensation taxes;

(2) Retirement or pension fund payments or contributions which are payable pursuant to a resolution, ordinance, contract or other appropriate agreement which has been approved by the city council; and

(3) Payments for insurance or related coverages, including, but not limited to, accident, health or life, workers compensation, or any other property, vehicle, marine, surety,

liability or casualty coverages, which are payable under a valid contract, policy or other appropriate agreement which has been approved by the city council.

Except as enumerated above, no account or claim shall be paid unless audited and allowed as set forth above and payment is approved by the city council. A complete record of claims and accounts paid, with or without a purchase order, shall be maintained by the city clerk. All claims and accounts shall be paid by check signed by the mayor or designated member of the governing body and attested by the city clerk or designee.

(Code 1952, title 7, ch. 3, § 25; Code 1967, § 2-6; Ord. No. 2634, § 2.6, 6-7-1994)

Sec. 2-23. Authority to set fees.

The city council shall, by resolution, set fees for administrative costs incurred by the city in connection with the administration of this Code. The resolution shall be amended from time to time as the city council deems necessary to reflect any changes in the actual costs to the city. The fee schedule shall be available at the office of the city clerk.

(Ord. No. 2742, § 1, 5-17-2005)

Sec. 2-24. Authorization for payment by credit card or electronic means.

(a) Definitions. The following definitions shall mean as follows in this section:

Debit card means an identification card or device issued to a person by a business organization which permits such person to obtain access to or activate a consumer banking electronic facility.

Nationally recognized credit card means any instrument or device, whether known as a credit card, credit plate, charge plate, or by any other name, issued with or without fee by an issuer for the use of the cardholder in obtaining goods, services or anything else of value.

(b) The city clerk or designee may accept payment for fees by automated clearing house or by a nationally recognized debit or credit card for the payment of utility bills, fees, fines, court costs and all other charges.

(c) The city may enter into contracts for credit card processing services consistent with its financial policies.

(d) The fee for a returned, reversed or otherwise unfunded payment processed under this section shall be $25.00 in addition to the original amount not paid.

(Ord. No. 2823, § I, 4-7-2016)

Sec. 2-25. Collection fee.

Whenever the city or its public trust authority refers an unpaid debt or an unpaid account receivable to a collection agency, including but not limited to an unpaid fee, penalty, interest, or other sum due, or a court penalty, cost, fine or fee in cases in the municipal court in which the accused has failed to appear or otherwise failed to satisfy a monetary obligation ordered by the

court (hereinafter collectively referred to as an "unpaid debt or account"), a collection fee in the amount of 35 percent of the unpaid debt or account shall be assessed and collected.

(Ord. No. 2824, § I, 4-21-2016)

Secs. 2-26-2-49. - Reserved.

ARTICLE III. OFFICERS AND EMPLOYEES

Sec. 2-50. Bond.

A blanket surety bond shall be obtained by the city for the faithful performance of required duties by all city officers and city employees.

(Code 1952, title 7, ch. 1, § 3; Code 1967, § 18-15; Ord. No. 2739, §§ 1, 2, 11-16-2004)

Secs. 2-51-2-73. - Reserved.

ARTICLE IV. - DEPARTMENTS AND OTHER AGENCIES

DIVISION 1. - GENERALLY

Sec. 2-74 Blackwell Tourism Development Board Created; Members; Duties; Meetings; Contracts.

A. Created. There is hereby created a board of the City of Blackwell to be known as the Blackwell Tourism Development Board.

B. Members. The Blackwell Tourism Development Board shall consist of seven (7) members to be appointed by the City Council. The terms shall be initially staggered with two members serving terms of two (2) years, two (2) members serving terms of three (3) years and three (3) members serving terms of four (4) years. All successor members shall serve a term of four (4) years. These seven (7) members shall be voting members and their attendance is required for purpose of quorum but other ad hoc members may be appointed by the Blackwell Tourism Development Board for committees and to assist with special projects and events. The Blackwell Tourism Development Board may adopt By-laws to assist with their purpose and may elect officers as deemed appropriate.

C. Duties. The powers and duties of the Blackwell Tourism Development Board shall be as follows:

1. To advise and assist the City by planning and implementing tourism development projects and events to be held within the corporate limits of the City of Blackwell;

2. To make recommendations to the City regarding the activities of the Blackwell Event Center and other buildings and properties constituting the Blackwell Fairgrounds and/or owned by the City of Blackwell;

3. To plan, promote, market, advertise, sponsor and hold events that generate tourism development for City of Blackwell; and

4. To advise the City in its overall coordination of all public facilities and property that promote tourism development and to inform and instruct the City and the public on all matters involving tourism development.

D. Meetings. The Blackwell Tourism Development Board shall meet at such times as are agreed by the members thereof and shall have the authority to make its own rules and regulations for the purpose of conducting its business and meetings. All meeting shall be held in accordance with the terms of the Oklahoma Open Meeting Act, as amended.

E. Contracts. The City may contract with the Blackwell Tourism Development Board to promote tourism in the City of Blackwell. All procurement and financial policies of the City shall be followed with respect to any public money provided pursuant to the terms of such contracts and all such business involving the outlay of public money shall be expended as a part of the City's claims list and purchasing policies. The Blackwell Tourism Development Board shall ensure that all monies provided from the City are used consistent with their restricted purpose, if any.

(Note: Section 2-74 was approved on June 2019).

Section 2-75 FAIRGROUND FACILITY RATES.

A. The following rates and charges are set as guidelines for the use of buildings, facilities and appurtenances at the Fairgrounds[2]:

	Resident	Non-Resident
Entire Fairgrounds (all facilities)	$500.00	$1,600.00
Event Center	$350.00	$1,250.00
Event Center – half w. dividers	$275.00	$650.00
4H/AG Building	$50.00	$75.00
Livestock Pavilion-Stalls Included	$300.00	$500.00
Livestock Center – no stalls/no concession	$200.00	$300.00
Whitman Arena	$50.00	$100.00
RV Campground – Electricity & Water	$15.00	$15.00
Wall dividers/panels	$0.00	$20.00
Stage – Platform type	$0.00	$40.00
Chairs	$0.00	$1.00 per chair
Table/Table Cloth	actual cost	actual cost
Set up Labor Fee per hr.	actual cost	actual cost

B. The City/Trust Manager is authorized to develop leases, contracts and other written

[2] Charges are per day unless the City/Trust Manager provides that any particular charge is for the length of the event.

documents pertaining to the lease of the buildings, facilities and appurtenances and to provide for their use. In addition, the City Manager may provide administrative amendments to the rates, in individual cases, when appropriate and in order to increase tourism for Blackwell.

C. Any and all miscellaneous costs (not listed, i.e. cleaning charges) incurred for the event shall be billed at actual cost and shall be charged and paid by the renter.

Secs. 2-76 through 2-104. - Reserved.

DIVISION 2. - FIRE DEPARTMENT

State Law reference— Municipal fire departments, 11 O.S. § 29-10 et seq.

Sec. 2-105. Membership; term.

The fire department of the city shall consist of a fire chief, assistant fire chief and as many firefighters as shall be deemed necessary by the city council, and such fire chief, assistant fire chief, and firefighters shall hold their respective positions until removed for a good and sufficient cause.

(Code 1952, title 12, ch. 1, §§ 1, 3; Code 1967, § 10-31)

Sec. 2-106. Fire chief-Appointment

The fire chief shall be appointed by the city manager.

(Code 1952, title 12, ch. 1, § 2; Code 1967, § 10-33)

Sec. 2-107. Same-Powers and duties.

The fire chief shall have command, at fires and alarms of fires, over the members and employees of the fire department and all other persons who may be present at fires. He shall also have exclusive control of the apparatus belonging to the department and shall direct all measures he shall deem proper for the extinguishment of fires, protection of property, preservation of order, and observation of laws, ordinances and regulations respecting fires.

(Code 1952, title 12, ch. 2, § 13; Code 1967, § 10-34)

Sec. 2-108. Same-Authority to adopt rules, regulations; right of entry; removal of hazardous materials.

(a) *Adopting of rules and regulations.* For the more efficient protection against fire, it shall be the duty of the fire chief and department to adopt all necessary rules and regulations not in conflict with the provisions of this article as may to them seem just and expedient.

(b) *Right of entry.* For the purpose set out in subsection (a) of this section, the chief or his assistants under his direction may, whenever he has reasons to believe that the safety of property demands it, and as often as he may deem it proper, between sunrise and sunset,

enter any house, building, lot, yard or premises in the city and examine the fireplaces, hearths, chimneys, stoves, pipes, ovens, boilers and all other apparatus likely to cause fire and also places where ashes, gunpowder, hemp, flax, tow, straw, hay, shavings or other combustibles may be deposited.

(c) *Removal of hazardous materials.* The fire chief shall give directions for the change or removal of the combustible material as he may deem just and proper for protection against fire. Such removal shall be at the expense of the owner or the person having control over the same.

(Code 1952, title 12, ch. 2, § 14; Code 1967, § 10-35)

Sec. 2-109. Removal of persons at or near scene of fires.

The fire chief, assistant fire chief and firefighters shall have full power to remove all persons who are not actively at work at a fire, under the direction of the officers in charge, from within or about any building that is endangered or from any portion of the street immediately in front of the fire whenever such action is necessary for the rescue of persons, protection of goods or property, or the more efficient working of the fire department and citizens at work.

(Code 1952, title 12, ch. 2, § 16; Code 1967, § 10-37)

Sec. 2-110. Fire services outside city limits—Department authorized to furnish.

The fire department shall answer all calls for fire protection or fire control outside the city in accordance with the city's mutual aid agreements.

(Code 1967, § 10-43; Ord. No. 1786, § 1, 7-2-1963)

Sec. 2-111. Same—Costs; method of billing.

(a) The rates to be charged for fire or emergency services rendered by the fire department of the city outside of the city limits shall be established by resolution. The rates shall consider the equipment and manpower utilized and the length of time involved in rendering the services. Such rates shall be available for inspection in the office of the city clerk during regular business hours.

(b) Charges for services rendered for emergency services outside the city limits shall be billed to the owner of the property, the person responsible for creating the emergency, the person receiving such emergency service, or all such persons, as the city manager may determine appropriate under the facts in each instance. Said charges shall be billed within 30 days from the date of rendition of the service and shall be due ten days from the date of billing.

(Code 1967, § 10-44; Ord. No. 1786, § 2, 7-2-1963; Ord. No. 1969, § 1, 7-13-1971; Ord. No. 2076, §§ 1, 2, 7-8-1975; Ord. No. 2606, § 10-44, 7-6-1993)

Sec. 2-112. Same—Firefighters to be covered by full benefits while serving.

All firefighters of the fire department attending and serving at fires or doing fire prevention work outside the corporate limits of the city, as herein provided, shall be considered as serving in their regular line of duty as fully as if they were serving within the corporate limits of the city, and said firefighters shall be entitled to all the benefits of any firefighters' pension and relief fund in the same manner as if the firefighting or fire prevention work was being done within the corporate limits of the city.

(Code 1967, § 10-45; Ord. No. 1786, § 3, 7-2-1963)

State Law reference— Generally, 11 O.S. § 49-100.1 et seq.

Sec. 2-113 Hazardous Materials Incident Response:

A. Definitions:

BUSINESS ENTITY OR PERSON: Any corporation, sole proprietorship, partnership, limited partnership, person, firm, or other similar entity engaged in any commercial, business, or industrial transaction of any nature.

HAZARDOUS MATERIALS INCIDENT: Any incident that involves the release of any hazardous material from its intended container that has the potential to harm persons, property, or the environment.

HAZARDOUS MATERIALS RESPONSE TEAM: The hazardous materials response team of the city's fire department.

HAZARDOUS SUBSTANCE: Any substance that, because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard, according to federal, state, and/or local standards and regulations, to human health and safety or to the environment if released from its intended container.

RESPONSIBLE PARTY: Jointly and severally, all persons involved in the possession, ownership, or transportation of any hazardous material that is released or abandoned, or who have legal liability for the causation of an incident resulting in the release or abandonment of any hazardous material.

B. Nuisance: Due to the harmful effects of hazardous substances, a hazardous materials incident is hereby declared to be a nuisance.

C. Response: The Blackwell Fire Department is authorized to respond to any hazardous materials incident within or outside the City of Blackwell in order to mitigate the effects of any hazardous substance or waste unlawfully, accidentally, or negligently released, discharged, or deposited upon or into any property or facilities.

D. Responsibility: The following described persons shall be liable to the city for the payment of all costs incurred by the city as a result of a hazardous materials incident:

1. The person or persons whose accidental, negligent, or willful act or omission proximately caused such release, discharge, or deposit;
2. The person or persons who owned or had custody or control of the container that held such hazardous substance or waste at the time of such release, discharge, or deposit without regard to fault or proximate cause; and
3. The person or persons who owned or had custody or control of the container that held such hazardous waste or substance at the time or immediately prior to such release, discharge, or deposit without regard to fault or proximate cause.

E. Service Limits: The service provided by the hazardous materials response team is limited to the initial emergency response to a hazardous materials incident and includes only those stabilization and protective measures deemed necessary and feasible by the incident commander to initially address the immediate threat to the public health and safety. Deployment of the team beyond the scope of the team's resources and capabilities for such an initial response is not contemplated under this section and the city reserves the right to terminate the services of the team at any time after arrival at the site. Protective and stabilization requirements continuing beyond the cessation of service, along with the cleaning up, removal, or disposal of hazardous materials, and any testing, monitoring, or long-term care of the site of the hazardous materials incident shall remain the duty of the responsible party. The provisions of this section shall not be construed to excuse or exempt any responsible party from any legal duties, liabilities, or costs associated with the hazardous materials release or abandonment other than the costs for the services of the hazardous materials response team for the duration of the service call.

F. Rates and Costs. The rates charged or costs assessed for the services provided hereinabove shall be as follows:

1. For attendance of each hazardous materials response apparatus to mitigate an incident the rate shall be three hundred dollars ($300.00) per hour;
2. For attendance of any additional City of Blackwell Fire Company, the rate shall be three hundred dollars ($300.00) per company per hour; and
3. The actual costs of equipment, supplies, materials, and/or contract labor utilized in the mitigation efforts.

G. Appeal: Anyone assessed any rate or cost of mitigating a hazardous materials incident may appeal the assessment to City Council by notifying the city clerk in writing within ten (10) days of receipt of the notification of the assessment.

(Note: Sec. 2-113 was approved on May 2, 2019).

Sec. 2-114 Charges for Fire Incident Responses Made Outside City Limits

Except as otherwise provided by Section 2-115, the following charges shall be collected for a fire incident response provided outside the corporate limits of the City :

1. For attendance of each fire apparatus on an incident outside the corporate limits of the City shall be three hundred dollars ($300.00) per hour;

2. For attendance of any additional City of Blackwell Fire Company, the rate shall be three hundred dollars ($300.00) per company per hour; and

3. The actual costs of equipment, supplies, materials, and/or contract labor utilized in the mitigation efforts.

4. Material Charge (Foam): $15.00 per gallon

(Note: Sec. 2-114 was approved on May 2, 2019).

Sec 2-115 Fire Service Subscription

A. Subscription For Fire Service: Persons residing outside the corporate city limits and within the Blackwell Fire Department "service area", as shown on the official map filed with the Kay County Assessor, may subscribe for fire service provided by the Blackwell Fire Department, subject to the following conditions and limitations:

1. The annual fee for the Fire Service Subscription shall be Sixty Dollars ($60.00) per subscriber per city fiscal year (July 1 through June 30). Fire Service Subscription shall entitle the subscriber to one fire per city fiscal year. Fees created by this section may be changed by resolution of the City Council from time to time. The handling of hazardous materials incidents will be charged in accordance with Section 2-113.

2. All annual Fire Service Subscriptions payments shall be due by each successive July 1; provided however, the initial Fire Service Subscription may be monthly prorated.

3. A Fire Service Subscription shall entitle the subscriber to one (1) fire service incident at the location as provided in the subscriber's application, and any contiguous location owned or leased by the subscriber, but shall be nontransferable to any other residence, property, structure or territory.

4. The subscriber shall receive no out of pocket charge due to such one (1) fire service incident, excepting any amount that can be recovered from any applicable insurance policy.

B. Fees:

1. All such fire service incident, not covered by a Fire Service Subscription, shall be billed at the rates set forth in Section 2-114.

Secs. 2-116—2-137. - Reserved.

DIVISION 3. - POLICE DEPARTMENT

State Law reference— Collective bargaining for police, 11 O.S. § 51-101 et seq.; police generally, 11 O.S. § 34-101 et seq.

Sec. 2-138. Membership; vacancies.

There shall be a police department, the head of which shall be the chief of police.

(Code 1952, title 18, ch. 1, § 1; Code 1967, § 21-1; Ord. No. 2220, 4-3-1979)

Secs. 2-139-2-161. Reserved.

DIVISION 4. - EMERGENCY MANAGEMENT ORGANIZATION

State Law reference— Oklahoma Emergency Management Act of 2003, 63 O.S. § 683.1 et seq.

Sec. 2-162. Purpose.

The purpose of this division is to provide for the creation of an emergency management organization for the city to be prepared for and function in the event of emergencies endangering the lives and property of the people of the city. The duty of such emergency management organization shall be the protection of the lives and health of the citizens of the city and of property and property rights, both private and public, and to perform all functions necessary and incident thereto.

(Code 1967, § 8-1; Ord. No. 2539, § 8-1, 10-2-1990; Ord. No. 2570, § 8-1, 1-7-1992)

Sec. 2-163. Appointment of Director.

To implement the purpose of this division on the Emergency Management Organization, and pursuant to the authority given the City Manager under Article IV, Section 2 of the Blackwell City Charter, the City Manager shall appoint a director of emergency management, who shall be the administrative head of the emergency preparedness organization and shall be responsible for carrying out the emergency management program of the city. The incumbent Director of Emergency Management shall continue to serve until such time as a vacancy occurs.

(Code 1967, § 8-2; Ord. No. 2539, § 8-2, 10-2-1990; Ord. No. 2570, § 8-2, 1-7-1992; Ordinance No. 2020-08, 3-18-2020)

Sec. 2-164. Compensation of participants; liability of city to participants.

Participants in the emergency management program created hereunder, with the exception of the director of emergency management, shall serve without compensation, and the city shall not be liable for any personal injury to any participant or for any damages to personal property owned by a participant which arise out of or are connected to participation in the emergency management program.

(Code 1967, § 8-3; Ord. No. 2539, § 8-3, 10-2-1990; Ord. No. 2570, § 8-3, 1-7-1992)

Sec. 2-165. Cooperation with other agencies.

The organization created hereunder and, specifically, the director of emergency management are hereby empowered and authorized to cooperate with similar emergency management agencies of other governmental units, including the county, the state and the federal government,

which may include participation in the administration of a joint emergency preparedness program.

(Code 1967, § 8-4; Ord. No. 2539, § 8-4, 10-2-1990; Ord. No. 2570, § 8-4, 1-7-1992)

Secs. 2-166-2-183. - Reserved

ARTICLE V. BOARDS AND COMMISSIONS

DIVISION 1. - GENERALLY

Secs. 2-184—2-204. - Reserved.

DIVISION 2. PLANNING COMMISSION

State Law reference— Planning commission, 11 O.S. § 45-101 et seq.

Sec. 2-205. Created; membership; term.

There is hereby created a city planning commission, to be composed of seven members, five members of which shall be nominated by the mayor and appointed with the approval of the majority of city council, and two ex officio members who shall be the mayor and the city manager or designee. The five members to be appointed shall be qualified voters of the city and shall be appointed for a term of office of three years.

(Code 1952, title 27, ch. 1, § 1; Code 1967, § 19-1; Ord. No. 1930, § 1, 1-13-1970)

Sec. 2-206. Purpose; compensation, vacancies.

The members of the city planning commission shall be appointed with the purpose in view of securing the services of citizens and residents of the city who are best qualified to plan for the future growth in developing the city as a whole. The members of the commission shall serve without salary, and in the event of a vacancy in the office of any commissioner, for any reason, a successor shall be appointed as herein provided for the appointment of members, but for the unexpired term only.

(Code 1952, title 27, ch. 1, § 1; Code 1967, § 19-2)

Sec. 2-207. Organization.

Immediately after the appointment and qualification of the members of said commission, the members shall meet and elect, from among their number, a chairman and a secretary, both of which, when elected, shall hold office for one year or until their successors are elected and qualified.

(Code 1952, title 27, ch. 1, § 2; Code 1967, § 19-3)

Sec. 2-208. Adoption of rules, regulations; meetings; quorum.

Three members appointed to the city planning commission, along with one of the two ex officio members, shall be necessary to constitute a quorum to transact any official business of the city planning commission. The city planning commission shall prescribe rules and regulations governing and controlling the transaction of business before it; provided however, that meetings shall be held at least once each month on such days as shall be prescribed in said rules of organization adopted, and special meetings may be called at any time by the chairman of said commission.

(Code 1952, title 27, ch. 1, § 3; Code 1967, § 19-4; Ord. No. 1930, § 2, 1-13-1970)

Sec. 2-209. Powers and duties.

(a) It shall be the duty of the city planning commission to prepare, as soon as practicable, a comprehensive plan for the future physical development, growth, improvement, convenience and beautification of the city which, if approved by the city council, shall be known as the "Official City Plan of Blackwell, Oklahoma."

(b) It shall be the duty of the planning commission to prepare plans for further extensions, modifications and alterations in said official city plan as necessitated by changed conditions or growth and development of the city and submit such extensions, modifications, or alterations to the city council for consideration.

(c) It shall be the further duty for the city planning commission to investigate all matters relating to the location and development of parks, recreation places, boulevards, streets, and other public grounds, the platting of proposed additions or new areas, the location and design of works of art, public buildings, and all public structures, and make a report of its findings on any proposed or contemplated project relative to any of the above matters to the city council, to investigate all questions with reference to the location of transportation lines and terminal facilities, transit systems, the zoning and redistricting of the city with reference of the uses to which private property herein may be put, and the area, height and use of buildings and report its findings to the city council.

(Code 1952, title 27, ch. 1, § 4; Code 1967, § 19-5)

Sec. 2-210. Commission to constitute city zoning board.

The city planning commission shall further constitute a city zoning board, and it shall be the duty of said board to prepare, as soon as possible, an ordinance to be known as the zoning ordinance of the city and dividing the city into districts and for each of such districts imposing regulations, restrictions, limitations and prohibitions for the promotion of the public health, safety, morals, convenience, comfort, prosperity, and general welfare, governing the erection of buildings and other structures and premises to be used for trade, industry, residence or other specified purposes, designating the kinds and classes of trade, industries, residences and other purposes for which buildings and other structures or premises may be permitted to be erected, constructed, reconstructed, altered, repaired or used, regulating and limiting the height and bulk of buildings and other structures, regulating and limiting the percentage of lot occupancy,

setback building lines, and the area of court and other spaces, creating a board of adjustment, defining certain terms used in the ordinance, repealing all ordinances or parts of ordinances in conflict therewith, and providing a penalty for the violation of the same.

(Code 1952, title 27, ch. 1, § 5; Code 1967, § 19-6)

Sec. 2-211. Referral of zoning matters to commission by city council.

All projects or matters that fall within the purview of the duties of the city planning commission coming before the city council shall be referred to the city planning commission for investigation and report before any final action shall be taken thereon; provided that, if the city planning commission fails to make an investigation and report on any matter or subject referred to it for a period of 30 days, such failure shall be deemed a refusal to approve the proposed plan or project, and the city council shall be under no obligation to wait longer for reports or recommendations concerning said project.

(Code 1952, title 27, ch. 1, § 6; Code 1967, § 19-7)

Sec. 2-212. Authority to hire additional personnel; limitation.

The city planning commission shall have the power and authority to employ a secretary, clerks and such necessary technical and professional advisers and services as it deems necessary; provided, however, that the total amount of the city funds so expended and the total amount of obligations against the city so incurred in any one year shall not exceed an appropriation of city funds made for the use of the city planning commission during the year.

(Code 1952, title 27, ch. 1, § 7; Code 1967, § 19-8)

Sec. 2-213. Zoning Ordinance Re-Adopted And Codified.

The Zoning Ordinance of the City of Blackwell, Oklahoma, dated March 5, 1974 (“Zoning Ordinance”), as amended, three (3) copies of which are on file in the Office of the City Clerk, is hereby re-adopted and codified into the Blackwell Municipal Code 2008, and incorporated herein by reference, as if set out in full.

(Ord. No. 2018-16, 11-15-2018)

Sec. 2-214 Subdivisions Regulations Re-Adopted and Codified.

The Subdivision Regulations of the City of Blackwell, Oklahoma, as amended, three (3) copies of which are on file in the Office of the City Clerk, are hereby re-adopted and codified into the Blackwell Municipal Code 2019, and incorporated herein by reference, as if set out in full.

Secs. 2-215-2-219. - Reserved.

ARTICLE VI. CITY RECORDS

Sec. 2-220. Appointment of official custodians.

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

(1) *City clerk.* All public records kept and maintained in the city offices and all other public records not provided for elsewhere in this article;

(2) *City treasurer.* All public records not on file in the office of the city clerk and kept and maintained in the city treasurer's office;

(3) *Chief of police.* All public records not on file in the office of the city clerk and kept and maintained in the city police department;

(4) *Fire chief.* All public records not on file in the office of the city clerk and kept and maintained in the city fire department;

(5) *City attorney.* All public records not on file in the office of the city clerk and kept and maintained in the city attorney's office;

(6) *Court clerk.* All public records not on file in the office of the city clerk and kept and maintained in the municipal court; and

(7) *City librarian.* All public records not on file in the office of the city clerk and kept and maintained in the city library, including but not limited to the records contained therein pertaining to the smelter issue and settlement.

(8) *City manager.* All public records not on file in the office of the city clerk and kept and maintained by the city manager.

(Ord. No. 2819, § I, 10-1-2015)

State Law reference— Open Records Act, 51 O.S. §§ 24A.1—24A.30.

Sec. 2-221. Designation of additional official custodians.

(a) Each of the official custodians appointed in section 2-220 of this article are hereby authorized to designate any subordinate officers or employees to serve as official custodian. The official custodians shall have such duties and powers as are set out in the Oklahoma Open Records Act.

(b) Whenever an official custodian shall appoint another person as an official custodian he or she shall notify the city clerk of such designation and the city clerk shall maintain a register of all such designations.

(Ord. No. 2819, § I, 10-1-2015)

Sec. 2-222. Duties of custodians.

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

(Ord. No. 2819, § I, 10-1-2015)

Sec. 2-223. Requests to be directed to custodians.

(a) All members of the public, in seeking access to public records, or copies thereof, in whatever format, shall be made in accordance with the provisions of the Oklahoma Open Records Act, and only as to those public records required by law to be produced, and shall address their requests to the custodian charged with responsibility for maintenance of the record sought to be inspected or copied.

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

(Ord. No. 2819, § I, 10-1-2015)

Sec. 2-224. Procedures regarding inspection, copying and providing of open public records.

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

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

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

(3) Official custodians may prevent excessive disruptions of essential functions and provide the record at the earliest possible time;

(4) All inspections, copying and/or otherwise provision of open public records shall be performed by, or under the supervision of, the official custodian responsible for such records;

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

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

(7) Any fees for copies or for scanning and providing in a digital form are due at the time the records, or copies thereof, in whatever form, are provided to the requester, unless the official custodian has demanded that prepayment of all or part of such fees be made. Fees are to be paid to the official custodian;

(8) No record search or copying charge shall be assessed against officers or employees of the city who make requests which are reasonably necessary to the performance of their official duties;

(9) Hours for making requests for inspection or copying or the provision of public records shall be all regular working hours for each day the office maintains regular office hours;

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

(11) The above procedures, as well as any other inspection and copying procedures, shall be posted in a conspicuous place in the office of the official custodian.

(Ord. No. 2819, § I, 10-1-2015)

Sec. 2-225. Procedures regarding inspection of open public records.

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

(1) Custodians shall handle all requests for public records in accordance with their duties to protect and preserve public records and to assist persons requesting inspection of open public records.

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

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

(4) The official custodian shall, upon making a denial of an inspection request, forward a copy of the denial to the city manager.

(Ord. No. 2819, § I, 10-1-2015)

Sec. 2-226. Procedures regarding copies and/or production and provision of records in digital format.

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

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

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

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

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

(Ord. No. 2819, § I, 10-1-2015)

Sec. 2-227. No fee for inspection.

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

(Ord. No. 2819, § I, 10-1-2015)

Sec. 2-228. Fee for mechanical reproduction.

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

(Ord. No. 2819, § I, 10-1-2015)

Sec. 2-229. Prepayment of fees.

Custodians may demand prepayment of a fee. The prepayment amount shall be an estimate of the cost of copying, mechanical reproduction, scanning or searching for the record. Any overage or underage in the prepayment amount shall be settled prior to producing the requested record or delivering the copy or mechanical reproduction or converting to digital form and providing and such fees shall be as provided in section 2-230.

(Ord. No. 2819, § I, 10-1-2015)

Sec. 2-230. Fees.

(a) In general.

(1) For copies of documents having dimensions of eight and one-half by 14 inches or smaller, $0.25 per copy or per page sent electronically;

(2) Thirty-five cents for copies of each page larger than eight and one-half by 14 inches or per page sent electronically;

(3) Twenty-five cents per copy or per page sent electronically for computer printouts;

(4) For certified copies, $1.00 per copied page or per page sent electronically;

(5) Any authorized gun dealer in the State of Oklahoma who requests a background investigation through the Blackwell Police Department in order to provide for the sale of a handgun to any person shall pay a fee of $10.00 per background investigation.

(b) This section shall not apply to the following volumes, booklets or pamphlets if another fee has been established:

(1) Complete copies of the city code of ordinances;

(2) Copies of chapters or similar parts of this Code which have been prepared in booklet form; or

(3) Ordinances which have been prepared in booklet form.

(c) If the request for copies of public records is:

(1) Solely for commercial purposes; or

(2) Clearly would cause excessive disruption of the public body's essential functions; then the following document search fees shall be charged to recover the direct cost of the document search, which is legislatively determined to be:

a. Twenty-five Dollars per hour with a $15.00 minimum; or

b. Forty Dollars per hour for computer searches, including e-mail searches with a $20.00 minimum.

(3) For publication in a newspaper or broadcast by news media for news purposes the same shall not constitute resale or use of a record for trade or commercial purposes and charges for providing copies of electronic data to the news media for a news purpose shall not exceed the direct cost of making the copies.

(d) In no case shall a search fee be charged when the release of the records is in the public interest, including, but not limited to, release to the news media, scholars, authors and taxpayers seeking to determine whether those entrusted with the affairs of the government are honestly, faithfully and competently performing their duties as public servants.

(e) The city clerk shall post a copy of the fee schedule on the public bulletin board in the city hall and with the Kay County Clerk.

(Ord. No. 2819, § I, 10-1-2015)

Sec. 2-231. Destruction of public records; scanning and storing public records.

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

(b) The city council hereby authorizes the official custodian with the written approval from the city manager, to destroy, sell for salvage or otherwise dispose of the following papers, documents and records after the expiration of the specified period of time following the end of the fiscal year in which the paper, document or record was created, except as otherwise specified:

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

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

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

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

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

(6) With respect to Police Dash Cam Video and Body Cam Video (hereinafter "Video"):

- Critical Video defined as 1) vehicle stop where seizure and/or arrest is made, 2) injury to any officer or suspect, 3) use of force, 4) formal or administrative complaint/investigation and/or 4) or as otherwise determined by policy, shall be retained for three (3) years, and

- Non-critical Video defined as 1) warnings, 2) tickets, and 3) routine interactions with the public, shall be retained for 180 days.

- Video evidence which the officer reasonably believes constitutes evidence in a criminal case shall be maintained for the amount of time required by statute, until the case is adjudicated, or until all appeals have been exhausted.

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

(d) Other records. Public records not addressed in subsection (b) or (c) hereinabove, may be destroyed by their official custodian, with written approval from the city manager, one year after their creation.

(e) Retention of public records. Except as otherwise provided in subsection (f), all public records shall be retained for the time periods provided by subsections (b), (c) and (d) and may thereafter be scanned as digital files and stored, either on and/or off site, and/or destroyed by their official custodian, with written authorization from the city manager. This procedure shall apply to all files of the city. Notwithstanding the foregoing, the following public records shall be held in perpetuity: deeds, records bearing signatures of historical persons or other public records of historic or legal significance, city meeting minutes, and testing laboratory results or the inspection records of public improvements.

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

(Ord. No. 2819, § I, 10-1-2015)

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Chapter 3 RESERVED

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Chapter 4 - ALCOHOLIC BEVERAGES

ARTICLE I - ALCOHOLIC BEVERAGES AND OCCUPATION TAX

ARTICLE II - ALCOHOLIC BEVERAGES AND SPECIFIC OFFENSES

Chapter 4 ALCOHOLIC BEVERAGES

ARTICLE I

ALCOHOLIC BEVERAGES AND OCCUPATION TAX

Sec. 4-1 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, 37A O.S. §1-101 et seq. Titles 37 and 37A of the Oklahoma Statutes, as amended, are hereby adopted and incorporated herein by reference, but only to the extent such sections provide for criminal misdemeanor offenses, and are enforceable by the Town within the Town limits as if set out at length herein. Unless otherwise specifically provided otherwise in this Code, all violations of such sections shall be punishable by a maximum fine of $500.00, plus court costs, fees and state assessments; provided however, if the penalty including costs for the state offense is less than the amount as provided hereinabove, then the fine and costs shall not exceed the amount charged by statute for the same offense

Sec. 4-2 Occupation Tax Levied.

There is hereby levied and assessed an annual occupation tax on every business or occupation that has its principal place of business in Blackwell, Oklahoma and is required to have a licensee from the Alcoholic Beverage Laws Enforcement Commission as specifically enumerated hereinbelow, and in the amount therein stated:[3]

Brewer	$100.00[4]
Small Brewer	$100.00[5]
Small Brewer Self-Distribution	$100.00[6]
Brew Pub	$100.00[7]
Brew Pub Self-Distribution	$100.00[8]

[3] Maximum occupation taxes permitted to be charged by state law in the following footnotes.

[4] $1250.00

[5] $125.00

[6] $750.00

[7] $1005.00

[8] $750.00

Distiller	$100.00[9]
Winemaker	$100.00[10]
Winemaker Self-Distribution	$100.00[11]
Small Farm Winery	$75.00[12]
Wine and Spirits Wholesaler	$100.00[13]
Beer Distributor	$100.00[14]
Retail Spirits	$100.00[15]
Retail Wine	$50.00[16]
Retail Beer	$50.00[17]
Mixed Beverage Initial	$100.00[18]
Mixed Beverage Renewal	$100.00[19]
Mixed Beverage/Caterer Combination	$100.00[20]
On Premises Beer and Wine Initial	$100.00[21]

[9] $3125.00

[10] $750.00

[11] $750.00

[12] $75.00

[13] $3000.00

[14] $750.00

[15] $905.00

[16] $1000.00

[17] $500.00

[18] $1005.00

[19] $905.00

[20] $1250.00

[21] $500.00

On Premises Beer and Wine Renewal	$100.00[22]
Bottle Club Initial	$100.00[23]
Bottle Club Renewal	$100.00[24]
Caterer	$100.00[25]
Caterer Renewal	$100.00[26]
Annual Special Event	$55.00[27]
Quarterly Special Event	$55.00[28]
Hotel Beverage Initial	$100.00[29]
Hotel Beverage Renewal	$100.00[30]
Charitable Auction	$1.00[31]
Charitable Alcoholic Beverage	$55.00[32]
Annual Public Event	$100.00[33]
One-time Public Event	$100.00[34]

[22] $450.00

[23] $1000.00

[24] $900.00

[25] $1050.00

[26] $905.00

[27] $55.00

[28] $55.00

[29] $1005.00

[30] $905.00

[31] $1.00

[32] $55.00

[33] $1005.00

[34] $225.00

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

Sec. 4-3 Payment Required; Penalty.

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

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

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

Sec. 4-4 Annual Report.

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

Sec. 4-5 Application for Certificates; Investigation.

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

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

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

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

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

Sec. 4-6 Issuance Of Certificates

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

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

C. Every applicant for a certificate of compliance with the zoning, fire, health and safety codes of the city, required by ABLE Commission, shall pay a verification and certification fee in the amount of twenty-five dollars ($25.00) at the time of filing.

Sec. 4-7 through 4-20 Reserved

ARTICLE II ALCOHOLIC BEVERAGES AND SPECIFIC OFFENSES

Sec. 4-21 Display License.

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

Sec. 4-22 Drinking in Public.

It is unlawful for any person to drink any alcoholic beverage, to include beer and wine (hereinafter “alcoholic beverage”), while such person is upon any public street, alley, or other public highway, or in any public building or other public place within the City. This Section shall not prohibit a person who is of age from drinking such beverage in a place licensed to sell it for consumption on the premises or any person who is of age who is consuming any alcoholic beverage at any special event from an authorized seller, which special event is authorized in writing by the City Manager. The specific site at any such authorized special event wherein alcoholic beverages shall be permitted to be consumed shall be plainly and clearly marked with signage warning the public that no consumption is permitted outside the area identified by the signs and any person who shall consume alcoholic beverages outside the designated area identified by the signs or who shall consume alcoholic beverages from any source other than an authorized seller and not in an otherwise authorized location shall be guilty of an offense of Section 4-22.

Sec. 4-23 Public Intoxication and Drinking Prohibited.

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

Sec. 4-24 Minors and Alcoholic Beverages.
It is unlawful for any person under the age of twenty-one (21) years to be in possession of any alcoholic beverage while such person is upon any public street, road or highway or in any public place within the city limits or to consume or possess with the intent to consume any alcoholic beverage.

Sec. 4-25 Possession or Consumption of Alcoholic Beverages Prohibited In Other Locations Without Permission.

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

B. It shall be unlawful for any person within the city limits, to consume or to have in his or her possession an open container of any alcoholic beverage upon any city owned or controlled property, except as specifically permitted pursuant to Section 4-22 hereinabove.

Sec. 4-26 Permitting or Allowing Gatherings Where Minors Are Consuming Alcoholic Beverages

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

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

“Alcoholic Beverage” means and includes alcohol, spirits, liquor, wine, beer, and every liquid or solid containing alcohol, spirits, wine, or beer, and which contains one-half of one percent ($^1/_2$ of 1%) or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances.

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

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

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

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

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

“Premises” means any hotel or motel room, home, yard, apartment, condominium, or other dwelling unit, or a hall or meeting room, park or public place whether occupied on a temporary or permanent basis, whether occupied as a dwelling or for a party or other social function, and whether owned, leased, rented, or used with or without compensation.

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

B. Consumption of Alcoholic Beverages by Minor in Public Place, Place Open to Public, or Place not open to Public. Except as permitted by state law, it is unlawful for any minor to:

1. Consume at any public place, or any place open to the public, an alcoholic beverage; or

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

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

1. In General

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

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

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

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

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

5. This section shall not apply to any premises licensed by the State of Oklahoma to dispense alcoholic beverages.

6. Reservation of Legal Options. Violation of this section may be prosecuted by the City criminally, civilly, and/or administratively as provided by this code. The City may seek administrative fees and response costs associated with enforcement of this section through all remedies or procedures provided through all remedies or procedures provided by statute, ordinance, or law. This section shall not limit the authority of peace officers or private citizens to make arrests for any criminal offense arising out of conduct regulated by this section, nor shall they limit the City's ability to initiate, and prosecute any criminal offense arising out of the same circumstances necessitating the application of this section.

7. Local Authority

This Section shall not apply where prohibited or preempted by state or federal law.

Sec. 4-27 Location of Retail Package Store, Mixed Beverage Establishments, Beer or Wine Establishments or Bottle Clubs

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

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

C. Exceptions:

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

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

3. Change In Ownership: When any mixed beverage establishment, beer and wine establishment, or bottle club, subject to the provisions of this section which has a license to sell alcoholic beverages for on premises consumption, or retail package store changes ownership or the operator thereof is changed and such change of ownership results in the same type of business being conducted on the premises, the provisions of this section shall not be a deterrent to the issuance of a license to the new owner or operator if he or she is otherwise qualified.

Sec. 4-28 Transporting Open Containers of Alcoholic Beverages

A. Except as provided in subsection B of this section, it shall be unlawful for any operator to knowingly transport or for any passenger to possess in any moving vehicle upon a public highway, street or alley any alcoholic beverage, except in the original container which shall not have been opened and from which the original cap or seal shall not have been removed,

unless the opened container be in the rear trunk or rear compartment, which shall include the spare tire compartment in a station wagon or panel truck, or any outside compartment which is not accessible to the driver or any other person in the vehicle while it is in motion. Any person violating the provisions of this section shall be deemed guilty of an offense and shall pay the fine as provided in the schedule of fines and bonds.

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

C. As used in this section:

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

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

Sec. 4-29 Municipality May Initiate License Suspension.

The City, as to any mixed beverage, beer and wine, caterer, public event or bottle club licensee having its principal place of business in the City, may initiate a license suspension or revocation proceeding as to such licensee by filing a written complaint with the ABLE Commission. The complaint shall set forth the grounds for the proposed suspension or revocation. Such complaint may be based on any ground that the ABLE Commission might have asserted. Upon receipt of such complaint, the ABLE Commission shall forward a copy of the complaint to the licensee together with written notice of the time and place of hearing thereon. The hearing shall be held within the time limits and in the manner prescribed for suspension or revocation proceedings initiated by the ABLE Commission. In any proceeding initiated pursuant to this section, the City shall be deemed an interested party, shall have the right to be heard and to present evidence at the hearing on the complaint and shall be entitled to appeal from any final order entered by the ABLE Commission in the manner otherwise provided in the Oklahoma Alcoholic Beverage Control Act. The City shall not be required to give bond on appeal.

Sec. 4-30 Prohibited Acts

No person shall:

1. Knowingly sell, deliver or furnish alcoholic beverages to any person under twenty-one (21) years of age;

2. Sell, deliver or knowingly furnish alcoholic beverages to an intoxicated person or to any person who has been adjudged insane or mentally deficient;

3. Open a retail container or consume alcoholic beverages on the premises of a package store, grocery store, convenience store or drug store, unless otherwise permitted by law;

4. Import into this state, except as provided for in the Oklahoma Alcoholic Beverage Control Act, any alcoholic beverages; provided, that nothing herein shall prohibit the importation or possession for personal use of not more than one (1) liter of alcoholic beverages upon which the Oklahoma excise tax is delinquent;

5. Receive, possess or use any alcoholic beverage in violation of the provisions of the Oklahoma Alcoholic Beverage Control Act;

6. Knowingly transport into, within or through this state more than one (1) liter of alcoholic beverages upon which the Oklahoma excise tax has not been paid unless the person accompanying or in charge of the vehicle transporting same shall possess a true copy of a bill of lading, invoice, manifest or other document particularly identifying that alcoholic beverages are being transported and showing the name and address of the consignor and consignee; provided, this prohibition shall not apply to the first one hundred eighty (180) liters of alcoholic beverages classified as household goods by military personnel, age twenty-one (21) or older, when entering Oklahoma from temporary active assignment outside the contiguous United States;

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

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

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

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

(Ord, No. 2018-14, 9-6-2018)

Chapter 5 RESERVED

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Chapter 6 ANIMALS

ARTICLE I. IN GENERAL

ARTICLE II. - IMPOUNDMENT GENERALLY

ARTICLE III. - DOGS

DIVISION 1. - GENERALLY

DIVISION 2. VACCINATION LICENSE

DIVISION 3. IMPOUNDMENT

ARTICLE IV. PET SHOPS

DIVISION 1. GENERALLY

DIVISION 2. PET SHOP LICENSE

Chapter 6 - ANIMALS

State Law reference— Animals generally, 4 O.S. § 31 et seq.; general authority of municipalities to regulate animals, 11 O.S. § 22-115.

ARTICLE I. - IN GENERAL

Sec. 6-1. - Definitions.

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

Animal bite means any contact between the mouth and/or teeth of an animal and a person or domestic animal which causes any bruise, inflammation, puncture, tear, rip and/or break in the skin of the victim.

Animal control officer means the person employed by the city as an enforcement officer for this chapter.

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

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

Animals means all vertebrate and invertebrate animals, including, but not limited to, bovine, cattle, horses and other equines, hogs, goats, rabbits, sheep, chickens, ducks, geese, turkeys, pigeons and other fowl or wild mammals, and reptiles, fish or birds that have been tamed, domesticated or captivated.

At large means any animal not under restraint.

Cattery means any premises, whether operated for pleasure or profit, where there is being maintained or harbored a total of five or more cats over six months of age, except veterinary hospitals.

Confined on premises means the condition in which an animal is secured and physically kept, retained, restricted or contained on and within the premises of the owner by means of wall, fences or an enclosure, such enclosure being adequate to contain the animal at all times.

Dog means any dog, bitch and every other animal of the canine species at the age of two months or older.

Enclosure means a fence or structure suitable to prevent the entry of young children and suitable to confine an animal in conjunction with other measures, such as tethering, which may be taken by the owner or keeper. The enclosure shall be securely constructed and shall have

secure sides, top and bottom and shall be kept locked. The design and construction shall be adequate and sufficient to prevent the animal from escaping.

Harboring means the allowing of any animal to habitually remain or lodge or to be fed within a person's home, store, yard, enclosure or place of business, or any other premises in which such person resides or controls.

Kennel means any premises, whether operated for pleasure or profit, where there is being maintained or harbored a total of four or more dogs over the age of six months, except veterinary hospitals.

Owner means any person who owns, keeps, harbors, possesses, maintains or has the care, custody or control of an animal, any person who is the custodian of a premises where an animal is kept, possessed, harbored or maintained, or any person who is the parent or legal guardian of a minor who keeps, possesses, harbors, maintains or has the care, custody or control of an animal.

Restraint.

(1) The term "restraint" means the condition in which an animal is:

   a. Humanely controlled by a leash held by a competent person;

   b. Securely tethered in a humane manner within the property limits of its owner or keeper; or

   c. Confined on the premises of its owner.

(2) In all cases, restraints shall be sufficient to prevent the animal from biting, attacking or having physical contact with unattended small children or any person who is on or about his lawful business.

Severe injury means any physical injury to a human or other domestic animal that results in broken bones, multiple bites, or disfiguring lacerations requiring multiple sutures or reconstructive surgery or that causes the death of a human or other domestic animal.

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

Unprovoked means resulting when one has been conducting himself peacefully and lawfully without threat to the animal.

Vicious animal means:

(1) Any animal which has a propensity, tendency or disposition to attack and severely injure humans or domestic animals without provocation and such tendency is displayed by the animal through its posture or demeanor when approached by a person on private or public property.

(2) Any animal which bites and inflicts severe injury upon a human being or domestic animal without provocation on private or public property.

(3) Any dog or other animal owned or harbored primarily or in part for the purposes of animal fighting.

(4) Any dog or other animal trained for fighting.

(Ord. No. 2741, § 4-1, 5-17-2005)

Sec. 6-2. Penalty.

A violation of the provisions of this chapter shall be prosecuted in municipal court as a class C offense. In addition, the judge shall assess as costs of the case all expenses incurred by the city for the boarding, care and treatment of any animal.

(Ord. No. 2741, § 4-170, 5-17-2005)

Sec. 6-3. Cruelty to animals prohibited.

(a) It shall be unlawful for any person to abandon, overdrive, overload, drive when overloaded, overwork, torture, torment, deprive of necessary sustenance or water, beat, mutilate or kill any animal or fail to give such animal sufficient water, to cause or procure an animal to be so overdriven, overloaded, driven when overloaded, overworked, tortured, tormented or deprived of necessary sustenance or water, beaten, mutilated, or killed, or to fail to provide an animal adequate shelter and protection from the weather. This section shall also apply to dogs and cats.

(b) Further, it shall be unlawful to:

(1) Deprive an animal of adequate shelter and shade. The term "adequate shelter," when used in this section, means watertight housing in which an animal is able to enter and turn around. Adequate shade shall be present or provided, other than in the animal's house, that protects the animal from the heat of the sun.

(2) Knowingly allowing obvious nutritional deficiencies or denying veterinary care to an injured, sick, or parasitized animal.

(3) Leave an animal enclosed within a vehicle or the bed of a parked truck in ambient temperature which exceeds 79 degrees Fahrenheit unless said animal is enclosed inside the vehicle with the air conditioning turned on.

(4) Tether an animal in a manner that it can become entangled on any object or with another tethered animal. Such tethering restraint shall be a chain or cable of an appropriate size and tensile strength that is suitable to successfully restrain the animal, and will be attached to the animal with a well fitted collar or harness that does not press into or tear or cut the animal's neck; provided that, for the purpose of tethering a dog, a chain, leash or tether shall be at least ten feet in length. A rope or cord is not a sufficient or adequate tethering device.

(5) Confine incompatible dogs together in the same enclosure and allow them to injure each other. At any sign of serious aggression among dogs that are housed together, the dogs must be separated into individual quarters.

(6) Promote animal fights, including, but not limited to, fowl or fish.

(Code 1952, title 2, ch. 5, § 60; Code 1967, § 4-5; Ord. No. 2667, § 4-5, 3-19-1996; Ord. No. 2741, § 4-2, 5-17-2005)

State Law reference— Cruelty to animals, 21. O.S. 1685; animal fights, 21 O.S. §§ 1682, 1683.

Sec. 6-4. Running at large, trespassing prohibited.

It shall be unlawful for any owner, keeper or possessor of any chickens, ducks, geese, turkeys or other domestic birds or fowl, or of any horse, cow, colt or any other animal to permit or suffer the same to run at large or to trespass upon the premises of another within the city.

(Code 1952, title 2, ch. 1, § 1; Code 1967, § 4-6; Ord. No. 2741, § 4-3, 5-17-2005)

State Law reference— Authority to prohibit fowl running at large, 11 O.S. § 22-115.

Sec. 6-5. Suitable clean pens to be provided for domestic birds and fowl.

Owners or keepers of any chickens, ducks, geese, turkeys or other domestic birds or fowl within the limits of this city shall provide suitable pens in which to keep the same. Said pens are to be kept clean at all times.

(Code 1952, title 2, ch. 1, § 2; Code 1967, § 4-7; Ord. No. 2741, § 4-4, 5-17-2005)

Sec. 6-6. Cow and horse barns, corrals, etc., to be kept sanitary.

(a) It is unlawful for any person to keep or harbor any cow or horse in a lot, barn, corral or enclosure which is not cleaned daily and kept in a sanitary and inoffensive condition.

(b) Sufficient space shall be provided to allow animals to move freely and have sufficient food, water, shelter and exercise. The lot, barn, corral or enclosure shall be no closer than 150 feet to any dwelling, except in those areas zoned agricultural under the city zoning code, where a dwelling shall be no closer than 50 feet.

(Code 1952, title 2, ch. 1, § 3; Code 1967, § 4-8; Ord. No. 2741, § 4-5, 5-17-2005)

Sec. 6-7. Unlawful to keep swine in city.

It shall be unlawful for any person to keep or maintain any swine or any pen for the same, or permit the same to be maintained within the corporate limits of the city.

(Code 1952, title 2, ch. 1, § 4; Code 1967, § 4-9; Ord. No. 2741, § 4-6, 5-17-2005)

Sec. 6-8. Bees; unlawful to keep.

It shall be unlawful for any person to keep or permit to be kept any bees within the corporate limits of the city.

(Code 1952, title 2, ch. 2, § 21; Code 1967, § 4-10; Ord. No. 2741, § 4-7, 5-17-2005)

Sec. 6-9. Animals which disturb prohibited.

It is unlawful for any person to keep or harbor within the city any dog or other animal which, by constant and repetitive barking, growling, howling or the making of any other noises, disturbs the peace and quiet of any reasonable person.

(Ord. No. 2658, § 4-11, 8-1-1995; Ord. No. 2741, § 4-8, 5-17-2005)

Sec. 6-10. Poisonous or dangerous animals.

It shall be unlawful for any person to keep and maintain within the corporate limits of the city any poisonous and/or dangerous animals, including, but not limited to, snakes longer than 15 feet or over 40 pounds, bears, cougars, African lions, mountain lions, leopards, tigers, or any large, nondomestic cat over 25 pounds, wolves or wolf hybrids, coyotes or coyote hybrids.

(Ord. No. 2741, § 4-9, 5-17-2005)

Sec. 6-11. Release of nonindigenous animals.

It shall be unlawful for any person to release or abandon any nonindigenous animals, including, but not limited to, fish and reptiles, within the corporate limits of the city or upon any land owned or operated by the city or by any trust authority having the city as a beneficiary.

(Ord. No. 2741, § 4-10, 5-17-2005)

Sec. 6-12. Abandonment of domestic animals.

It shall be unlawful for any person to deposit any live dog, cat or other domestic animal along any private or public roadway or in any other private or public place with the intention of abandoning the domestic animal.

(Ord. No. 2741, § 4-11, 5-17-2005)

State Law reference— Abandoning animal, 21 O.S. § 1686.

Sec. 6-13. Animals from outside city limits.

Any nonresident of the city who lives in the vicinity of a ten-mile radius from city hall and who wishes to leave an animal at the city's animal shelter shall pay a fee as set by resolution. Said animal will not be accepted if the nonresident or the animal is from an area or other municipality that provides animal control services or has an animal shelter and/or may not be accepted if the animal has a communicable disease. The city animal shelter personnel reserve the right to refuse an animal from outside the corporate city limits of the city if the animal shelter is deemed full.

(Ord. No. 2741, § 4-12, 5-17-2005)

Sec. 6-14. Pet rabbits kept for nonagricultural purposes.

Rabbits may be kept as pets, provided that no more than three adults and 14 young under the age of 12 weeks may be housed in hutches located at least 50 feet away from any dwelling, house trailer, hotel, motel, grocery store, supermarket, or food service establishments, not inclusive of the owner's residence or out buildings; or rabbits may be maintained, with no distance requirements from residences or other establishments, in a fenced yard that is at least 900 square feet in area. Said fence must be constructed of small, mesh wire that the rabbit cannot escape through with the perimeter of the fence buried along the bottom to prevent the rabbit from burrowing out. Rabbits fenced in a yard must be provided with adequate housing for protection from the weather.

(Ord. No. 2741, § 4-13, 5-17-2005)

Sec. 6-15. Administering of poisonous substances prohibited.

It shall be unlawful for any person to administer any poisonous or noxious drug or substance to any animal or to expose any animal to any poisonous or noxious drug or substance, whether on public or private property, or whether such animal is on the property of its owner or another, when such substance is capable of causing the death or dangerous sickness of any domestic or household animal, including, but not limited to, dogs and cats. The provisions of this section shall not apply to controlled programs under the direction of the health department, to a licensed exterminator in performance of his job, or to a licensed veterinarian, euthanasia technician, or animal control officer in the performance of humane euthanasia.

(Ord. No. 2741, § 4-14, 5-17-2005)

Sec. 6-16. Rabies control generally.

(a) Any person owning, harboring, or keeping a dog, cat, or ferret which, in the preceding ten days, has bitten any person shall, upon notification by animal control authority or police officer or designated department designee, place the animal, at the expense of the owner or the person harboring or keeping such animal, in quarantine under the supervision of a licensed veterinarian for a period of ten days from the date the person was bitten. Failure to surrender any animal immediately after demand for quarantine or rabies testing by an animal control officer, police officer or department designee shall be deemed in violation of this chapter. The impoundment and observation of the dog, cat, or ferret shall be conducted at the veterinarian's facility. Boarding kennels shall not be considered proper confinement facilities. Unvaccinated animals shall be vaccinated against rabies on the final day of the ten-day observation period prior to discharge from the veterinarian's supervision. The veterinarian shall notify animal control of the disposition of said animal.

(b) Exceptions to this rule include the following circumstances:

    (1) Dogs, cats, or ferrets involved in a first party ownership may be allowed to be securely confined and closely observed at the owner's home for ten-day home quarantine period immediately following the bite.

a. The term "first party ownership," for the purpose of this subsection, means a situation where the owner of a biting animal is directly related to the bite victim, that is parent-child, sibling-sibling, grandparent-child, or when the legal residence of the animal owner and the bite victim are the same.

b. The term "home observation or quarantine," for the purpose of this subsection, means quarantine of an animal allowed at the animal owner's property, where one of the following acceptable methods of confinement for a dog are used:

1. Complete indoor housing;

2. Caging or kenneling in an enclosure with a securely latched door; or

3. Yard confinement with perimeter fencing that the dog is unable to climb over or dig under and has never done so in the past.

c. Acceptable methods for confinement for a cat or ferret are:

1. Complete indoor housing; or

2. Caging in an enclosure that prevents escape.

d. The animal's needs for ambient temperature control, water, nutrition, elimination, and space to comfortably stand up and lie down must be adequately provided by the selected confinement method.

(2) Dogs, cats, and ferrets meeting the criteria of currently vaccinated against rabies and not inflicting a severe injury can be placed in home quarantine, as described in subsection (b)(1) of this section, until the end of a ten-day period from the bite. If there are any changes in health or condition of an animal in home quarantine, or if the animal dies, the person caring for that animal must take the animal directly to his veterinarian and report the change to the animal control division. A certification of animal health obtained after examination by a licensed veterinarian on the tenth day will be required and presented to the city animal control within two days of the end of the quarantine period. Approval for home quarantine will be determined by the animal control division officer, police officer or department designee.

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

(4) Stray or unwanted dogs, cats, or ferrets that have bitten any person may either be quarantined for ten days at a veterinary facility or recognized quarantine facility or euthanized and the brain tissue submitted to the state department of health laboratory for rabies testing. Upon successful completion of the ten-day period, a stray animal may be placed for adoption by the animal control division's authority.

(c) At the end of the ten-day period, the animal control officer shall notify the person bitten by such animal of the disposition and/or the laboratory test results.

(d) In the case of a dog, cat or ferret known to have been bitten or scratched by a rabid animal, said dog, cat or ferret shall be euthanized immediately either by a veterinarian of the owner's

choice or by the city animal control officer. If the owner of such dog, cat or ferret is unwilling to have such dog, cat or ferret destroyed, then, at the expense of the owner, any such unvaccinated dog, cat or ferret shall be placed in strict quarantine and observed for a period of six months under the supervision of a licensed veterinarian. The exposed animal shall be immediately vaccinated against rabies upon entry into quarantine and then given booster vaccinations at the third and eighth week of the quarantine period. Animals less than 16 weeks of age at the time of entry into quarantine could be required by the veterinarian to receive a booster vaccine in addition to the above protocol.

(e) Any dog, cat, or ferret which is currently vaccinated against rabies and is exposed to a rabid animal shall be revaccinated immediately and isolated and confined by the owner for a period of at least 45 days.

(Ord. No. 2741, § 4-15, 5-17-2005)

Sec. 6-17. Vaccination against rabies; certificate.

(a) It shall be unlawful for any person to own, keep, or harbor any dog, cat, or ferret, male or female, over four months of age within the city unless such dog, cat or ferret has been immunized by vaccination against rabies in accordance with the regulations promulgated by the state department of health.

(b) Each veterinarian, after vaccinating a dog, cat, or ferret for rabies, shall issue a legible certificate in duplicate, one copy to be retained by the veterinarian and one copy to be retained by the animal owner. Each certificate shall include the following information:

(1) Date on which the vaccination is administered.

(2) Owner's full name, address, zip code and telephone number.

(3) Type of vaccine and duration of immunity.

(4) Signature of the veterinarian administering the vaccination.

(5) Name of the animal, if applicable.

(6) Breed, age, sex, and color or marking of the dog, cat or ferret.

(Ord. No. 2741, § 4-16, 5-17-2005)

Sec. 6-18. Vicious animals.

(a) *Determination as a vicious animal; procedure.* An animal control officer or police officer may make a determination that an animal is vicious.

(1) *Notice to owner.* Upon such determination, the animal control officer or police officer shall serve notice of same on the owner, keeper or occupant of the premises where the animal is kept, and such person must be at least 15 years of age. Such notice shall contain the applicable sections of this chapter so as to inform such owner, keeper or occupant of the premises where the animal is kept that the animal has been determined to be vicious, and sufficient to apprize the owner or keeper or other occupant of his

responsibilities because of such finding in ensuring the safety and well-being of the general public.

(2) *Written objection by owner.* Such notice shall further give notice to the owner, keeper or occupant of the premises where the animal is kept that, should such person choose to take issue or object to such determination, he shall, within five days of the receipt of the notice, file a written objection to such determination with the municipal court clerk, who shall, within ten days, docket the same for a hearing before the municipal judge upon the issue of whether the dog is vicious or not.

(3) *Time limit for compliance.* Such notice shall further provide that, in the event no hearing is requested by the owner of the animal, the determination of the animal control officer shall become final at the expiration of five days, and the owner shall bring himself into compliance with subsection (b) of this section within ten days of service of notice of the original determination by the animal control officer.

(b) *Owner responsibility; confinement, registration, insurance, destruction.* In the event the owner, keeper or occupant of the premises where the animal is kept does not contest the animal control officers or the police officer's determination that the animal is vicious, or in the event, upon hearing, the municipal judge determines such animal to be vicious, it shall immediately become the responsibility of the owner to comply with the following provisions:

(1) *Confinement in enclosure; restraint and muzzle.*

a. The owner or harborer of a vicious animal shall confine the animal in an approved enclosure, as set forth in subsection (d) of this section.

b. When it is necessary for the animal to be outside its enclosure for the purpose of veterinary care or for the sale or disposition of the animal, it shall be securely muzzled and restrained by leash and be under the direct control of a person over the age of 18 years.

(2) *Time limit for compliance.* The owner or harborer of a vicious animal shall, within ten days of the determination that the animal is vicious, comply with the provisions of this subsection.

(3) *Identification; tattoo.* The owner or harborer of a vicious animal shall:

a. Have the vicious animal tattooed on an inside thigh and have an identifying micro chip inserted between the top of the dog's shoulder blades at the withers, by an individual licensed to practice veterinary medicine in the state; and

b. Attain from such veterinarian proof of such identification and the identification number assigned to the specific dog.

(4) *Registration and fee.* It shall be unlawful for any person to own or harbor a vicious dog unless said dog has been registered and the registration is current pursuant to this section. The owner or harborer of a vicious animal shall:

a. Complete a "registration form for vicious animals" and submit the same to the city clerk. The form shall contain, among other things, the name of the owner, the owner's address and phone number, the name of the animal, the type of animal, a

list of distinguishing markings, three close-up photographs of the animal (frontal, right and left sides), a veterinarian's proof of tattooing and micro ship implantation and such other information as required by the clerk in order to ensure that the owner and animal are identified and to provide the city with a means of tracking the whereabouts of the animal and identity of its owner. The registration form shall be in the form of an affidavit under oath and signed by the owner of the dog. The owner shall immediately notify the animal control department of the sale or disposition of a vicious animal and the person to whom said animal is sold or given and the address of such person.

b. Reregister the dog with the city clerk annually.

c. Pay a registration fee to the city clerk, in an amount set by resolution, for the initial registration, and the same amount upon the issuance of a permit for transfer of ownership or annual registration of such an animal.

(5) *Liability insurance.* Contemporaneously with registration of the animal, the owner shall submit to the city clerk a certificate verifying that the owner carries liability insurance which would provide coverage to some third party in the event of injuries or property damage sustained by the actions of the vicious animal, or, in lieu thereof, a deposit of cash or surety bond in the amount of $50,000.00 which would be held to indemnify some third party in the event of injuries or property damage. It shall be the duty of the owner to provide the city clerk additional proof of continued insurance or renewal of any surety bond by the expiration date of the policy or bond.

(6) *Permit for transfer.* Prior to selling or transferring ownership or custody of such a vicious animal, the owner shall inform the successive owner or keeper that the animal has been determined to be vicious and to secure a permit for transfer of ownership. A permit for transfer of ownership is required even if the animal is to be transferred to a location outside the city limits in order to permit tracking of the animal. Such permit shall contain such pertinent information that the new owner of the dog may be identified, located and notified of proceedings concerning the dog, and the new owner or keeper shall execute the permit in the office of the city clerk. By executing said permit, the successive owner or keeper acknowledges that he will, within ten days thereof, comply with this Code regarding the keeping of dangerous or vicious animals.

(7) *Destruction of animal.* In the alternative to complying with the provisions of this subsection, the owner or harborer of a vicious animal may humanely destroy the animal.

(c) *Court ordered destruction.* The municipal judge shall order an animal to be destroyed if:

(1) Such animal is determined to be vicious, and the owner, keeper or occupant of the premises where such animal is kept fails to comply with the provisions of subsection (b) of this section within ten days of the date of final determination that the animal is vicious; or

(2) The animal is determined to be vicious, and the injuries which the animal inflicted on the other animal or human giving cause for the animal to be determined to be vicious were serious and exhibited such a ferocious disposition that a reasonable person would believe the animal likely to inflict such damages in the future to other animals or persons which it might encounter.

(d) *Proper confinement required.*

(1) *Prohibition.* It is unlawful to keep a vicious animal on a chain or tether outside of an enclosure.

(2) *Requirements.* The owner or harborer of a vicious animal shall comply with the following:

a. *Inside premises.* When the dog is indoors, the owner or harborer shall secure all means of egress so that the dog may not exit.

b. *Outside premises.* When the dog is outside and on the premises of the owner or harborer, such dog shall be kept confined at all times in a roofed, securely fenced and locked barricade designed so that the dog may not dig its way out. The barricade must be of sufficient height to prevent the dog from jumping over it and, in any event, not less than six feet in height, measuring from the ground, with an attached top, and posted with a sign stating "vicious dog" by both symbol and words, and constructed so that a child cannot penetrate the barricade with his hand.

c. *Off premises.* When the dog is off the premises of the owner or harborer, such dog shall be kept muzzled and securely restrained with a leash not exceeding three feet in length and under the control of a competent adult 18 years of age or older. In the alternative, said vicious dog may be confined in a locked crate which is constructed of a material of sufficient strength to prevent escape and posted with a sign stating "vicious dog" by both symbol and words and constructed so that a child cannot penetrate the crate with his hand.

d. *In vehicle.* When the dog is in a vehicle or is being transported in an open truck bed or other conveyance, such dog shall be confined in a locked crate or cage which is constructed of a material of sufficient strength to prevent escape and posted with a sign stating "vicious dog" by both symbol and words, and constructed so that a child cannot penetrate the crate or cage with his hand.

(e) *Possession limited.* It shall be an offense, subject to the penal provisions of this Code, and unlawful for any person to own or harbor more than one vicious animal which is over the age of six months.

(Ord. No. 2741, § 4-17, 5-17-2005)

Sec. 6-19. Nuisances.

It shall be unlawful for any person to keep or harbor an animal which is determined to be a nuisance.

(Ord. No. 2741, § 4-18, 5-17-2005)

Secs. 6-20-6-41. - Reserved.

ARTICLE II. - IMPOUNDMENT GENERALLY

State Law reference— Authority of city to impound animals and sell for costs, 11 O.S. 14-115.

Sec. 6-42. Humane officer—Officer created; appointment.

There is hereby created the office of humane officer. Such officer is to be appointed to enforce the provisions of this chapter. The term "humane officer," as referenced herein, shall be construed as having the same meaning as "animal control officer," and all sections shall apply with equal force and effect to the animal control officer regardless of which term is used.

(Code 1952, title 2, ch. 4, § 38; Code 1967, § 4-21; Ord. No. 2627, § 4-21, 5-3-1994; Ord. No. 2741, § 4-34, 5-17-2005)

Sec. 6-43. Same—Duties.

The humane officer shall be the keeper of the city pound, building or enclosure used for the impounding of animals, and the humane officer and police officers of the city are hereby authorized to take up all animals, including dogs, running at large that are not in the owner's possession or control, within the limits of this city, and confine the same in the city pound, building or enclosure used for that purpose. The humane officer shall provide, at the cost of the city, suitable and necessary sustenance for all animals so impounded, and all such necessary costs, both feeding and housing, together with all charges provided for in this article, shall be paid as hereinafter set forth before said animals shall be released.

(Code 1952, title 2, ch. 4, § 39; Code 1967, § 4-22; Ord. No. 2741, § 4-35, 5-17-2005)

Sec. 6-44. Sale of unredeemed animals.

(a) When any livestock used for agricultural purposes is impounded by the city for a period of 96 hours or longer without redemption thereof by the owner, the city manager will give notice, by publication one time in a newspaper of general circulation within the city, setting forth therein the date of impoundment, the description of the animal impounded, the fact the same will be offered for sale at a time not less than five days from the date of publication, and that, upon the sale thereof, the city shall give a bill of sale to the purchaser, without warranty, and give possession of the animal to the purchaser.

(b) When any animal or fowl that would, by common definition, be considered a pet, including, but not limited to, a rabbit, guinea pig, ferret, hamster, gerbil, nonindigenous reptile or bird, or "pocket pet" such as a sugar glider, is impounded by the city for a period of 96 hours or longer without redemption thereof by the owner, the animal will be offered immediately for sale, without warranty, to the public.

(c) All money received from such sales shall be deposited in the general fund of the city.

(Ord. No. 2741, § 4-38, 5-17-2005)

Sec. 6-45. Sale of animals; notice required.

Any animals, other than dogs so taken up and impounded, may be sold at public sale by the humane officer at any time after the expiration of ten days from impounding the same. The humane officer shall give at least five days' notice of the time and place of such sale by causing such notice to be published once in a newspaper published in the city. Nothing in this section shall preclude the city from recovering its costs at the time of sale.

(Code 1952, title 2, ch. 4, § 40; Code 1967, § 4-25; Ord. No. 2741, § 4-39, 5-17-2005)

Sec. 6-46. Sales to humane officer, police officers prohibited.

The humane officer and police officers of the city shall not purchase, or have any interest in purchasing, any animals impounded and sold under the provisions of this article.

(Code 1952, title 2, ch. 4, § 44; Code 1967, § 4-27; Ord. No. 2741, § 4-40, 5-17-2005)

Sec. 6-47. Redemption of animal by owner; costs; duty of city clerk.

(a) *Costs.* The owner of any impounded animals other than dogs may, at any time before the sale of such animal, pay the charges, as set by resolution, to the city clerk for the impounding and provision of sustenance for each animal for each day so impounded and the cost of newspaper publication of said notice that has been published, and obtain the release of said animal.

(b) *Duties of city clerk.* Upon the payment of these charges, the city clerk shall issue a receipt showing the payment of said charges, and said receipt, when presented to the humane officer, shall be effective to obtain the release of said impounded animal.

(Code 1952, title 2, ch. 4, § 41; Code 1967, § 4-28; Ord. No. 2741, § 4-41, 5-17-2005)

Sec. 6-48. City to pay costs for animals not released.

If such impounded animal, other than a dog, is not released to its owner as provided for in this article, then the city shall pay for the cost of sustenance of the animal and all charges that may be incurred in the sale of the animal.

(Code 1952, title 2, ch. 4, § 42; Code 1967, § 4-29; Ord. No. 2741, § 4-42, 5-17-2005)

Sec. 6-49. Dog and cat sterilization agreement required before adoption.

Any person wishing to adopt a dog or cat from the animal shelter of the city shall be required to enter into a sterilization agreement with the city upon approval and signature for the city by the animal control officer.

(1) The person seeking to adopt such dog or cat shall be known as the "new owner" which shall mean any person legally competent to enter into a contract acquiring a dog or cat from the city.

(2) Upon execution of the sterilization agreement on the form provided by statute, the new owner shall pay a fee, as set by resolution, to the city to adopt any dog or cat from the city's animal shelter. A portion of said fee will be refunded when the adopted animal is sterilized, and a portion will be retained by the city as charge for the adoption and will not be refundable.

(Code 1967, § 4-30; Ord. No. 2448, 12-16-1986; Ord. No. 2741, § 4-43, 5-17-2005)

State Law reference— Dog and cat sterilization generally, 4 O.S. § 499 et seq.

Secs. 6-50-6-71. - Reserved.

ARTICLE III. DOGS

DIVISION 1. GENERALLY

Sec. 6-72. Running at large prohibited; exception.

It is hereby made unlawful for any owner, keeper or harborer of any dog in the city to permit such dog to be at large upon the streets, avenues or public grounds of the city or to trespass upon the property of another; provided, however, that the owner, keeper or harborer of any dog may take the same upon the streets, avenues or alleys or public grounds of the city if said dog is kept in the immediate presence or under the immediate control of the owner.

(Code 1952, title 2, ch. 3, § 26; Code 1967, § 4-40; Ord. No. 2741, § 4-62, 5-17-2005)

Sec. 6-73. Potentially dangerous dogs.

It shall be unlawful for any person within the city to keep or harbor any potentially dangerous dog in any public place in said city, or for any owner or keeper of a potentially dangerous dog to permit or allow such dog to be at large or unrestrained within the city.

(Code 1952, title 2, ch. 3, § 27; Code 1967, § 4-41; Ord. No. 2741, § 4-63, 5-17-2005)

Secs. 6-74-6-104. - Reserved.

DIVISION 2. VACCINATION LICENSE

Sec. 6-105. Definitions.

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

Dog means any animal of the canine species, both male and female, whether spayed or unspayed, above the age of six months and not owned by a person temporarily remaining in the city less than 30 days or which has been brought into said city for bench or show purposes.

Own means and includes owning, harboring, keeping or having control, charge or custody of a dog within the corporate limits of the city.

Owner means any person owning, keeping, harboring or having charge or control of any dog or permitting any dog habitually to be in or remain upon or be lodged or fed within such person's house, yard or upon his premises.

Vaccination means the administration of a standard amount of a standardized one-year effective antirabies vaccine to a dog by a licensed veterinarian and the issuance by such veterinarian of a vaccination certificate and vaccination tag to the owner of such dog.

(Code 1967, § 4-50; Ord. No. 1785, § 1(1), 6-25-1963; Ord. No. 2549, § 4-50, 5-21-1991; Ord. No. 2741, § 4-95, 5-17-2005)

Sec. 6-106. Required.

It shall be unlawful for any person within the city to own any dog for a period of 30 days without having had such dog undergo antirabies vaccination as provided for herein.

(Code 1967, § 4-51; Ord. No. 1785, § 1(2), 6-25-1963; Ord. No. 2549, § 4-51[1], 5-21-1991; Ord. No. 2741, § 4-96, 5-17-2005)

Sec. 6-107. Duty of owner to obtain vaccination; dates required.

It shall be the duty of the owner of every dog required to be vaccinated under this division to cause such dog to undergo vaccination within the period of July 1 to August 1 of each year; provided that the owner of a dog brought into the city or which shall become older than six months subsequent to July 1 in a year shall submit such dog for vaccination within 30 days from its arrival in the city or after it shall have reached the age of six months. When a dog otherwise subject to the requirements of this division but which has undergone such a vaccination within six months prior to its being imported into the city is brought into the city and its owner, within such period of days, presents satisfactory evidence of such vaccination to a licensed veterinarian, such licensed veterinarian shall issue a vaccination tag for such dog effective to the end of the current vaccination year.

(Code 1967, § 4-54; Ord. No. 2549, § 4-51[2], 5-21-1991; Ord. No. 2741, § 4-97, 5-17-2005)

Sec. 6-108. Impoundment of unvaccinated dogs.

Any dog found at large within the city and not wearing the vaccination tag issued to its owner in connection with its vaccination shall be subject to impoundment and disposition as provided elsewhere in this chapter.

(Code 1967, § 4-56; Ord. No. 1785, § 1(5), 6-25-1963; Ord. No. 2549, 5-21-1991; Ord. No. 2741, § 4-98, 5-17-2005)

Secs. 6-109-6-129. Reserved.

DIVISION 3. IMPOUNDMENT

Sec. 6-130. Impoundment; redemption by owner; costs.

All unattended dogs seized and impounded according to the provisions of this chapter shall be impounded by the humane officer or any officer of the city or other person appointed for such purpose and then held for 48 hours, including weekends, and the owner or keeper of such dog who desires to reclaim the same can do so by paying an impounding fee to be set by resolution of the city council. In addition to such impounding fee, the person reclaiming such dog shall pay a daily fee, to be set by resolution, to cover the cost of providing sustenance for each dog so impounded. Upon receipt of such fees, the city clerk will issue an order for the release of the impounded dog. The fee so collected shall be applied to the general funds of the city.

(Code 1952, title 2, ch. 4, § 45; Code 1967, § 4-42; Ord. No. 1938, § 2, 5-12-1970; Ord. No. 2142, § 2, 4-19-1977; Ord. No. 2628, § 4-42, 5-3-1994; Ord. No. 2741, § 4-64, 5-17-2005)

Sec. 6-131. Disposition of unclaimed impounded dogs.

If any dog that is impounded is not claimed within five days, including weekends, as hereinabove provided, it shall be the duty of the humane officer to convey such dog to a suitable place and to euthanize the same.

(Code 1952, title 2, ch. 4, § 46; Code 1967, § 4-43; Ord. No. 2629, § 4-43; 5-3-1994; Ord. No. 2741, § 4-65, 5-17-2005)

Sec. 6-132. Diseased or potentially dangerous dogs; impoundment; duties of humane officers; costs.

When, from any cause, it may happen that any dog is diseased, is under suspicion of having hydrophobia or rabies, or appears to be a potentially dangerous dog which is a menace to the public peace, health and safety, it shall be the right and duty of the humane officer or any police officer of the city to demand and take such dog from the owner or keeper, and such dog shall be placed in the charge of the humane officer for observation for a period of not less than 21 days. In the event it is determined that such animal is a menace to the public peace, health and safety, such dog shall be euthanized as provided for under section 6-131, and the owner of such dog shall be liable for the costs of keeping such animal as provided in section 6-43 and, in addition, shall be liable for the costs of testing and/or destroying such animal. If such dog does not have hydrophobia or rabies after such observance and the owner of such dog makes a written demand for the return of such animal within three days after such period of observance, the owner shall be entitled to the possession of the dog upon paying charges for keeping of such animal, as provided in sections 6-43 and 6-130, including, but not limited to, the costs of testing such animal for hydrophobia or rabies. In the event such dog is not claimed, it shall be euthanized on the fourth day following such period of observance, as provided for the killing of said animals in section 6-131.

(Code 1952, title 2, ch. 4, § 47; Code 1967, § 4-44; Ord. No. 2548, 5-7-1991; Ord. No. 2549, 5-21-1991; Ord. No. 2741, § 4-66, 5-17-2005)

Sec. 6-133. Recovery of costs.

In the event the owner of a dog which has been impounded for any reason, including for the purpose of observation and testing for hydrophobia or rabies, fails or refuses to pay for the costs associated with the impoundment of such dog as provided in this chapter, such unrecovered costs may be added to the city utility bills of such owner and recovered in the same manner as said utility bills; provided that utilities will not be disconnected solely because of failure to pay such costs.

(Code 1967, § 4-45; Ord. No. 2548, § 4.45, 5-7-1991; Ord. No. 2741, § 4-67, 5-17-2005)

Secs. 6-134-6-164. - Reserved.

ARTICLE IV. - PET SHOPS

DIVISION 1. - GENERALLY

Sec. 6-165. Definitions.

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

Pet shop means any place of business where animals are offered for sale to the public in the regular course of business. Such animals shall include, but shall not be limited to, tropical or other fish, birds, small rodents, other fur-bearing mammals and nonpoisonous amphibians and reptiles; provided that this definition does not apply to educational or zoological institutions or to livestock auction houses.

(Ord. No. 2687, § 4.60, 12-2-1997; Ord. No. 2741, § 4-125, 5-17-2005)

Sec. 6-166. Records.

All pet shops shall maintain records and retain such records for a two-year period on all animals maintained in such facility. Such records shall show the breed, color, markings, sex, and age of an animal, where and when such animal was obtained, the period for which such animal is maintained, the date and disposition of such animal, the name and address of new owner, and disease prevention and/or treatment and by whom such prevention or treatment was performed.

(Ord. No. 2687, § 4.61, 12-2-1997; Ord. No. 2741, § 4-126, 5-17-2005)

Sec. 6-167. Sanitation generally.

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

(Ord. No. 2687, § 4.62, 12-2-1997; Ord. No. 2741, § 4-127, 5-17-2005)

Sec. 6-168. Cages.

Cages and pens of easily cleanable materials, if used for confinement, shall be kept clean and sanitary at all times.

(Ord. No. 2687, § 4.63, 12-2-1997; Ord. No. 2741, § 4-128, 5-17-2005)

Secs. 6-169-6-189. - Reserved.

DIVISION 2. - PET SHOP LICENSE

Sec. 6-190. Required.

It shall be unlawful for any owner or harborer of any bird, reptile, amphibian, fish or other animal to operate a pet shop within the corporate limits of the city unless such owner or harborer shall first possess a pet shop license. A separate license shall be required for each pet shop located at a separate location within the city regardless of joint ownership or control of one or more pet shops.
(Ord. No. 2687, § 4.64, 12-2-1997; Ord. No. 2741, § 4-155, 5-17-2005)

Sec. 6-191. Fee.

The annual fee for a license required by the provisions of this division shall be as set by resolution. No license shall be valid for longer than one year, and all licenses shall expire on June 30 of each year. A license may be renewed upon application and payment of renewal fees 30 days preceding or following June 30 of each year.
(Ord. No. 2687, § 4.65, 12-2-1997; Ord. No. 2741, § 4-156, 5-17-2005)

Sec. 6-192. Issuance.

Upon proof of proper zoning and payment of the required license fee, the license provided for by this division shall be issued.
(Ord. No. 2687, § 4.66, 12-2-1997; Ord. No. 2741, § 4-157, 5-17-2005)

Sec. 6-193. Display.

Each license issued under the provisions of this division shall be posted upon the licensed premises at all times.
(Ord. No. 2687, § 4.67, 12-2-1997; Ord. No. 2741, § 4-158, 5-17-2005)

Sec. 6-194. Inspection.

Pet shops coming under the provisions of this division shall be subject to inspections by the code enforcement officer and/or animal control officer at any time.

Chapter 7 RESERVED

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Chapter 8 BUILDINGS AND BUILDING REGULATIONS

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Chapter 8 - BUILDINGS AND BUILDING REGULATIONS

State Law reference— General authority to regulate buildings, 11 O.S. § 22-101.

ARTICLE I. - IN GENERAL

Sec. 8-1 Power-Generation Tower or Structure; Height Limitation and other Rules; Placement of Solar Panels.

Notwithstanding any provision in this municipal code to the contrary, this section shall apply throughout the corporate limits of the City of Blackwell and in every zoning district contained therein:

A. DEFINITION. For purpose of this section, the following words shall have the meaning ascribed to it:

Power-Generation Tower or Structure shall mean any tower or structure constructed, erected or set up upon the ground or attached to something having a permanent location on the ground, the purpose of which is to generate and supply power, through the assistance of a renewable energy source, to be utilized by an existing principal residential or nonresidential use of the property on which it is situated. A power-generation structure shall be deemed to include all structural and mechanical components thereof. Nothing herein shall be construed or deemed to authorize the construction or use of any such tower or structure in the absence of compliance with any applicable ordinances, building or electrical codes, tariffs, contracts, utility regulations or State or Federal requirements or statutes of any nature.

B. Power-Generation Towers or Structures may not exceed the height limitation of the district in which located, and in addition shall be placed in such manner that there shall be a distance from the base of the tower or structure to all property lines greater than the height of the tower or structure as measured from the base thereof to its highest point, to include height added by any blade in a vertical position if the power-generation tower or structure is wind-motivated, so that should said tower topple over it shall come to rest wholly within the confines of the property on which it is emplaced. All such towers and structures may not be attached or affixed to any residential structures.

C. The owner of the property upon which any Power-Generating Tower or Structure is proposed, shall provide to the City written authorization giving City employees the right to enter the subject property whenever deemed necessary by the City for the purpose of inspection of the structure, its supports and components for structural stability and integrity; provided, that any such right-to-enter shall not be deemed to relieve the owner of any of his duties under law, nor shall it be deemed to impose upon the City any obligations under law not existing prior to the execution of any such right-to-enter.

D. Solar panels may be placed on roofs of structures of the owners using the electric power generated, pursuant to the permitting process provided in subsection E and other Sections 28-136 and Section 28-137 of this municipal code, and no solar panels shall be erected on empty lots (solar farms) or on the front or side yards of any lot visible from the street.

E. No Power-Generating Tower or Structure or Solar Panel shall be placed within the City of Blackwell without filling out the application at City Hall permitting its erection and placement and full compliance therewith as well as Sections 28-136 and Section 28-137 of this municipal code. The permit fee shall be One Hundred Dollars ($100.00).

(Ord. No. 2017-24, 10-5-2017)

Secs. 8-2—8-18. - Reserved.

ARTICLE II. TECHNICAL CODES

DIVISION 1. GENERALLY

Editor's note— Sections 1—3 of Ord. No. 2789, adopted July 5, 2010, amended div. 1 in its entirety to read as herein set out. Former div. 1, §§ 8-19—8-24, pertained to International Building Code; International Residential Code; International Existing Building Code; International Plumbing Code; International Fuel Gas Code; and International Mechanical Code and derived from Ord. No. 2709, adopted Dec. 5, 2000; Ord. No. 2710, adopted Dec. 5, 2000; Ord. No. 2711, adopted Dec. 5, 2000; Ord. No. 2745, adopted July 22, 2005; Ord. No. 2746, adopted July 22, 2005; Ord. No. 2747, adopted July 22, 2005; and Ord. No. 2751, adopted Aug. 15, 2005.

Sec. 8-19. Codes adopted.

(a) *[Adopted by reference.]* The International Codes, 2009 Edition, including the Residential Code, the Building Code for Commercial Buildings, Mechanical Code, Plumbing Code, Fire Code, Energy Code, Performance Code, and Fuel Gas Code, but excluding the Property Maintenance Code and the Existing Building Code, as published by the International Code Council, Inc., is hereby amended as the Codes for the City of Blackwell for the control of the areas described in each of said Codes and the buildings, structures and operations as therein provided. Each and all regulations, provisions, penalties, conditions and terms of the International Codes are herein referred to, adopted, incorporated and made a part hereof as if fully set in the Code with the additions, assertions, deletions and changes, if any, prescribed below and further providing that the latest edition published by the International Code Council as is amended from time to time shall be applicable.

(b) *International Codes 2009 amendments.*

BUILDING CODE

Section 101.1. Insert "City of Blackwell."

Section 105.2. Remove item numbers 1, 2, 6 and 9.

Add section 114.4.1. Violation of any provision of the International Building Code adopted by reference, or failure to comply with any of its requirements, shall be a Class C offense.

Section 1612.3. Insert "City of Blackwell."

Section 1612.3. Insert "2009."

RESIDENTIAL BUILDING CODE

Section R101.1. Insert "City of Blackwell."

Section R105.2. Remove item numbers 1, 2, 5 and 7.

Section R110.1 of the International Residential Code is deleted and replaced with the following:

R110.1 Use and occupancy. No building or structure shall be used or occupied, and no change made to the existing occupancy classification of a building or structure or portion thereof, and no change in occupancy or primary occupant shall be made until the building official has issued a Certificate of Occupancy thereof and provided herein. Before issuing a Certificate of Occupancy, the Building Official may conduct any inspections or require any tests or certifications as are deemed necessary, and may take into account whether or not the applicant had obligations to the City that are in any way delinquent or unresolved. An application for a Certificate of Occupancy may be denied for failure to allow requested inspections, conduct required testing, or correct any identified deficiencies, including those related to unresolved and/or delinquent obligations to the City. Issuance of a Certificate of Occupancy shall not be construed as an approval of a violation of the provisions of this code or of other ordinances.

Section R111.2 is deleted and replaced with:

Section R111.1. Initiation or Continuation of Utility Services. It shall be unlawful for any utility to initiate or continue services to a structure lacking a valid Certificate of Occupancy, provided that the Building Official may authorize provision of utility services, either on a temporary or ongoing basis, to a structure undergoing construction under a valid permit. Utility service to a vacant structure need not be discontinued unless ordered so by the Building Official due to the existence of an unsafe condition, but a new Certificate of Occupancy will be required before the structure is reoccupied, subject to the provisions of this chapter.

Add section R113.4.1. Violation of any provision of the International Residential Code adopted by reference, or failure to comply with any of its requirements, shall be a Class C offense.

Section P2603.6.1 Insert "12" and "12."

Section P3103.1 Insert "12" and "12."

INTERNATIONAL FIRE CODE

Remove all references to "fire code official" and insert "code official."

Section 101.1. Insert "City of Blackwell."

Sections 105.6 through 105.7.14. Delete these sections.

Section 109.2.3. Remove last two sentences and add "shall be a Class C offense."

Section 111.4. Add "shall be a Class C offense."

Appendix A. Delete this section.

EXISTING BUILDING CODE

Section 101.1. Insert "City of Blackwell."

Add section 113.4.1. Violation of any provision of the International Existing Building Code adopted by reference, or failure to comply with any of its requirements, shall be a Class C offense.

Section 1201.2. Insert "1952."

INTERNATIONAL PLUMBING CODE

Section 101.1. Insert "City of Blackwell."

Add section 106.4A. Registration and state license required.

a. No person shall work at the trade of journeyman plumber, plumber's apprentice or engage in the business of plumbing contractor in the City until he or she shall hold a valid, unrevoked, unexpired and up-to-date bonded license as a journeyman plumber or plumbing contractor issued by the state and until he or she shall have been registered with the City Clerk.

b. Registration fee for a journeyman plumber, plumber's apprentice and plumbing contractor shall be valid for a calendar year of July 1 through June 30, regardless of the time of year that the registration is obtained. Renewal notices will be sent out by the City for renewal to commence on July 1 of each year. Renewal fees not paid within 30 days of the date of the renewal notice shall constitute forfeiture of service privileges. Reinstatement will require payment of the full registration fee.

Add section 106.4A.1. Initial and annual registration fees.

The City Clerk shall, upon presentation by the holder of a valid, unrevoked and unexpired license as a journeyman plumber, plumber, plumber's apprentice or plumbing contractor issued by the State Commissioner of Health, collect and issue receipt for the fees as set by resolution.

Add section 106.4A.2. One apprentice per journeyman plumber.

All apprentice plumbers shall be registered with the City Clerk and shall have an apprentice plumber's registration certificate issued by the State Committee of Plumbing Examiners, and further all apprentice plumbers shall at all times be under the direct (on the job) supervision of a journeyman plumber and/or plumbing contractor.

Section 106.6.2. Insert "See Plumbing Permit Fee Schedule."

Section 106.6.3. Delete this section.

Section 108.4. Substitute with new section 108.4A.1 Penalties:

Any person who shall violate a provision of this Code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, or repair plumbing work in violation of the approved construction documents or directive of the Code official, or of a permit or certificate issued under the provisions of this Code, shall be guilty of a Class C offense. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

Add section 108.4A.2. Revocation of Registration.

In addition to the penalties provided for in this Code, any person who shall/be convicted of any violation of this Code may have their registration with the City as plumbing contractor, journeyman plumber or apprentice plumber revoked for a period of up to one year upon such person's conviction for said violation or for any subsequent violations thereafter.

Section 108.5: Stop Work Orders. Delete the last sentence of section 108.5.

Add Section 108.5A. Plumbing Hearing Board.

A Plumbing Hearing Board is hereby created for the purpose of determining whether a stop work order issued pursuant to Section 108.5 shall remain In effect or whether the registration with the City of any plumbing contractor, journeyman plumber or apprentice plumber shall be revoked. Said board shall consist of the following: the City Engineer or other duly licensed engineer, one licensed plumbing contractor and one member of the Board of Adjustment, The members of said board shall be appointed by the City Manager and shall serve for term of three years.

Add Section 108.5A.1. Procedures and Appeals.

The plumbing contractor, journeyman or apprentice plumber may appear and be heard at the hearing. All testimony shall be under oath, and the chairman of the board shall have the power to administer oaths. An appeal may be taken by any aggrieved party to the City Council by the filing with the City Clerk a written notice of appeal within ten days after the decision of the Plumbing Hearing Board. The City Council may affirm, modify or vacate the decision of the Plumbing Hearing Board.

Add Section 108.5A.2. Unlawful, continuance.

Any person who shall continue any work in or about the structure after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be guilty of an offense. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

Section 109. Delete entire section.

Add section 301.3A. Public systems available.

A public water main or public sewer system shall be considered available to a structure where the structure is located within 150 feet of the public water main or sewer.

Section 305.6.1. Insert "12 inches" and "12 inches."

Section 602. Delete the last sentence of section 602.2 and all sections 602.3 through 602.3.5.1.

Section 904.1. Insert "12 inches."

Additional Amendments. The following additions apply with applicable references to the 2009 International Plumbing Code:

Section 305. Protection of Pipes.

Any building water service pipe that is nonmetallic shall have a minimum of four feet of metallic pipe on the discharge side of the water meter.

Tables 702.2 and 702.3. Delete "asbestos cement pipe."

Section 601.3. Electrical Ground as Related to Plumbing. Add as supplement the following:

a. New construction shall require grounding by applicable grounding rod in accordance with the edition of the National Electric Code adopted by the City, regardless of the type material used for water sendee.

Chapter 7. Connections to Manholes.

The direct connection of any building drain or sewer into a public manhole is prohibited. In cases where direct connection of a building sewer into a public sewer is not possible, a drop connection into a public manhole may be acceptable, provided plans showing construction details of the drop connection have been submitted to and approved by the City.

Sections 708.3.1, 708.3.2 and 708.4. Cleanouts must, be "double riser, single direction."

Chapter 6. Water Meters.

The City will only set meters in the utility right-of-way within 12 inches of property line, positioned in such a manner that vehicular traffic will not occur on top of meter.

After the City has installed the water service consisting of corporation stop, piping, meter stop, meter and meter box, any maintenance or repair of this equipment caused, by misuse, tampering, damage by vehicle or unauthorized repair shall be at the expense of the property owner.

Permit fee schedule. The city council shall adopt and/or amend, by resolution a schedule of fees for permits and inspections issued and performed by city pursuant to the provisions of this section. One copy of such permit fee schedule shall be on file in the office of the city clerk. Such fee schedule, as adopted and amended, is hereby referred to, adopted and made a part, hereof, as is fully set out in this section.

Violations. Violation of any of these provisions of the International Plumbing Code adopted by reference or failure to comply with the requirements thereof shall be a Class C offense.

INTERNATIONAL FUEL GAS CODE

Section 101.1. Insert "City of Blackwell."

Add section 106.4 A. Registration and License Required.

a. No person shall work at the trade of journeyman mechanic, mechanic's apprentice or engage in the business of mechanical contractor in the City until he or she shall hold a valid, unrevoked, unexpired and up-to-date bonded license as a journeyman mechanic or mechanical contractor issued by the State Commissioner of Health and until he or she shall have registered with the City Clerk. The City Clerk shall make no registration of a journeyman mechanic, mechanic apprentice or mechanical contractor unless he or she presents a valid state license and a receipt from the City Clerk evidencing payment of the annual fees prescribed.

b. No journeyman mechanic, mechanic apprentice or mechanical contractor shall be registered for any part of the year, except that upon first registration the fee therefore shall be that portion of the annual fee which the time between the first registration and the annual expiration date bears to one year.

Add Section 106.4A.1. Initial and Annual Registration Fees.

The City Clerk shall, upon presentation by the holder of a valid, unrevoked and unexpired license as a journeyman mechanic, mechanic's apprentice or mechanical contractor issued by the State Commissioner of Health, collect and issue receipt for the fees as set by resolution.

Add section 106.4A.2. One Apprentice per Journeyman.

All apprentice mechanics shall be registered with the City Clerk and shall have an apprentice mechanic's registration certificate issued by the State Committee of Mechanical Examiners, and further all apprentice mechanics shall at all times be under the direct (on the job) supervision of a journeyman mechanic and/or mechanical contractor.

Section 106.63. Delete section. Refunds are addressed in the Plumbing and Mechanical Permit Fee Schedules.

Section 108.4. Delete and substitute with section 108.4A, Violation Penalties:

Any person who shall violate a provision of this Section or shall fail to comply with any of the requirements thereof or who shall erect, construct, alter or repair mechanical equipment or systems in violation of the approved construction documents or directive of the Code official, or if a permit or certificate issued under the provisions of this Section, shall be guilty of a Class C offense. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

Add section 108.4A.1. Revocation of Registration.

In addition to the penalties provided for in this Section, any person who shall be convicted of any violation of this Section may have their registration with the City as a mechanical contractor, journeyman mechanic or apprentice mechanic revoked for a period of up to one year upon such person's conviction for said violation or for any subsequent violations thereafter.

Add section 108.4A.2. Mechanical Hearing Board.

A Mechanical Hearing Board is hereby created for the purpose of determining whether a stop work order shall remain in effect or whether the registration with the City of any mechanical contractor, journeyman mechanic or apprentice mechanic shall be revoked. Said board shall consist of the following: the City Engineer or other duly licensed engineer, one licensed mechanical contractor and one member of the Board of Adjustment. The members of said board shall be appointed by the City Manager and shall serve for term of three years.

Add section 108.4A.3. Procedure and Appeals.

The mechanical contractor, journeyman mechanic or apprentice mechanic may appear and be heard at the hearing. All testimony shall be under oath and the chairman of the board shall have the power to administer oaths. An appeal may be taken by any aggrieved party to the City Council by the filing with the City Clerk a written notice of appeal within ten days after the decision of the Mechanical Hearing Board. The City Council may affirm, modify or vacate the decision of the Mechanical Hearing Board.

Section 108.5. Substitute the following for the last sentence:

Any person who shall continue to work in or about the structure after having been served with, a stop work order, except such work as that person is directed to perform, to remove a violation or unsafe condition, shall be liable for a fine as set by resolution. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

Section 109. Delete entire section.

Add section 406.4.A. Test Gauges.

Test gauges shall have a maximum face capacities as follows:

1. Thirty psi for tests of 1.5 times maximum working pressures.
2. Two hundred psi for tests at +/- 125 psi.

Permit fee schedule. The City Council shall adopt and/or amend by resolution a schedule of fees for permits and inspections issued and performed by the City in pursuant to the provisions of this section. One copy of such permit fee schedule shall be on file in the office of the City Clerk. Such fee schedule as adopted and amended is hereby referred to, adopted and made a part hereof, as is fully set out in this Section.

Appliances, Pipes to Conform to Section Requirements. All gas appliances or gas pipes hereafter sold, installed, maintained or repaired within the corporate limits of the City shall conform to the requirements of this Section.

Violations. Violation of any of the provisions of the International Fuel Gas Code adopted by reference or failure to comply with the requirements thereof shall be a Class C offense.

INTERNATIONAL MECHANICAL CODE

Section 101.1. Insert "City of Blackwell."

Add section 106.1 A. Registration and State License Required.

a. No person shall work at the trade of journeyman mechanic, mechanic apprentice or engage in the business of mechanical contractor in the City until he or she shall hold a valid, unrevoked, unexpired and up-to-date bonded license as journeyman mechanic or mechanical contractor issued by the State Commissioner of Health and until he or she has been registered with the City Clerk. The City Clerk shall make no registration of a journeyman mechanic, mechanic apprentice or mechanical contractor unless he or she presents a valid state license and a receipt from the City Clerk of this City evidencing payment of the annual fees prescribed.

b. No journeyman mechanic, mechanic apprentice or mechanical contractor shall be registered for any part of the year, except that upon first registration the fee therefore shall be that portion of the annual fee which the time between the first registration and the annual expiration date bears to one year.

Add section 106.1A.1. Initial and Annual Registration Fees.

The City Clerk shall, upon presentation by the holder of a valid, unrevoked and unexpired license as a journeyman mechanic, mechanic apprentice or mechanic contractor issued by the State Commissioner of Health, collect and issue receipt of the fees as set by resolution.

Add Section 106.1A.2. One Apprentice per Journeyman.

All apprentice mechanics shall be registered with the City Clerk and shall have an apprentice mechanic's registration certificate issued by the State Committee of Mechanical Examiner, and further, all apprentice mechanics shall at all times be under the direct (on the job) supervision of a journeyman mechanic and/or mechanical contractor.

Section 106.6.2. Insert "See Mechanical Permit Fee Schedule."

Section 106.6.3. Delete section. Refunds are addressed in the Mechanical Permit Fee Schedule.

Section 108.4. Delete and substitute with Section 108.4A. Violation Penalties:

Any person who shall violate a provision of this Code or shall fail to comply with any requirements thereof or who shall erect, construct, alter or repair mechanical equipment or systems in violation of the approved construction documents or directive of the Code official, or of a permit or certificate issued under the provisions of this Code, shall be guilty of a Class C offense. Each day that a violation continues after notice has been served shall be deemed a separate offense.

Add section 108.4A.1. Revocation of Registration.

In addition to the penalties provided for in this Code, any person who shall be convicted of any violation of this Code may have their registration with the City as a mechanical contractor, journeyman mechanic or apprentice mechanic revoked for a period of up to one year upon such person's conviction of said violation or for any subsequent violations thereafter.

Add section 108.4A.2. Mechanical Hearing Board.

A Mechanical Hearing Board is hereby created for the purpose of determining whether a stop work order shall, remain In effect or whether the registration with the City Clerk of any mechanical contractor, journeyman mechanic or apprentice mechanic shall be revoked. Said board shall consist of the following: the City Engineer or other duly licensed engineer, one licensed mechanical contractor and one member of the Board of Adjustment. The members of said board shall be appointed by the City Manager and shall serve for terms of three years.

Add section 108.4A3. Procedures and Appeals.

The mechanical contractor, journeyman mechanic or apprentice mechanic may appear and be heard at the hearing. All testimony shall be under oath and the chairman of the board shall have the power to administer oaths. An appeal may be taken by any aggrieved party to the City Council by the filing with the City Clerk a written notice of appeal within ten days after the decision of the Mechanical Hearing Board. The City Council may affirm, modify or vacate the decision of the Mechanical Hearing Board.

Section 108.5. Substitute the following for the last sentence.

Any person who shall continue any work in or about the structure after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable for a Class C offense. Each day that a violation continues after notice has been served shall be deemed a separate offense.

Section 109. Delete entire section.

Permit fee schedule. The City Council shall adopt and/or amend by resolution a schedule of fees for permits and inspections issued and performed by the City pursuant to the provisions of this Section. One copy of such permit fee schedule shall be on file in the office of the City Clerk. Such fee schedule, as adopted and amended, is hereby referred to, adopted and made a part hereof, as is fully set out in this Section.

INTERNATIONAL PROPERTY MAINTENANCE CODE

Section 101.1. Title. Amended to add "the City of Blackwell."

Section 102.6. Historic Buildings. Amended to add as follows: Buildings must be registered with the National Registry of Historic Places in order to receive this exception.

Section 103.5. Delete.

Section 107.1. Notice to Persons Responsible. Whenever the code official determines that there are reasonable grounds to believe that there has been a violation of any provision of this code or of any rule or regulation adopted pursuant thereto, he shall give notice of such alleged violation to the person or persons responsible therefore and such alleged violation shall constitute a nuisance.

Section 101.1. General. The code official shall order the owner of any premises on which is located any structure, which in the code official's judgment after review, is so deteriorated or dilapidated or has become so out of repair as to be dangerous, unsafe, unsanitary, or otherwise unfit for habitation or occupancy, and such that it is unreasonable to repair the structure and is a threat or hazard to the health, safety and welfare of the public, and it is necessary to demolish and remove such structure; or if such structure is capable of being made safe by repairs, to repair and make safe and sanitary, or to board up for a time approved by the code official, for future repair or to demolish and remove at the owner's option; or whether it has been a cessation of normal construction of any structure for a period of more than two years, the official shall order the owner to demolish and remove such structure.

Section 111.1. Application for Appeal. Any person directly affected by a decision of the code official or a notice or order issued under this code shall have the right to appeal to the city council, provided that a written application for appeal is filed within thirty days after the day of the decision, notice or order was served.

Section 111.2 - 111.3. Delete.

Section 111.4. Open Hearings. The Oklahoma Open Meeting Act shall be complied with.

Section 114.1 - 111.6.2. Wherein the word "Board" is used, it is amended to read "Council."

Section 112.4. Failure to Comply. The following figures are inserted: $94.00 and $794.00, where appropriate.

Section 202. General Definitions.

> Owner: any person, agent, operator, firm or corporation having a legal or equitable interest in the property; as recorded in the official records of the state, county or city as holding title to the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of any such person, if ordered to take possession of real property by a court or a property manager or any person who signs a rental contract, lease or "rent to own documents" on behalf of the owner.

Downtown District: The area within the city limits of the city of Blackwell, Oklahoma which includes the entire length of Main Street through town, as well as those portions of 1 st Street between Frisco and Ferguson, 2 nd Street between Oklahoma and Bridge, and A Street between Frisco and Lawrence.

Section 302.4. Weeds. The figure "12 inches" is inserted.

Section 302.8. Motor Vehicles. Except as provided for in other regulations, no inoperative or unlicensed motor vehicle, including travel trailers or boats, shall be parked, kept or stored on any premises, and no vehicles shall at any time be in a state of significant disassembly, disrepair or in the process of being stripped or dismantled. Vehicle must be capable of being legally driven on city streets. Painting of vehicles is prohibited unless conducted inside an approved spray booth.

Add Section 302.10. Care of Premises-Open Storage. It shall be unlawful for the owner or occupant to utilize the premises of such property for the open storage of any ice box, refrigerator, freezer, stove, glass, televisions, recliners, sofas, dressers, building material, building garbage, automobile parts or similar items.

Add Section 304.9.1. Commercial Signs. All commercial signs shall be maintained in good repair and properly anchored. All sighs which are in disrepair or have become a hazard to the welfare of the general public shall be removed and shall comply with Section 20-66 of the Blackwell Code.

Section 304-13.3. Windows:

1. Within one (1) year of passage of this Section, all window frames or other openings in the wall of a structure for a window (hereinafter collectively "window frame") shall be filled, in compliance with applicable building and housing codes, with material capable of closing and sealing the entire window frame to bar access to the structure from pests, rodents, insects, birds, or other animals.
2. All window frames or structures located within the downtown district, except those window frames facing an alley, shall be filled with a material capable of closing and sealing from the elements the entire window opening and consisting of (a) a ridged and transparent material, excluding plexiglass; (b) a decorative or tinted pane or panes of glass; (c) the same material as contained in the original construction of the structure, or a modern, improved material that has the same appearance as that in the original construction; (d) cement and fiber siding that is the functional and appearance equivalent of CertainTeed Weather Boards. Except as included in the description above, plywood, or similar wood products, metal or corrugated material shall not be considered acceptable materials for filling window frames.
3. If otherwise in compliance with applicable building and zoning codes, in lieu of the requirements set forth above, windows in the downtown district may be permanently removed by closing the opening with the same material and color as the surrounding exterior of the building, so that the wall does not appear to contain the window and window frame. If the same material and or color are not available, an application may

be made to the City Planning Commission, who may approve an alternative material and or color that meet the intent and objectives of this section.

4. Existing window coverings that are not in violation of the Blackwell Window Ordinance as it existed prior to November 21, 2011, are not required to comply with the provisions of Paragraphs 2 and 3 of this section, provided however, that all window covering repairs or replacements performed after February 1, 2014, shall be done in such a manner as to comply with this section as amended by Ordinance 2803 at section 304-13.3(2).

Section 304.14. Insect Screens. Insert the dates "April 1 to October 31."

Sections 308.2.2. Refrigerators. Delete this section.

Section 602.3. Heat Supply. Insert the dates "September 1 to April 30."

Section 602.4. Occupiable Workspaces. Insert the dates "September 1 to April 30."

(Ord. No. 2789, §§ 1, 3, 7-5-2010; Ord. No. 2792, §§ 1, 3, 8-15-2011; Ord. No. 2794, § 1, 11-21-2011; Ord. No. 2803, § 1, 11-5-2012; Ord. No. 2809, §§ 2, 3, 9-16-2013; Ord. No. 2812, § 1, 2-3-2014; Ord. No. 2815, § I, 5-18-2015)

State Law reference— Adoption by reference, 11 O.S. § 14-107.

Secs. 8-20-8-51. - Reserved.

DIVISION 2. ELECTRICAL STANDARDS

SUBDIVISION I. IN GENERAL

Sec. 8-52.- Definition.

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

Electrical inspector means the person designated to enforce the provisions of this division.

Secs. 8-53—8-77. - Reserved.

Subdivision II. Administration and Enforcement

Sec. 8-78. - Electrical inspector to make decisions not covered in division.

The electrical inspector shall decide all questions not provided for in this division pertaining to the installation of electric wires and apparatus.

(Code 1952, title 11, ch. 1, § 11; Code 1967, § 9-4)

Sec. 8-79. Division does not affect liability for damages.

This division shall not be construed to relieve from liability or lessen the liability of any party owning, operating or controlling or installing any electrical equipment for damages to any person injured by any defect therein, nor shall the city be held as assuming any such liability by reason of the inspection authorized herein or by reason of any certificate of inspection issued by it.

(Code 1952, title 11, ch. 1, § 10; Code 1967, § 9-5)

Secs. 8-80-8-101. Reserved.

SUBDIVISION III. PERMITS, INSPECTIONS AND CERTIFICATES

Sec. 8-102. Permit required for wiring or electrical work; restrictions on use.

Before any wiring or electrical work shall begin, a permit therefor shall be procured from the electrical inspector by a master licensed electrician, or if said work is to be done by the owner of the property, then the permit shall be procured by the owner. Only such work as is authorized in said permit shall be done.

(Code 1952, title 11, ch. 1, § 8; Code 1967, § 9-12)

Sec. 8-103. Inspection of wiring; issuance of certificate fee.

(a) *Required; issuance of certificate.* It shall be the duty of every person who may have placed wiring, as provided for in the preceding section, in any building in the city to report the same to the inspector immediately upon the completion of the wiring and before the wiring has been concealed or covered up by any laths, plaster, sealing or other material whatsoever, and the inspector shall, as soon as possible but no later than 72 hours thereafter, make a careful inspection of the wiring so reported and immediately, upon the completion of such inspection, if the wiring is compliance with all ordinances, issue to the owner or agent of the building in which said wiring has been done, a certificate to the effect that the wiring has been approved and authorizing the delivery and maintenance for an electric current in said building for the purpose described.

(b) *Fees.* Before a certificate shall be issued, the person applying for the same shall pay at the office of the city clerk an inspection fee, which shall be as set by resolution. If the inspector's report is that such wiring does not comply with the requirements, no certificate shall be issued until said requirements have been complied with, the same to be ascertained by the inspector upon actual examination. An additional fee shall be required for such additional inspection.

(c) *Changes, extensions in wiring.* Any changes or extensions in the wiring of any buildings shall be considered as new wiring and must be inspected and approved by the inspector with the same charges for said inspection as provided under this division.

(Code 1952, title 11, ch. 1, § 9; Code 1967, § 9-13; Ord. No. 2163, § 1, 1-17-1978)

Secs. 8-104-8-134. - Reserved.

Subdivision IV. - Technical Standards and Requirements

Sec. 8-135. National Electric Code adopted.

It is hereby declared necessary for the protection of lives and property in the city that all wiring of every kind and description, and all materials, equipment and construction associated therewith, in, on or about any building in the city which is intended for the conveyance of electrical current for the purpose of furnishing light, heat or power shall comply with rules of the 2008 edition of the National Electric Code as promulgated and adopted by the National Fire Protection Association, Inc., and which is hereby adopted and incorporated as fully as if set out at length herein, and of which not less than one copy has been and is now filed in the office of the city clerk. It is further provided that as the National Fire Protection Association, Inc., amends its Uniform Electrical Code, said amended version shall then be applicable and replace the edition adopted above. Violations to any of the provisions of the National Electric Code or failure to comply with the requirements thereof shall be a Class C offense.

(Code 1952, title 11, ch. 1, § 1; Code 1967, § 9-1; Ord. No. 1651, § 1, 10-14-1958; Ord. No. 2596, § 9.1, 2-2-1993; Ord. No. 2785, § 1, 3-1-2010)

State Law reference - Adoption by reference, 11 O.S. § 14-107.

Sec. 8-136. National Electric Safety Code adopted.

The National Electric Safety Code, 2007 Edition, promulgated and published by the Institute of Electrical and Electronic Engineers, Inc., is hereby adopted and incorporated herein as fully as if set out at length herein to govern the installation, operation or maintenance of conductors and equipment in electric supply stations, overhead and underground electric supply and communication lines, and all other aspects of the construction, maintenance and operation of electric supply and communication lines and equipment, as described and defined by said National Electric Safety Code of which not less than one copy has been and is now filed in the office of the city clerk. It is further provided that as the Electrical and Electronic Engineers, Inc., adopts amendments to their Uniform National Electric Safety Code, said amendment is hereby adopted by reference and will replace the edition referenced above. Violations of any of the provisions of the National Electric Safety Code or failure to comply with the requirements thereof shall be a Class C offense.

(Ord. No. 2598, § 9-20, 3-2-1993; Ord. No. 2786, § 1, 2-23-2010)

State Law reference— Adoption by reference, 11 O.S. § 14-107.

Secs. 8-137—8-155. - Reserved.

SUBDIVISION V. – ELECTRICIANS

State Law reference— Electrical License Act, 59 O.S. § 1680 et seq.

Sec. 8-156. Registration and state license required.

(a) No person shall work at the trade of master or contracting electrician, journeyman electrician or electrical apprentice or engage in the business of electrical contracting in the city until he shall hold a valid, unrevoked, unexpired and up-to-date bonded license as a master, contracting electrician, journeyman or electrical apprentice issued by the state and until he shall have registered with the city clerk. The city clerk shall make no registration of a master or contracting electrician, journeyman electrician, or electrical apprentice unless such person presents a valid state license and pays the annual fees prescribed.

(b) No registration shall be valid for longer than one year, and all registrations shall expire on June 30 of each year. A registration may be renewed upon application and payment of renewal fees 30 days preceding or following June 30 of each year. Registrations not renewed within 30 days preceding or following June 30 shall be required to pay the initial registration fee for reinstatement.

(Code 1952, title 11, ch. 1, § 5; Code 1967, § 9-6; Ord. No. 2171, § 1, 4-18-1978; Ord. No. 2348, 12-14-1982; Ord. No. 2666, § 9-6, 2-20-1996; Ord. No. 2688, § 9-6, 12-2-1997)

Sec. 8-157. Initial and annual registration fees.

The city clerk shall, upon presentation by the holder of a valid, unrevoked and unexpired license as a master or contracting electrician, journeyman electrician, or electrical apprentice issued by the state board of health, collect and issue receipt for the fees as set by resolution.

(Code 1952, title 11, ch. 1, § 2; Code 1967, § 9-8; Ord. No. 1805, § 1, 9-22-1964; Ord. No. 2171, § 2, 4-18-1978; Ord. No. 2348, 12-14-1982; Ord. No. 2351, 12-21-1982)

Sec. 8-158. Electrical contractor's bond.

Every person, before taking, making or entering into any contract for the installation of any electrical wiring or the installation of any electrical fixtures, devices or apparatuses, shall apply for and receive the license herein provided for and make and present a bond, subject to acceptance of the city council, in favor of the city in the sum as set by resolution and conditioned upon the performance of all contracts and that all installments made by them or under their direction shall be in conformity with the laws of the state and the ordinances of the city. Any person aggrieved may bring an action upon such bond for the recovery of the penalty thereof to the same extent and with equal rights as though such aggrieved person had been named as the obligee in said bond.

(Code 1952, title 11, ch. 1, § 3; Code 1967, § 9-9; Ord. No. 2171, § 3, 4-18-1978)

Sec. 8-159. Employees of the city forbidden to hold electrical licenses while so employed.

No employee of the city with authority to enforce the National Electrical Code or the city electrical ordinances shall hold or be issued an electrical contractor's, master electrician's, or journeyman's license from the city while so employed.

(Code 1967, § 9-18; Ord. No. 2172, § 2, 4-25-1978)

Secs. 8-160—8-186. - Reserved.

ARTICLE III. - SITE PLAN REVIEW

Sec. 8-187 Site Plan Review.

A. Purpose. By reason of potential adverse effect on public service, community appearance, environment, welfare, and to neighboring land uses, Site Plan Review and approval shall be required of development. For the purpose of assuring proper accessibility, circulation, functional relationships of use, and compatibility with adjoining and nearby development, no Building or Occupancy Permit shall be issued, nor use commenced, except in accordance with a Site Plan submitted and approved by the City.

B. Intent. The Site Plan Review process recognizes that the developments to which it is made applicable, even though generally suitable for location in a particular district or on a particular site, are, because of their nature, size, complexity, or other indicators of probable impact, capable of adversely affecting the purposes for which these regulations are established, unless careful consideration has been given to critical design elements. Therefore, it is the intent of this process to ensure that all elements are reviewed for compatibility with the provisions of these regulations. A Site Plan, much like a preliminary plat of subdivision, is intended to serve as a working document for the developer and the City. It shall provide sufficiently detailed information to allow an informed decision concerning the overall acceptability of the proposed development.

C. Applicability. Site Plan Review shall be required, as a precondition to the issuance of a Building or Occupancy Permit, in the following instance:

The development or establishment of any Commercial, Industrial or Public Institutional Use.

D. Reserved.

E. Design Standards. The following design standards shall apply to any development requiring a Site Plan Review:

1. Access. All developments requiring Site Plan Review shall have adequate and safe vehicular access to adjacent streets. All entrance and exit driveways to public streets shall be located with due consideration for traffic flow so as to afford minimum conflict to traffic on public streets. All such entrances and exits shall be so located and designed so as to comply with

the Traffic Control Policies of the City and in the case of State or United States Highways, with the Oklahoma State Highway Commission's Driveway Regulations for Oklahoma Highways or other federal regulations as may be applicable. Increased traffic, noise, dust and activity adjacent or near residential uses shall be considered as well as and the type of adjoining uses and districts to the requested site plan. The condition of the streets and any effect of the use proposed by the site plan on the streets shall be considered, together with issues such whether adequate turning radiuses are provided and all other considerations regarding access and streets shall be analyzed and reviewed.

2. Drainage. Proper surface drainage shall be provided so that removal of surface waters will not adversely affect neighboring properties or the public storm drainage system and will, so far as practicable, avoid flooding, erosion, and detrimental depositing of silt, gravel or stone. Surface water shall be removed from all roofs, canopies and paved areas and disposed of in an appropriate drainage system. Surface water in all paved areas shall be disposed of in a manner as provided by the Site Plan.

3. Landscaping. Landscaping shall be included as an integral part of the development to provide a quality of life and amenities in keeping with the natural physical surroundings of the City. All developments shall be landscaped with trees, ornamental shrubs and green areas according to the following standards:

a. No less than five percent (5%) of the total land area of the development shall be landscaped with trees, ornamental shrubs, walkways, and green areas. At least seventy-five percent of this area shall be in the front or side yards.

b. All Site Plans shall include a detailed landscaping plan indicating the type and number of plants to be provided.

c. Artificial grass or any form of synthetic plant shall not be permitted as landscaping.

d. The use of gravel as ground cover shall not be considered as meeting the minimum requirements of this Division.

e. The plan shall not interfere with sight triangles at intersections.

f. A Certificate of Occupancy shall not be issued until landscaping has been installed in accordance with the approved Site Plan. If the season of the year will not permit planting, a temporary Certificate of Occupancy shall be issued until growing season. Failure to plant landscaping shall be a violation of these regulations and shall be an offense.

g. All landscaping improvements shall at all times be maintained in a live and healthy manner.

h. The Planning Commission and the City Council may require that existing landscaping and vegetation on the site be retained in order to satisfy the requirements of this Division and

may require that sprinkling systems are established to ensure the viability of the landscaping provided.

i. The Zoning Officer, with approval from the City Manager, can exempt any industrial development from compliance with any or all of these landscaping provisions but shall provide the reasons therefore in a written memorandum, containing appropriate zoning and planning considerations, and provided to the Planning Commission and City Council at the time of the consideration of the Site Plan Review.

4. Lighting. All lighting in parking areas, as part of signs and advertising or special lighting, shall be so arranged to avoid unreasonable reflection, glare, or radiation onto operators of motor vehicles, pedestrians, and neighboring land uses or properties. Outdoor lighting, when provided, shall have an arrangement of reflectors and an intensity which will not interfere with adjacent land uses or the use of adjacent streets. No flickering, moving or flashing lights shall be permitted.

5. Parking. The location, width and layout of interior drives shall be appropriate for the proposed interior circulation. The location and layout of accessory off-street parking and loading spaces shall provide for efficient circulation and the safety of pedestrians and vehicles. The location of parking areas shall not detract from the design of proposed buildings and structures or from the appearance of the existing neighboring buildings, structures and landscape. Provisions shall be made for access by police, fire and emergency vehicles.

a. All parking lots containing more than 10 spaces must have a minimum five (5) foot landscaped strip adjacent to their perimeters with shade trees planted in the amount equivalent to one shade tree for every thirty-five (35) feet of the perimeter lineal footage. On parking lot perimeters adjacent to residentially zoned or developed land, the landscaped strip shall contain 75% opaque screening which shall include a solid wall, fence or compact evergreen hedge not less than five (5) feet in height. In addition, unenclosed parking lots with more than twenty (20) spaces shall have a minimum of two percent (2%) of the interior surface area landscaped and shall have a permanent underground watering system. The interior landscaping shall be in planting islands at aisle ends or strips between aisles. Where planting will be susceptible to injury by pedestrians or motor traffic, they shall be protected by appropriate curbs, tree guards, or other devices.

b. Surfacing. All property used for parking of vehicles, storage and display of merchandise, and all driveways used for vehicle ingress and egress shall be paved with a permanent hard surface.

The Zoning Officer, with approval from the City Manager, can exempt any industrial development from compliance with any or all of these parking provisions but shall provide the reasons therefore in a written memorandum, containing appropriate zoning and planning considerations, and provided to the Planning Commission and City Council at the time of the consideration of the Site Plan Review.

6. Relation of proposed structures to environment. Proposed structures on the site shall be related in style and design and shall also relate visually to the terrain and existing buildings and roads in the vicinity. The achievement of such harmonious relationship may include the enclosure of space in conjunction with other existing buildings or other proposed buildings and the creation of focal points with respect to avenues of approach, terrain features or other buildings. Proposed structures shall be so cited as to minimize any adverse impact upon the surrounding area, and particularly upon nearby residences, by reason of:

a. Building location, height, bulk and shadows;
b. Location, intensity, direction and time usage of outdoor lighting;
c. Likelihood of nuisances;
d. Other similar considerations.

Appropriate screening shall be required to minimize any such adverse impact.

7. Screening. Development and maintenance of plantings, fences, and walls shall be provided as an aesthetic barrier against traffic, noise, heat, glare, and dust for the protection and conservation of property. Whenever any lot located in any commercial or industrial zone is to be developed or occupied by commercial or industrial uses(s) and it abuts a lot located in any residential zone or a lot developed residentially, the lot shall be screened by the development with a minimum 75% opaque barrier not less than 5 feet in height along the entire abutting lot line. Said screening or barrier shall be dense landscaping, earthen berm, solid lumber or masonry fence, wall, or combination thereof. Solid lumber fencing shall be treated or painted in earth tone colors. More extensive screening may be required by the Planning Commission and City Council in instances where the above described screening does not adequately protect adjacent properties from unsightly or distractive activity. The screening shall be maintained in good condition. Prescribed screening need not be provided along a lot line if a building, fence, wall or dense landscaping of at least equivalent height, capacity, and maintenance exits immediately abutting on the opposite side of said lot line. In addition, the Planning Commission and the City Council may require that existing landscaping and vegetation on the site which serves a partial or full screening be retained in order to satisfy the requirements of this Division. The Zoning Officer, with approval from the City Manager, can exempt any industrial development from compliance with any or all of these screening provisions but shall provide the reasons therefore in a written memorandum, containing appropriate zoning and planning considerations, and provided to the Planning Commission and City Council at the time of the consideration of the Site Plan Review.

8. Special Features. Outside storage areas, service and machinery installations, service areas, truck loading areas, utility buildings, and structures, and similar accessory areas and structures shall be subject to such setbacks, screen plantings or other screening methods as shall reasonably be required to prevent any adverse effect upon the environment or nearby property.

9. Waste disposal. All containers for the disposal of wastes can be required to be located on a concrete pad and shall be screened to the extent that the container cannot be viewed by the public.

10. Public Rights-of-Way, Streets and Easements. Each Site Plan shall provide for the appropriate dedication and improvement of needed rights-of-way and easements as are necessary to adequately serve the proposed development and occupancy, and the minimum design standards of the City.

F. Pre-Application Review. Prior to submission of a Site Plan, the applicant should discuss with the City's engineer the procedure and the requirements of the general layout of the site, utilities, access to arterials, general design and narrative, the availability of existing services, and similar matters. The intent of the pre-application review is to expedite the Site Plan Review process and to facilitate the approval of the development.

G. Site Plan Preparation.

1. Site Plans or any portion thereof involving public engineering improvements shall be certified by a Professional Engineer registered in the State of Oklahoma.

2. Every Site Plan shall include a boundary survey completed and certified by a land surveyor licensed by the State of Oklahoma.

3.Site Plans shall be prepared to a scale of one inch equals thirty feet or larger.

4. A Site Plan shall be prepared on one or more sheets to show clearly the information required by these regulations and to facilitate the review and approval of the plan. If appropriate, match lines shall clearly indicate where sheets join.

5. Site Plans shall be submitted in three (3) clearly legible blue or black line copies and shall also include any supportive maps or data as may be required.

6. The Site Plan must, at the time of submittal, be accompanied by the completed application form. The filing fee for Site Plan Review shall be One Hundred Dollars ($100.00) plus the actual cost of publication. An application for the approval of a Site Plan may be processed simultaneously with and contingent upon, the approval of an application for a zoning amendment.

H. Contents of The Site Plan.

1. All Site Plans shall contain the following information:

a. Location of the tract, with references to names of adjoining streets, railroads, subdivisions, or other landmarks sufficient to clearly identify the location of the property.

b. The name, address, telephone numbers and e-mail of the owner or developer, north arrow, date, scale of drawing, and number of sheets.

c. Boundary dimensions and references as indicated by survey.

d. Existing topography, with a maximum contour interval of two (2) feet, if required by the City's engineer.

e. All existing and proposed streets, pedestrian circulation systems, utilities and easements, indicating their name, type and dimensions and the location of all private utility service lines and connections to public utilities.

f. Zoning of all adjacent properties.

g. The delineation of any flood hazard areas and drainage features as defined by the Federal Insurance Administration.

h. Location, type and dimensions of vehicular entrances to the site.

i. All off-street parking and loading areas in accordance with off-street parking regulations as specified in this Code.

j. The proposed location, use, number of floors, height and gross floor area for each building; any outside display areas; signs and lighting. Elevation drawings shall be submitted for all signs and buildings.

k. Location, type, size and height of fencing, retaining walls, screening, plantings, or landscaping. Elevation drawings shall be submitted for all screen planting and fencing.

l. Provisions for the adequate disposition of natural storm water in accordance with the adopted design criteria, standards, and ordinances of the City indicating the location, size, type and grade of ditches, catch basins and dips, and connections to existing drainage systems and on-site storm water detention systems.

m. Proposed finished grading by contours of two (2) feet supplemented where necessary by spot elevation if required by the City's engineer.

I. Site Plan Submission and Review. Plans for Development on Property.

1. All Site Plans shall be reviewed and approved by the Planning Commission prior to the issuance of any Building Permit or Occupancy Permit for the property.

2. The Site Plan shall be submitted to the City Clerk no later than twenty (20) days prior to the Planning Commission meeting date at which it is to be considered.

3. The City's engineer shall review the Site Plan for completeness and compliance with the provisions of these regulations. Any necessary modifications shall be forwarded to the applicant for resubmittal.

4. After review, the City's engineer shall provide to the Planning Commission, a written report recommending and listing reasons for the approval or denial of the Site Plan.

5. The Planning Commission shall conduct a public hearing regarding the proposed Site Plan and shall consider:

a. Whether the proposed Site Plan is consistent with the Land Use Plan.

b. Whether the proposed Site Plan harmonizes with the existing and expected development of surrounding areas.

c. Whether provisions have been made for proper accessibility, circulation and functional relationships of land uses.

d. Whether the proposed Site Plan is consistent with the purposes and standards of these regulations.

6. The Planning Commission may take the following actions:

a. Approval. If the Site Plan is recommended for approval, the developer may make application for permits in compliance with the approved Site Plan.

b. Conditional approval. The Planning Commission may recommend conditional approval of the Site Plan subject to any necessary amendments.

c. Denial. If the Site Plan is recommended for denial, the reasons for such shall be recorded in the minutes of the Planning Commission meeting. The reasons for denial shall refer to specific provisions of these regulations which the Site Plan does not conform.

7. The recommendation of the Planning Commission shall be referred to the City Council for final action.

8. The City Council shall approve, conditionally approve or deny the Site Plan. In the case of any action other than approval, the City Council shall state the reasons for its action. As a condition of approval, the City Council may require certain on-site and off-site improvements be installed and/or dedication of easements or rights-of-way made.

J. Public Notice.

1. After the City Clerk receives an application for Site Plan Review, the subject property shall be posted with a notice or notices which shall describe the development being proposed and the time and place in which the application may be viewed by any interested person.

2. Said Notice shall be posted no later than ten (10) days prior to the hearing before the Planning Commission. The subject property shall remain posted until a final decision has been made concerning the application.

Upon approval of the Site Plan, building and/or occupancy permits may be issued in accordance with the provisions of the approved Site Plan.

K. Amendments. Minor changes to the Site Plan may be accomplished administratively through the City's engineer so long as substantial compliance is maintained with the approved Site Plan. Proposed changes which could represent a significant departure from the Site Plan, as approved by the Planning Commission or City Council, shall require resubmittal. Major changes to an approved Site Plan which would require resubmittal shall include but not be limited to, an increase in the bulk of any building by more than ten percent (10%), an increase in residential density, or an increase in total ground area covered by buildings by more than ten percent (10%).

L. Occupancy Permit. Prior to the issuance of any Certificate of Occupancy, the applicant shall complete in a manner satisfactory to the City's engineer, all improvements required by these regulations and as required by the City Council.

M. Exceptions: The foregoing Site Plan Procedure shall not apply to:

1. New occupancies of existing structures in Commercial, Industrial or Public Institutional Zoning Districts that do not involve an addition greater than 50% in size of the original building or use shall not be subject to the site plan review ordinance.

2. Any use permitted on a temporary basis for a period of not to exceed six (6) months.

3. Attached or unattached additions to existing Commercial, Industrial or Public Institutional buildings or uses; provided however, such additions must not be greater in size than 50% of the original building or use or such attached or unattached addition shall be subject to the Site Review Procedure.

N. Administrative Site Plan Review: The following Administrative Site Plan Review procedures shall apply to additions to existing non-residential buildings or uses, when such additions do not change the character of the use, cause or extend a nuisance or nonconformity and otherwise conform to the appropriate City ordinances.

1. There is hereby created an Administrative Site Plan Review Board (hereinafter the "Board") to review applications for Administrative Site Plan Review (hereinafter the "review"). The Board shall be composed of the City's Engineer, the Chairman of the Planning Commission or his designee and the City Manager.

2. Any Administrative Site Plan Review Applicant (hereinafter the "Applicant") shall request a Pre-Application Review with the City Manager as provided by subsection F. Prior to the administrative hearing, the City Manager may choose, in his sole discretion, to send the Application for consideration and review by the Planning Commission and the City Council.

3. The City Manager shall determine which design standards (as provided in subsection E, what site plan preparation (as provided in subsection G) and which site plan contents are

applicable for this type of Application, together with any such other related matters to expedite the Application. Upon submission of such applicable items in the Application by the Applicant to the City Clerk, the affected property shall be immediately posted with a notice which describes the development being proposed and the time and place of the administrative hearing before the Board. The property shall be posted for at least five (5) days prior to the date of the administrative hearing. At the hearing, the Board shall consider:

a. Whether the proposed Site Plan is consistent with the Land Use Plan;

b. Whether the proposed Site Plan harmonizes with the existing and expected development of surrounding areas;

c. Whether provisions have been made for the proper accessibility, circulation and functional relationships of land uses;

d. Whether the proposed Site Plan is consistent with the purposes and standards of these regulations; and

e. Whether, as a condition of approval, certain on-site and off-site improvements should be installed at the Applicant's sole cost.

The decision of any two members of the Board shall be binding on the Applicant. All Board decisions shall be reduced to writing and forwarded to the Planning Commission for their records. Any person may appear at the administrative hearing and be heard. If no appeal to the decision of the Board is filed with the City Clerk within three (3) business days of the Board's decision, such decision shall be binding. Any decision appealed shall be heard and decided by the City Council.

Editor's note— Article III, §§ 8-187—8-190, 8-219—8-228, and 8-250—8-258 has been deleted by the editor at the instruction of the city, inasmuch as it appears to have been repealed by Ord. No. 2792, §§ 1, 3, adopted Aug. 15, 2011. Said article pertained to property maintenance, and derived from Ord. No. 2756, § 2, adopted March 5, 2007; Article III was replaced by the "Site Plan Review" Article by the adoption on Ordinance No. 2017-26; Ordinance No. 2018-15, 9-15-2018.

Secs. 8-188—8-279. - Reserved. Secs. 8-188—8-279. - Reserved.

ARTICLE IV. HOUSE MOVING

Sec. 8-280. Permit required.

No person shall move any building or structure along or across any street or highway within the corporate limits of the city without a permit therefor from the city manager or designee, issued in accordance with the provisions hereinafter set forth.

(Code 1952, title 14, ch. 1, § 1; Code 1967, § 7-21)

Sec. 8-281. City manager or designee to investigate application, supervise moving.

Within 24 hours after application is made for permit to move a building or structure the city manager or designee will make an investigation of the building regarding its weight, condition from a safety standpoint, width, height, etc. After making such investigation, it shall be the duty of such city manager or designee to designate whether the structure or building shall be taken apart or moved intact. The city manager or designee shall also designate what streets, alleys or highways said building or structure shall be moved over and what precautionary measures shall be taken to prevent damage to pavement, sidewalks, street crossings, poles, wires, trees or any other property, public or private. The party who desires to move a building or structure shall have the right to appeal any decision of the city manager or designee over which a controversy arises to the city council, and the city council's decision regarding the question in dispute shall be final.

(Code 1952, title 14, ch. 1, § 3; Code 1967, § 7-22)

Sec. 8-282. Issuance of permit.

After the city manager or designee makes an investigation as outlined in section 8-281, it shall be the duty of the city manager or designee to issue a permit for moving the structure or building, and the designated route, amount of dismantling of the structure or building, protection to public and private property requirements and other requirements, shall be stated in writing thereon.

(Code 1952, title 14, ch. 1, § 4; Code 1967, § 7-23)

Sec. 8-283. Fees.

The city clerk shall collect from the party desiring to move a building or structure the fees as set by resolution.

(Code 1952, title 14, ch. 1, § 5; Code 1967, § 7-24)

Sec. 8-284. Bond, license required.

No person shall move any structure or building along or across any street or highway within the city limits without first securing a license from the city council and making bond as set by resolution.

(Code 1952, title 14, ch. 1, § 2; Code 1967, § 7-25)

Sec. 8-285. Additional expenses incurred to be borne by house mover.

Any and all expenses incurred upon any person by a building or structure having been moved or being moved, such as getting wires, poles, trees and other objects out of the way, shall be paid by the house mover who moved said building or structure.

(Code 1952, title 14, ch. 1, § 6; Code 1967, § 7-26)

Sec. 8-286. Removal of building when unpaid taxes, liens, etc., prohibited; exception.

(a) *Prohibited.* It shall be unlawful for any person to move, aid or assist in moving, or attempt to move from its situs any building or structure, or attempt to detach or detach any such building or structure from such real estate when the same is located in any improvement district of the city and there remains unpaid and chargeable as against said real estate upon which is located any such building or structure sought to be moved, any assessment, special assessment, interest, penalties or costs incurred as a result of improvements made in such improvement district.

(b) *Exception.* The provisions of subsection (a) of this section shall not include or cover any building or structure which has been condemned or ordered torn down and moved by the city as provided under the terms of any ordinance of the city.

(Code 1952, title 14, ch. 1, §§ 7, 8; Code 1967, § 7-27)

Secs. 8-287-8-305. Reserved.

ARTICLE V. - FLOOD DAMAGE PREVENTION

Editor's note— Ord. 2777, §§ 1, 2, adopted Sept. 8, 2009 repealed the former art. V, §§ 8-306—8-370, and enacted a new art. V as set out herein. The former art. V pertained to similar subject matter and derived from Code 1967; Ord. No. 2458, adopted April 7, 1987; and Ord. No. 2683, adopted May, 6, 1997. Subsequently, Ord. No. 2779, §§ 1, 2, adopted Sept. 21, 2009, repealed the former art. V, §§ 8-306—8-369, and enacted a new art. V as set out herein. The former art. V pertained to similar subject matter and is included in the history notes.

DIVISION 1. - GENERALLY

Sec. 8-306. Definitions.

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

Accessory structure means structures which are on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure (such as garages and storage sheds).

Area of special flood hazard means the land in the floodplain within the incorporated area of the City of Blackwell subject to a one percent or greater chance of flooding in any given year. The area may be designated as zone A on the flood hazard boundary map (FIRM). After detailed ratemaking has been completed in preparation for publication of the FIRM, zone A usually is refined into zones A and AE.

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

Base flood elevation means the height of floodwater reached during the base flood.

Basement means any area of the building having its floor subgrade (below ground level) on all sides.

Board means the Oklahoma Water Resources Board (OWRB).

City means the City of Blackwell, Oklahoma.

City manager means the City Manager of Blackwell, Oklahoma.

Critical facilities means structures or facilities that produce, use or store highly volatile, flammable, explosive, toxic, and/or water reactive materials; hospitals, nursing homes, and housing likely to contain occupants who may not be sufficiently mobile to avoid death or injury during a flood; police stations, fire stations, vehicle and equipment storage facilities, and emergency operation centers that are needed for flood response activities before, during and after a flood; and public and private utility facilities that are vital to maintaining or restoring normal services to flooded areas before, during and after a flood.

Critical feature means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

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

Development permit means any permit granted under the terms and conditions of this article for any development of land in a floodplain.

Elevated building.

(1) The term "elevated building" means a non-basement building:

   a. Built, in the case of a building in zones A and AE, to have the top of the elevated floor, or, in the case of a building in zones V1—30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the floor of the water; and

   b. Adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood.

(2) In the case of zones A and AE, the term "elevated building" includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwaters.

(3) In the case of zones V1—30, VE, or V, the term "elevated building" includes a building otherwise meeting the definition of "elevated building," even though the lower area is enclosed by means of breakaway walls if the breakaway walls meet the standards of section 60.3(e)(5) of the National Flood Insurance Program regulations.

Existing construction means, for the purposes of determining rates, structures for which the start of construction commenced before the effective date of the City of Blackwell's initial FIRM or before January 1, 1975, for FIRM's effective before that date. The term "existing construction" may also be referred to as "existing structures."

Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the Floodplain Management regulations, articles or ordinances initially adopted by the Blackwell City Council.

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

Flood or *Flooding* means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(1) The overflow of inland or tidal waters,

(2) The unusual and rapid accumulation or runoff of surface waters from any source.

Flood insurance rate map (FIRM) means an official map of Kay County and incorporated areas, including the City of Blackwell on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the incorporated areas of the city.

Flood insurance study means the official report provided by the Federal Emergency Management Agency. The report contains flood profiles and water surface elevation of the base flood.

Floodplain administrator means a person accredited by the board and designated by a floodplain board to administer and implement laws and regulations relating to the management of the floodplains.

Flood protection system means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the areas within the incorporated areas of the city 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 and dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

Floodplain or *flood-prone area* means any land area susceptible to being inundated by water from any source (see "Flooding").

Floodplain board means an administrative and planning board for floodplain management of the city or the planning commission of the city, if so designated by the city council.

Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage, including, but not limited to, emergency preparedness plans, flood control works and floodplain management regulations.

Floodplain management regulations means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain ordinances, grading ordinances and erosion control ordinances) and other applications of police power. The

term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Flood-proofing means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduces or eliminates flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents. New or substantially improved residential buildings cannot be flood-proofed. They must be elevated to or above the regulatory flood protection elevation.

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

Functionally dependent use means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term "functional dependent use" 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 means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure means any structure that is:

(1) 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;

(2) 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;

(3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

(4) Individually listed on a local inventory or historic places in communities with historic preservation programs that have been certified either:

   a. By an approved state program as determined by the Secretary of the Interior; or

   b. Directly by the Secretary of the Interior in states without approved programs.

Levee means 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 means a flood protection system which consists of a levee and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

Lowest floor means the lowest floor of the lowest enclosed area of a building or structure, including basement. An unfinished or flood-resistant enclosure usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in

violation of the applicable non-elevation design requirement of section 60.3 of the National Flood Insurance Program regulations.

Manufactured home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a recreational vehicle.

Manufactured home park or *subdivision* means a parcel or contiguous parcels of land divided into two or more manufactured home lots for rent or sale.

Mayor and *city council* means the mayor and city council of the City of Blackwell, Oklahoma.

Mean sea level means, for purposes of interpreting the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on Kay County and incorporated areas flood insurance rate map are referenced.

New construction means, for the purpose of determining insurance rates, structures for which the start of construction commenced on or after March 1, 1978, and includes any subsequent improvements to such structures. For floodplain management purposes, the term "new construction" means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by the city and includes any subsequent improvements to such structures.

New manufactured home park or *subdivision* means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by the city.

Recreational vehicle means a vehicle which is:

(1) Built on a single chassis;

(2) Four hundred square feet or less in area, when measured at the largest horizontal projections;

(3) Designed to be self-propelled or permanently towable by a light-duty truck; and

(4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory flood protection elevation means an elevation not less than 24 inches above the base flood elevation.

Start of construction means and includes, for other than new construction or substantial improvements under the Coastal Barrier Resources Act (P.L. 97-348), the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date, and includes substantial improvement.

(1) The term "actual start," for the purpose of this definition, 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. 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.

(2) The term "permanent construction," for the purpose of this definition, does not include land preparation, such as clearing, grading and filling, the installation of streets and/or walkways, excavation for basement, footings, piers or foundations or the erection of temporary forms, or the installation on the property of accessory structures, such as garages or sheds not occupied as dwelling units or not part of the main structure.

Structure means a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement.

(1) The term "substantial improvement" means any combination of repairs, reconstructions, rehabilitations, additions, or other improvements of a structure taking place during the life of the structure the cumulative cost of which equals or exceeds fifty percent of the market value of the structure before start of construction of the improvement. This includes structures which have incurred substantial damage, regardless of the actual repair work performed.

(2) The term "substantial improvement" 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 code enforcement official and which are the minimum necessary 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 means a grant of relief to a person from the requirement of this article when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this article, subject to the requirements of section 60.6 of the National Flood Insurance Program regulations.

Violation means the failure of a structure or other development to be fully compliant with the city's floodplain management regulations and Floodplain Damage Prevention Ordinance. 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) of the National Flood Insurance Program regulations is presumed to be in violation until such time as that documentation is provided.

Water surface elevation means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

Watercourse means a stream, creek, pond, slough, gulch, reservoir, lake or portion of the floodplain functioning as a natural or improved channel carrying flows not constituting a flood. The term "watercourse" includes, without limitation, established natural and artificial or constructed drainage ways for carrying storm runoff but does not include irrigation ditches.

(Ord. No 2777, §§ 1, 2, 9-8-2009; Ord. No. 2779, §§ 1, 2, 9-21-2009; Ord. No. 2780, §§ 1, 2, 10-5-2009)

Sec. 8-307. Statutory authorization.

The legislature of the state has in the Oklahoma Floodplain Management Act, 82 O.S. §§ 1601—1619, delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the mayor and city council, ordain as follows in this article.

(Ord. No 2777, §§ 1, 2, 9-8-2009; Ord. No. 2779, §§ 1, 2, 9-21-2009)

Sec. 8-308. Findings of fact.

(a) The flood hazard areas of the city are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.

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

(Ord. No 2777, §§ 1, 2, 9-8-2009; Ord. No. 2779, §§ 1, 2, 9-21-2009)

Sec. 8-309. Statement of purpose.

It is the purpose of this article to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

(1) Protect human life and health;

(2) Minimize expenditure of public money for costly flood control projects;

(3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(4) Minimize prolonged business interruptions;

(5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;

(6) Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood-blight areas;

(7) Ensure that potential buyers are notified that property is in a flood area;

(8) Ensure that those who occupy the floodplain assume the responsibility for their actions;

(9) Protect the natural areas required to convey flood flows and retain slow flow characteristics;

(10) Obtain and maintain the benefits to the city of participating in the National Flood Insurance Program.

(Ord. No 2777, §§ 1, 2, 9-8-2009; Ord. No. 2779, §§ 1, 2, 9-21-2009)

Sec. 8-310. Methods of reducing flood losses.

In order to accomplish its purposes, this article uses the following methods:

(1) Restricts or prohibits uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;

(2) Requires that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(3) Controls the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;

(4) Controls filling, grading, dredging and other development which may increase flood damage;

(5) Prevents or regulates the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

(Ord. No 2777, §§ 1, 2, 9-8-2009; Ord. No. 2779, §§ 1, 2, 9-21-2009)

Sec. 8-311. Lands to which article applies.

This article shall apply to all areas of special flood hazard within the jurisdiction of the city.

(Ord. No 2777, §§ 1, 2, 9-8-2009; Ord. No. 2779, §§ 1, 2, 9-21-2009)

Sec. 8-312. Basis for establishing the areas of special flood hazard.

Effective September 25, 2009, the areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, "The Flood Insurance Study for Kay County, Oklahoma, and Incorporated Areas," dated September 25, 2009, with accompanying flood insurance rate maps (FIRM) are hereby adopted by reference and declared to be a part of this ordinance. Until that date, the basis for establishing the areas of special flood hazard shall continue to be "The Flood Insurance Study for City of Blackwell, Oklahoma, Kay County," dated May 19, 1997, with accompanying flood insurance rate maps.

(Ord. No 2777, §§ 1, 2, 9-8-2009; Ord. No. 2779, §§ 1, 2, 9-21-2009)

Sec. 8-313. Compliance.

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

(Ord. No 2777, §§ 1, 2, 9-8-2009; Ord. No. 2779, §§ 1, 2, 9-21-2009)

Sec. 8-314. Abrogation and greater restrictions.

This article is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this article and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(Ord. No 2777, §§ 1, 2, 9-8-2009; Ord. No. 2779, §§ 1, 2, 9-21-2009)

Sec. 8-315. Interpretation.

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

(1) Considered as minimum requirements;

(2) Liberally construed in favor of the city council; and

(3) Deemed neither to limit nor repeal any other powers granted under state statutes.

(Ord. No 2777, §§ 1, 2, 9-8-2009; Ord. No. 2779, §§ 1, 2, 9-21-2009)

Sec. 8-316. Warning and disclaimer or liability.

The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions, greater floods can and will occur, and flood heights may be increased by manmade or natural causes. This article does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This article shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made hereunder.

(Ord. No 2777, §§ 1, 2, 9-8-2009; Ord. No. 2779, §§ 1, 2, 9-21-2009)

Sec. 8-317. Nonconforming structures.

A structure which existed and was lawful before the passage of the ordinance from which this article was derived but which is not in conformity with the requirements of this article may be continued notwithstanding the provisions of this article, subject to the following conditions:

(1) If a nonconforming structure is abandoned for twelve consecutive months, the structure shall conform to the requirements of this article prior to any future use. Intent to resume active operations shall not affect the foregoing;

(2) If any nonconforming structure is substantially damaged by any means, including floods, to an extent equal to or greater than 50 percent of its market value, such structure shall not be repaired or reconstructed except in conformity with the provisions of this article;

(3) Any combination of repairs, reconstruction, addition or other improvement of a structure taking place during the life of the structure, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement, shall be made only in conformity with the provisions of this article.

(Ord. No 2777, §§ 1, 2, 9-8-2009; Ord. No. 2779, §§ 1, 2, 9-21-2009)

Sec. 8-318. Violations and penalties.

No structure or land shall be improved, constructed, located, extended, converted or altered without full compliance with the terms of this article and other applicable regulations. Violations of the provisions of this article, including violations of conditions and safeguards established pursuant to this article and other applicable regulations, shall constitute a Class A offense. Each day that such violation occurs or exists shall constitute a separate offense. The city may seek the collection of costs as provided herein in addition to any penalties assessed for violation of this article. Nothing contained herein shall limit or prevent the city from taking such other action as is necessary to prevent or remedy any violation, including, but not limited to, equitable or injunctive relief.

(Ord. No 2777, §§ 1, 2, 9-8-2009; Ord. No. 2779, §§ 1, 2, 9-21-2009)

Secs. 8-319-8-339. - Reserved.

DIVISION 2. - ADMINISTRATION

Sec. 8-340. Designation of the floodplain board.

The city council shall appoint a floodplain board composed of five members. All the members shall be residents of the city. Initial membership shall consist of two members appointed for terms of two years, two members appointed for terms of four years, and one member appointed for a term of six years. Thereafter, all appointments shall be made for a term of six years. All members shall serve without compensation. Members may be removed by the city council for cause after a public hearing for that purpose. Vacancies shall be filled by additional appointments for the unexpired term only.

(Ord. No 2777, §§ 1, 2, 9-8-2009; Ord. No. 2779, §§ 1, 2, 9-21-2009)

Sec. 8-341. Duties of the floodplain board.

(a) The floodplain board is granted those powers and duties set forth by law in 82 O.S. § 1601 et seq., and as may be amended hereafter.

(b) The floodplain board shall review all floodplain development permits to determine that the permit requirements of this article have been satisfied.

(Ord. No 2777, §§ 1, 2, 9-8-2009; Ord. No. 2779, §§ 1, 2, 9-21-2009)

Sec. 8-342. Designation of the floodplain administrator.

The floodplain administrator shall be appointed by the city manager to administer and implement the provisions of this article and other appropriate sections of 44 CFR (National Flood Insurance Program regulations) pertaining to floodplain management.

(Ord. No 2777, §§ 1, 2, 9-8-2009; Ord. No. 2779, §§ 1, 2, 9-21-2009)

Sec. 8-343. Duties and responsibilities of the floodplain administrator.

Duties and responsibilities of the floodplain administrator shall include, but not be limited to, the following:

(1) Maintain and hold open for public inspection all records pertaining to the provisions of this article;

(2) Review permit applications to determine whether proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding;

(3) Review, approve or deny all applications for development permits required by adoption of this article;

(4) Review permits for proposed development to ensure 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;

(5) Make the necessary interpretation, where interpretation is needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions);

(6) Notify, in riverine situations, adjacent communities and the state coordinating agency, which is the Oklahoma Water Resources Board (OWRB), prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency;

(7) Assure that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained;

(8) Obtain, review and reasonably utilize any base flood elevation data and floodway data available from a federal, state or other source, when base flood elevation data has not

been provided in accordance with section 8-312, in order to administer the provisions of division 3 of this article;

(9) Require, when a regulatory floodway has not been designated, that no new construction, substantial improvements, or other development (including fill) shall be permitted within zone AE on the city's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the city. Under the provisions of 44 CFR ch. 1, § 65.12, of the National Flood Insurance Program regulations, the city may approve certain development in zone AE on the city's FIRM which increases the water surface elevation of the base flood by more than one foot, provided that the city first applies for a conditional FIRM revision through FEMA;

(10) Become accredited by the board in accordance with 82 O.S. 1601—1618;

(11) After a disaster or other type of damage occurrence to the structure in the city, determine if the residential and nonresidential structures and manufactured homes located in the SFHA have been substantially damaged and enforce the substantial improvement requirement.

(Ord. No 2777, §§ 1, 2, 9-8-2009; Ord. No. 2779, §§ 1, 2, 9-21-2009; Ord. No. 2780, § 3, 10-5-2009)

Sec. 8-344. Establishment of development permit.

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

(Ord. No 2777, §§ 1, 2, 9-8-2009; Ord. No. 2779, §§ 1, 2, 9-21-2009)

Sec. 8-345. Permit procedures.

A floodplain development permit shall be obtained from the floodplain administrator before construction or development begins within any of the floodplain areas established pursuant to this article.

(1) Application for a development permit shall be presented to the floodplain board on forms furnished by the board and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:

a. Elevation, in relation to mean sea level, of the lowest floor, including basement, of all new and substantially improved structures;

b. Elevation, in relation to mean sea level, to which any nonresidential structure shall be flood-proofed;

c. A certificate from a registered professional engineer or architect that the nonresidential flood proofed structure shall meet the flood-proofing criteria of subsection 8-367(2);

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

e. Maintain a record of all such information in accordance with subsection 8-341(a).

(2) Approval or denial of a development permit by the floodplain board shall be based on all provisions of this article and the following relevant factors:

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

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

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

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

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

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

g. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;

h. The necessity to the facility of a waterfront location, where applicable;

i. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

j. The relationship of the proposed use to the comprehensive plan for that area.

(3) The application shall be accompanied by a fee in an amount to be set by resolution of the city council.

(Ord. No 2777, §§ 1, 2, 9-8-2009; Ord. No. 2779, §§ 1, 2, 9-21-2009)

Sec. 8-346. Variance procedures.

(a) The board of adjustment shall hear and render judgment on requests for variances from the requirements of this article. Any final decision of the board of adjustment may be subject to review by the city council.

(b) The board of adjustment 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 board or administrator in the enforcement or administration of this article.

(c) Any person aggrieved by the decision of the board of adjustment may appeal such decision in the courts of competent jurisdiction.

(d) The floodplain administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.

(e) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the state inventory of historic places, without regard to the procedures set forth in the remainder of this article.

(f) Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in subsection 8-345(2) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

(g) Upon consideration of the factors noted above and the intent of this article, the board of adjustment may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of section 8-309.

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

(i) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

(j) Prerequisites for granting variances shall be as follows:

(1) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief;

(2) Variances shall only be issued upon:

a. Showing a good and sufficient cause;

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

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

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

(k) Variances may be issued by a board of adjustment for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use, provided that:

(1) The criteria outlined in subsections 8-343(1)—(9) are met; and

(2) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

(l) Any person seeking a variance shall file a petition with the Floodplain Board, accompanied by a fee in an amount set by resolution of the city council.

(m) A copy of any variance issued will be sent to the OWRB within 15 days of issuance.

(Ord. No 2777, §§ 1, 2, 9-8-2009; Ord. No. 2779, §§ 1, 2, 9-21-2009)

Secs. 8-347-8-365. - Reserved.

DIVISION 3. FLOOD HAZARD REDUCTION

Sec. 8-366. General standards.

In all areas of special flood hazard, the following provisions are required for all new construction and substantial improvement:

(1) All new construction or substantial improvements shall be designed or modified and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

(2) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage. Residential buildings shall be elevated so the lowest floor is two feet above the base flood protection elevation to the regulatory flood protection elevation. All new nonresidential buildings shall be either elevated above the regulatory flood protection elevation level or flood-proofed to the regulatory flood protection level;

(3) All new construction or substantial improvements shall be constructed with materials resistant to flood damage;

(4) All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

(5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;

(6) 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 floodwater;

(7) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(Ord. No 2777, §§ 1, 2, 9-8-2009; Ord. No. 2779, §§ 1, 2, 9-21-2009)

Sec. 8-367. Specific standards.

In all areas of special flood hazard where base flood elevation data has been provided as set forth in sections 8-312, 8-343(8), or 8-345, the following provisions are required:

(1) *Residential construction.* New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to two feet above base flood protection elevation to the regulatory 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 8-345(1)a, is satisfied.

(2) *Nonresidential construction.* New construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to or above the regulatory flood protection elevation, 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 to withstand flotation, collapse, lateral movement, erosion and scour, undermining, and the effects of water and wind acting simultaneously on all building components during the base flood. A record of such certification which includes the specific elevation, in relation to mean sea level, to which such structures are flood-proofed shall be maintained by the floodplain administrator.

(3) *Enclosures.* New construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;

b. The bottom of all openings shall be no higher than one foot above grade;

c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(4) *Manufactured homes.*

a. All manufactured homes to be placed within zone AE on a Kay County and incorporated areas FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

b. Manufactured homes that are placed or substantially improved within zone AE on the community's FIRM on sites outside of a manufactured home park or

subdivision, in a new manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision, or in an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as a result of a flood, shall be elevated on a permanent foundation such that the bottom of the I-beam of the manufactured home is elevated to or above the regulatory floodplain protection level and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

c. Manufactured homes placed or substantially improved on sites in an existing manufactured home park or subdivision with zone AE on the city's FIRM that are not subject to the provisions of subsection (4) of this section shall be elevated so that either:

1. The bottom of the I-beam of the manufactured home is above the regulatory floodplain protection level; or

2. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(5) *Recreational Vehicles.* Recreational vehicles placed on sites within zone AE on the city's FIRM shall either be on the site for fewer than 180 consecutive days, be fully licensed and ready for highway use, or meet the permit requirements of subsection 8-345(1) and the elevation and anchoring requirements for "manufactured homes" in subsection (4) of this section. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect-type utilities and security devices, and has no permanently attached additions.

(6) *Critical facilities.* No new critical facilities shall be constructed within the 500-year floodplain.

(7) *Hazardous materials.* No person shall store a hazardous substance below the regulatory floodplain protection elevation for the area of the floodplain in which it is located, except for the storage of gasoline in existing and replacement underground tanks in existing gasoline service stations and service garages, which tanks are designed to prevent infiltration and discharge into floodwaters and which are adequately anchored and shielded against rupture.

(8) *Accessory structure.*

a. Structure is low valued and represents a minimal investment.

b. Structure shall be small and not exceed 600 square feet in size.

c. Structure shall be unfinished on the interior.

d. Structure can be used only for parking and limited storage.

e. Structure shall not be used for human habitation (including work, sleeping, living, cooking or restroom areas).

f. Service facilities such as electrical and heating equipment must be elevated a minimum of two feet above the BFE or flood-proofed.

g. Structure is constructed and placed on building site so as to offer the minimum resistance to the flow of floodwaters.

h. Structure is designed to have low flood damage potential i.e., constructed with flood-resistant materials.

i. Structure is firmly anchored to prevent flotation, collapse and lateral movement.

j. Floodway requirements must be met in the construction of the structure.

k. Openings to relieve hydrostatic pressure during a flood shall be provided below the BFE.

l. Structure is to be located so as not to cause damage to adjacent and nearby structures.

(Ord. No 2777, §§ 1, 2, 9-8-2009; Ord. No. 2779, §§ 1, 2, 9-21-2009; Ord. No. 2780, §§ 4, 5, 10-5-2009)

Sec. 8-368. Standards for subdivision proposals.

(a) All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with sections 8-307 through 8-310.

(b) All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet development permit requirements of sections 8-344 and 8-345 and the provisions of division 3 of this article.

(c) Base flood elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is greater than 50 lots or five acres, whichever is lesser, if not otherwise provided pursuant to section 8-312 or 8-343(8).

(d) All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.

(e) All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

(Ord. No 2777, §§ 1, 2, 9-8-2009; Ord. No. 2779, §§ 1, 2, 9-21-2009)

Sec. 8-369. Floodways.

Floodways located within areas of special flood hazard established in section 8-312, are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

(1) Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in

accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the incorporated areas of the city during the occurrence of the base flood discharge;

(2) If subsection (1) of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this division;

(3) Under the provisions of 44 CFR chapter 1, § 65.12, of the National Flood Insurance regulations, the city may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the city first complies with all of 44 CFR chapter 1, section 65.12.

(Ord. No 2777, §§ 1, 2, 9-8-2009; Ord. No. 2779, §§ 1, 2, 9-21-2009)

Chapter 9 INSTITUTIONAL CONTROL REGULATIONS

Chapter 9 - INSTITUTIONAL CONTROL REGULATIONS

Sec. 9-1. General.

(a) *Scope.* This chapter shall apply to all property located within the municipal limits of the City of Blackwell (the "city") whether such property is public or private (the "district").

(b) *Purpose.* The district is created in response to historical releases of hazardous substances associated with operations at the Blackwell Zinc Smelter, which was formerly located in the northwest part of the city. These institutional control regulations governing land use and the handling of soil, visible smelter material and groundwater in the district are intended:

(1) To prevent recontamination of remediated and noncontaminated areas;

(2) To protect the health and safety of persons within the district;

(3) To identify and isolate contaminated soil, visible smelter material and contaminated groundwater;

(4) To control the movement, handling and disposal of contaminated soil, visible smelter material and contaminated groundwater; and

(5) To record soil quality and remediation data in the district.

This chapter is intended to comply with the institutional control requirements in accordance with the Consent Agreement and Final Order dated December 17, 1992 (the "CAFO"), by and among the Oklahoma Department of Environmental Quality ("DEQ"), Blackwell Zinc Company ("BZC"), the Blackwell Industrial Authority and the city, as an intervenor, the DEQ Record of Decision, Soil Remediation Unit, Blackwell Zinc Site (April 4, 1996) (the "Soil ROD"), the DEQ Record of Decision, Ecological Remediation Unit, Blackwell Zinc Site (April 24, 1998), and the DEQ Record of Decision, Groundwater Remediation Unit, Blackwell Zinc Site (August 15, 2003).

(c) *Interpretation.* It is recognized that this chapter cannot describe and address all possible situations which might arise with respect to managing contaminated soil, visible smelter material and groundwater. Therefore, the city shall have the authority to render interpretations of these institutional control regulations and to adopt clarifying policies and procedures consistent with this chapter. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally interpreted to accomplish their intended purposes and shall not be deemed a limitation or repeal of any other powers granted by state or local statutes.

(d) *Liability.* The degree of protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. In adopting this chapter, the city takes no responsibility for the occurrence of any contaminated soil, visible smelter material or groundwater contamination. This chapter shall not create liability on the part of the city or its respective officers, trustees, employees or agents for any contaminated soil, visible smelter material or groundwater contamination that results from reliance on or the enforcement of this chapter or any administrative decision lawfully made under this chapter.

(e) Nothing in this chapter shall alter, impact or otherwise interfere with, or shift, change or otherwise reallocate, any legal duty, obligation, liability or responsibility of BZC, Freeport-McMoRan Copper & Gold Inc, and/or Freeport-McMoRan Corporation (f/k/a Phelps Dodge Corporation) or any of their respective subsidiaries, affiliates or related entities or any of their respective successors or assigns (collectively "Freeport") related to or otherwise involving, but not limited to, contaminated soil, visible smelter material and contaminated surface water and/or groundwater.

(Ord. No. 2801, § 1(9.1), 8-20-2012)

Sec. 9-2. Definitions.

In addition to any other term defined in this chapter, the following terms, words and phrases, when capitalized and used in this chapter, shall have the meaning ascribed to them in this section. The definitions of words in the singular in this agreement shall apply to such words when used in the plural where the context so permits and vice versa, and the definitions of words in the masculine or feminine in this agreement shall apply to such words when used in the other form where the context so permits and vice versa.

Action levels shall mean the following concentrations of lead, cadmium or arsenic in soil:

	Residential or Recreational Use Properties	Commercial or Industrial Use Properties
Lead	750 ppm	2,000 ppm
Cadmium	75 ppm	200 ppm
Arsenic	50 ppm	200 ppm

ppm = parts per million

Approved cap shall mean a barrier constructed of dirt, gravel, asphalt, concrete, geotextile fabric and/or other material approved by DEQ (or combination thereof) that is placed over regulated soil including those barriers identified on Figure 1 to this chapter.

Clean soil shall mean (a) soil found to contain less than 30 ppm of arsenic, 30 ppm of cadmium and 100 ppm of lead based on a representative sample, or (b) soil obtained from an area approved by DEQ. Clean soil does not include any soil known to be contaminated with any other hazardous substances.

Consolidation area shall mean the area required to be maintained by Freeport under the CAFO and/or the soil ROD and shown on Figure 2.

DEQ shall mean the Oklahoma Department of Environmental Quality or its successor agency.

Environmental technician shall mean the person designated by the city to administer this chapter whose duties and responsibilities are set forth in section 9-6.

Excess soil shall mean any soil that is not be placed back into the excavation from which it was removed.

Geotextile liner shall mean a woven geotextile fabric with a minimum weight of seven oz./yd. ^{2} that has been approved for use by the environmental technician.

Groundwater shall mean water located under the surface of the earth regardless of the geologic structure or depth in which it is standing or moving and outside the cut bank of any definite stream.

Groundwater protection area shall mean the area shown on Figure 3, which consists of the area within the district where concentrations of cadmium in groundwater are greater than five ug/L plus a buffer area that extends an additional 300 feet beyond the outer edge of the plume. The boundary of the groundwater protection area may be modified pursuant to subsection 9-5(d).

Groundwater remediation structure shall mean a physical improvement or structure that is constructed or operated in accordance with the DEQ remedy for groundwater (for example, an extraction well, injection well, monitoring well or other treatment system component including associated piping).

Groundwater well shall mean a well, hole, pipe, pool, cistern, pond, channel or device that may reasonably be used to withdraw, extract or access groundwater.

Major excavation shall mean any excavation of five cubic yards or more of soil.

Regulated soil shall mean any soil or other similar material that is found to exceed the applicable action level based on a representative sample.

Representative sample shall mean:

(1) For unexcavated soil (for example, an undisturbed portion of a property), soil samples that meet the following criteria:

   a. Four composite samples, one collected from each of the following depth intervals: Zero to three inches, six to 12 inches, 12 to 18 inches and 18 to 24 inches; and

   b. Each composite sample contains an equal volume of soil from at least five equally spaced subsamples, taken from the same depth interval, collected from a total area not to exceed 3,600 square feet, and analyzed at a DEQ-accredited laboratory. For those areas exceeding 2,000 square feet and up to 3,600 square feet, one subsample shall be collected for each 400 square feet of area or portion thereof.

(2) For stockpiled, excavated soil, one composite soil sample from at least five equally-spaced subsamples collected from a total stockpiled volume of soil not to exceed 1,000 cubic yards that has been analyzed at a DEQ-accredited laboratory.

Visible smelter material shall mean any waste material or debris that is discovered on the surface or in the subsurface of a property located within the district, that originated from historical operations at the Blackwell Zinc Smelter (including, but not limited to, spent retorts, slag, condensors and/or connie sands).

(Ord. No. 2801, § 1(9.2), 8-20-2012)

Editor's note— Figures 1 through 3, as referenced above, have not been set out, but are available for inspection at the city clerk's office.

Sec. 9-3. Standards for soil management.

(a) *Categories of properties.* The following categories of properties within the district are created to assist in the administration and enforcement of this chapter:

(1) *Premise 1:* Properties where all uncovered soil areas on the property (for example, areas with soil that is not covered by a building foundation, pavement, or similar structure) have been sampled and (i) no regulated soil has been found on any portion of the property, or (ii) regulated soil has been found on any portion of the property and removed in accordance with the requirements of the DEQ soil remedy. Premise 1 properties are subject to the requirements of subsections (e)(2) and (e)(4) but are exempt from the rest of this section.

(2) *Premise 2:* Properties have not been sampled as of the date of this ordinance [from which this chapter is derived] and are not included in the definition of premise 1 or premise 3 properties. A premise 2 property shall be exempt from the requirements of this section if all uncovered soil areas within the property are sampled using representative samples and (i) no regulated soil is found on any portion of the property, or (ii) regulated soil is found on any portion of the property and removed in accordance with the requirements of the DEQ soil remedy. In such case, the property shall be considered a premise 1 property.

(3) *Premise 3:* Properties on which an approved cap has been constructed.

(b) *Requirements for premise 2 properties.* The following requirements shall apply to premise 2 properties:

(1) *General.* All soil excavations on premise 2 properties shall use preventative soil handling measures to ensure the excavated soil is not spread to areas that are known to be uncontaminated or have been previously remediated. Preventative soil handling measures may include, but are not limited to, placing excavated soil on plastic sheeting, covering soil piles with plastic sheeting and/or using erosion control devices such as silt fences and temporary diversion dikes/berms.

(2) *Major excavations.* Any major excavation on a premise 2 property shall require a permit issued in accordance with section 9-4 and shall meet the following requirements:

- Soil may be (i) sampled prior to beginning any excavation or (ii) placed back into the hole from which it was excavated at a depth greater than 24 inches below the finish grade without any sampling.

- Clean soil shall be used to backfill the top 24 inches of the excavation.

- Excess soil shall be managed in accordance with subsection (e)(1).

- Visible smelter material shall be managed in accordance with subsections (e)(2) and (e)(4).

(c) *Requirements for premise 3 properties.* The following requirements shall apply to premise 3 properties:

(1) *General.* All soil excavations on premise 3 properties shall use preventative soil handling measures to ensure the excavated soil is not spread to areas that are known to be uncontaminated or have been previously remediated. Preventative soil handling measures may include, but are not limited to, placing excavated soil on plastic sheeting, covering soil piles with plastic sheeting and/or using erosion control devices such as silt fences and temporary diversion dikes/berms. Only commercial and industrial uses shall be permitted on premise 3 properties.

(2) *Major excavations.* Any major excavation on a premise 3 property that disturbs an approved cap shall require a permit issued in accordance with section 9-4 and shall meet the following requirements:

- Proper soil handling techniques shall be followed to ensure the integrity of the approved cap is preserved to the extent practicable.

- Soil removed from beneath an approved cap may be placed back into the hole from which it was excavated without any sampling so long as the soil is placed back beneath the approved cap.

- Excess soil that originates from beneath an approved cap shall be managed in accordance with subsection (e)(1).

- Visible smelter material shall be managed in accordance with subsections (e)(2) and (e)(4).

- The approved cap shall be repaired, replaced or restored.

- If the excavation occurs on the former site of the Blackwell Zinc Smelter, the excavation and soil management activities also shall comply with applicable Blackwell Industrial Park requirements.

(3) *Maintenance of approved caps.* The owner of a property on which an approved cap has been constructed shall be responsible for inspecting the approved cap. Maintenance of the approved cap shall be the responsibility of Freeport unless a property owner has disturbed, altered or otherwise affected the approved cap.

(d) *Requirements for paved rights-of-way.* Any major excavation in a paved right-of-way within the district shall require a permit issued in accordance with section 9-4 and shall meet the following requirements:

(1) Soil may be (i) sampled prior to beginning any excavation or (ii) placed back into the hole from which it was excavated without any sampling so long as the disturbed area is repaved.

(2) Excess soil shall be managed in accordance with subsection (e)(1).

(3) Visible smelter material shall be managed in accordance with subsections (e)(2) and (e)(4).

(e) *Other requirements.*

(1) *Excess soil.* Excess soil shall be subject to the requirements of this subsection (e)(1) when the soil is generated by a major excavation that occurs (1) on a premise 2 property, (2) on a premise 3 property and the soil originates from under an approved cap, or (3) in a paved alleyway or right-of-way within the district.

• Before moving any excess soil away from the excavation area, the excess soil shall be sampled using representative samples, except the city may handle excess soil in accordance with the terms described in that certain license agreement dated August 3, 2009, by and among Cyprus Amax Minerals Company, Blackwell Zinc Company, the Blackwell Industrial Authority and the city filed in the office of the Kay County Clerk on September 4, 2009, in Book 1472, Page 0758.

• If the excess soil does not exceed an action level, the excess soil is exempt from this section.

• If the excess soil exceeds an action level, the excess soil must be removed from the property and placed in the consolidation area following the procedures set forth in subsection (e)(4).

(2) *Visible smelter material.* Visible smelter material discovered on the surface of any property in the district shall be removed from the property by the owner and placed in the consolidation area following the procedures set forth in subsection (e)(4).

(3) *Imported soil.* Only clean soil may be imported into the district. Analytical results or DEQ's approval for the borrow site must be on file with the environmental technician before the clean soil may be imported into the district.

(4) *Consolidation area.* Any person seeking to deposit excess soil or visible smelter material at the consolidation area must comply with the following procedures:

• Before the excess soil or visible smelter material is deposited at the consolidation area, the property owner shall provide the environmental technician with a completed copy of the form attached to this chapter as exhibit A. The environmental technician will provide a copy of the form to the owner of the consolidation area prior to the date when the excess soil or visible smelter material will be deposited at the consolidation area. This form will certify the origin and nature of the material to be deposited.

• The excess soil or visible smelter material must be placed within the designated drop-off location within the consolidation area.

• Within 28 days of depositing any excess soil at the consolidation area, the property owner must provide the environmental technician with analytical results for representative samples collected from the excess soil. The property owner may collect the representative samples either before or after the excess soil is deposited at the consolidation area.

- Within ten business days of receiving the analytical results for the representative samples of the excess soil, the environmental technician will determine whether the material exceeds an action level or is not allowed to be deposited at the consolidation area under this chapter and will notify the property owner and the owner of the consolidation area of the determination. If the environmental technician determines the material does not exceed an action level or is not otherwise allowed to be deposited at the consolidation area under this chapter, the person depositing the material must remove it from the consolidation area within five business days after receiving notice from the environmental technician.

- Within five business days of the property owner depositing purported visible smelter material at the consolidation area, the environmental technician will determine whether the material qualifies as visible smelter material and notify the property owner and the owner of the consolidation area of the determination. If the environmental technician determines the material does not qualify as visible smelter material, the person depositing the material must remove it from the consolidation area within five business days after receiving notice from the environmental technician.

- Once the environmental technician determines that the material exceeds an action level or qualifies as visible smelter material then the material shall thereafter be the responsibility of and shall be managed, handled and disposed of by Freeport at its sole cost and expense.

(5) *Contractors.* All public agencies, private utility companies and contractors working in the district shall be directly responsible for following the requirements of this section. All public agencies, private utility companies and contractors working in the district shall obtain an annual permit before conducting any soil excavation activities in the district. All city personnel supervising excavations and/or other soil disturbances must be familiar with this chapter.

(6) *Changes in use or zoning.* A property used or zoned for commercial or industrial purposes may not be used or rezoned for residential or recreational purposes until the soil on the property has been found to be below action levels for residential/recreational uses based on representative samples. The property owner is responsible for any remediation necessary to change the use or zoning classification of the property and ensuring the property complies with this chapter.

(7) *Nursery, daycare and similar uses.* Within commercially zoned property districts, nursery, daycare and other similar land uses that involve children's use of the property on a regular basis are allowed uses so long as soil sampling using representative samples indicates that the soil on the property is below action levels for residential/recreational uses.

(Ord. No. 2801, § 1(9.3), 8-20-2012)

Editor's note— Exhibit A, as referenced above, has not been set out, but is available for inspection at the city clerk's office.

Sec. 9-4. Soil disturbance activity permit.

(a) *Permit required.* A soil disturbance activity permit shall be required for any major excavation planned on (i) a premise 2 property or (ii) a premise 3 property when the excavation will disturb an approved cap or (iii) a paved alleyway or right-of-way within the district. If a soil disturbance activity permit is required, the permit shall be obtained prior to beginning the major excavation.

(b) *Applications.* Applications for a soil disturbance activity permit shall be submitted to the environmental technician on approved forms. Approved forms may require the applicant to submit information such as plans drawn to scale showing the location, dimensions and elevations of proposed landscape alterations and existing and proposed structures. Additionally, the following information may be required by the environmental technician based upon the specific circumstances of the proposed activity and property:

(1) Analytical results for representative samples from all areas of the property affected by the soil disturbance activity. Or the applicant may submit a soil handling plan that assumes all soil involved in the planned soil disturbance is regulated soil.

(2) A description of how the applicant will ensure the proper control, reuse and disposal of excess soil involved in the planned soil disturbance activity. This description shall identify how the excess soil will be managed and/or disposed.

(c) *Action by the environmental technician.* Within 20 days after receiving a properly completed application, the environmental technician shall review the application, and the environmental technician shall (1) approve the application, (2) approve the application with conditions, or (3) deny the application. The review shall be based on all of the provisions of this chapter. If the environmental technician denies the permit application, the applicant shall have ten days from the date of denial to appeal the denial to the city council.

(d) *Action by city council.* In instances where the applicant appeals the denial of or conditioning of an application by the environmental technician, the city council shall review the denied or conditioned application together with any recommendations from the environmental technician. The city council shall then (1) approve the application, (2) approve the application with conditions, or (3) deny the application. Prior to the city council taking any action, the applicant shall be notified of the date the applicant is to appear on the city council agenda in a public forum. The city council may hear presentations from interested parties and shall judge the application by the provisions and standards of this chapter.

(e) *Termination of permit.* A soil disturbance activity permit shall be terminated after the environmental technician determines that the permittee has fulfilled all permit requirements. The environmental technician shall provide written notice of termination to the permittee.

(f) *Records and reports.* The environmental technician shall maintain or have access to a database of all soil sampling results (or a database maintained by Freeport), a record of all properties remediated in accordance with the DEQ soil remedy, a record of all soil disturbance activity permits issued, and whether the permits are active or terminated. Failure by Freeport to adequately and timely maintain, update and/or provide access to the environmental technician shall be grounds, at the city's sole discretion, to defer or suspend the enforcement of this ordinance [from which this chapter is derived].

(Ord. No. 2801, § 1(9.4), 8-20-2012)

Sec. 9-5. Groundwater protection area standards.

(a) *Prohibited activities.* The following conditions apply in the groundwater protection area:

(1) No groundwater well is allowed other than a groundwater remediation structure; and

(2) Constructing, drilling, installing or operating a groundwater well is not allowed other than a groundwater remediation structure.

(b) *Groundwater management.* Written approval from the environmental technician shall be required before groundwater may be removed from any excavation located within the groundwater protection area. Any groundwater that is removed from an excavation located with the groundwater protection area shall be managed in accordance with all local, state and federal laws.

(c) *Rain and other water.* Efforts should be made to keep rain and other water from entering excavated areas within the groundwater protection area. Rain and other water that enters a dry excavation may be pumped out of the excavation without further restrictions on the management of the water, so long as such water is managed in accordance with all local, state and federal laws.

(d) *Boundary modification.* The boundary for the groundwater protection area may be modified with approval from DEQ. Any modification of the boundary of the groundwater protection area shall be based on data collected as part of the approved monitoring plan for the DEQ groundwater remedy. Figure 3 to this chapter shall be updated to reflect any approved modification to the boundary of the groundwater protection area.

(Ord. No. 2801, § 1(9.5), 8-20-2012)

Editor's note— Figure 3, as referenced above, has not been set out, but is available for inspection at the city clerk's office.

Sec. 9-6. Administrator duties, powers.

The environmental technician is appointed to implement and administer the provisions of this chapter. Duties and responsibilities of the environmental technician shall include but not be limited to:

(1) Maintaining records of all soil sampling performed within the district, including sample locations and analytical results.

(2) Maintaining records of all properties within the district that have been remediated in accordance with the DEQ soil remedy.

(3) Reviewing, approving or denying applications for a soil disturbance activity permit required under this chapter.

(4) Reviewing permits for any proposed excavation, development or land use within the district to assure that all necessary permits, including a soil disturbance activity permit,

have been obtained from those federal, state or local governmental agencies from which prior approval is required.

(5) Maintaining and holding open for public inspection all soil disturbance activity permits issued in accordance with this chapter.

(6) Conducting soil sampling, in its sole discretion, and/or interpreting soil sampling results to determine the concentrations of arsenic, lead or cadmium in soil on any property with the district.

(7) Taking actions as necessary pursuant to this chapter to assure that the integrity and maintenance of remediation efforts within the district are not diminished or compromised.

(8) Performing inspections and surveillance of all property within the district to identify any activity that is not in compliance with the provisions of this chapter.

(Ord. No. 2801, § 1(9.6), 8-20-2012)

Sec. 9-7. Enforcement.

(a) *Abatement request.* The legally recorded owner of any property located within the district on which a violation of the provisions of this chapter has occurred shall abate such violation in a timely manner upon written request from the environmental technician. Upon receiving written notice from the environmental technician, the property owner shall restore the property to a condition that is in compliance with this chapter. Upon failure of a property owner to comply with written notice in a timely manner, the city council may order the work to be completed and expenses charged to the property owner.

(b) *Actions and proceedings.* In addition to the penalties provided in this Code, the city may institute appropriate actions or proceedings at law or equity for enforcement of the provisions of this chapter and/or to correct violations thereof. This may include notification to any state or federal agency that provides regulatory and/or enforcement controls including, but not limited to, DEQ and the U.S. Environmental Protection Agency. The conviction and punishment of any person hereunder shall not relieve such person from the responsibility to abate the violation.

(c) *Deferral or suspension of ordinance.* The city may defer or suspend the enforcement of this ordinance [from which this chapter is derived] if (i) Freeport fails to adequately and timely maintain, update and/or provide access to the database described in subsection 9-4(f) to the environmental technician or (ii) Freeport fails to provide timely access to the consolidation area to any property owner.

(Ord. No. 2801, § 1(9.7), 8-20-2012)

Sec. 9-8. Other.

In addition to subsection 9-1(d), nothing herein shall impose on the city any responsibility or liability for any material placed in the consolidation area by the owner of any property nor shall it be construed as creating any liability for the city as a result of identifying, sampling, handling,

arranging, transporting, placing, disposing and/or any other action involving any material under any state or federal law.

(Ord. No. 2801, § 1(9.8), 8-20-2012)

Chapter 10 EMERGENCY SERVICES

ARTICLE I. IN GENERAL

ARTICLE II. EMERGENCY MEDICAL SERVICE

Chapter 10 EMERGENCY SERVICES

ARTICLE I. - IN GENERAL

Sec. 10-1. 911 emergency number; established.

The 911 emergency system is hereby adopted as a service for the citizens of the city and adjoining areas using the city prefixes.

(Code 1967, § 14-9; Ord. No. 2468, 7-21-1987)

State Law reference— Authority to provide 911 system, 63 O.S. § 2814.

Sec. 10-2. E911 telephone service tax.

(a) *Tax imposed; effective date.* There is hereby imposed, effective immediately a monthly E911 fee, for the respective types of telephones located within the Blackwell PSAP service area, in the amount of:

(1) Ten percent per line on the tariff charges for exchange telephone service or its equivalent on wired service provided by the local exchange telephone companies; and

(2) A fee of $0.50 for each cell telephone; and

(3) A fee of $0.50 for each VoIP communication device; and

(4) No phone shall be assessed more than one fee per month.

(b) *Limitation on imposition.* No such fee shall be imposed upon more than 100 exchange access lines or VoIP communication devices at one location per service user.

(c) *Collection.* The fee shall be collected monthly by the local exchange telephone company, cell phone service provider or VoIP telephone service provider and forwarded to the city clerk within 30 days of the close of the month in which such fees were collected.

(Ord. No. 2734, § 1(B), 9-21-2004; Ord. No. 2806, § 1, 3-4-2013)

State Law reference— Fee authorized, 63 O.S. § 2814.

Secs. 10-3-10-22. - Reserved.

ARTICLE II. - EMERGENCY MEDICAL SERVICE

Sec. 10-23. Emergency Medical Service Established.

There is hereby created an ambulance service within the city and such service shall furnish ambulance service throughout the city and its general vicinity. Specifically, the city is authorized to furnish ambulance service within its Ambulance District, and without its Ambulance District when providing mutual aid and in emergency situations. The ambulance service shall meet accepted Federal Department of Transportation requirements for vehicle design (Federal Specification KKK-A-1822) and equipment (American College of Surgeon's

Recommendations). The ambulance service shall provide a minimum level of training for ambulance attendants to be the Department of Transportation approved EMTA course in emergency care and transportation of the sick and injured. The ambulance service shall maintain two-way mobile communications compatible with the Oklahoma WACS Systems Specifications.

(Code 1967, § 3A-1; Ord. No. 2050, § 1, 10-30-1974; Ord. No. 2830, § I, 8-4-2016; Ordinance No. 2020-21, 11-19-2020)

Sec. 10-24. Administrative control.

The ambulance service will be directed by the fire chief or such other persons as may be designated by the city manager. The city ambulance service is made a part of the city fire department and included in the regular duties and functions of the fire department.

Sec. 10-25 Rates.

A. Effective December 1, 2016 the rates to be charged for ambulance/fire rescue services shall be as follows:

Advanced Life Support Non-Emergency (ALS)	$850.00
Advanced Life Support Emergency (ALS 1)	$850.00
Advanced Life Support Emergency (ALS 2)	$1075.00
Basic Life Support Non-Emergency (BLS)	$750.00
Basic Life Support Emergency (BLS)	$750.00
Specialty Care Transport	$1075.00
Mileage (per patient loaded mile)	$15.00
Non-Medical Assistance	$200.00
Patient Standby (first 30 minutes)	$30.00
Patient Standby (Each additional 30 minutes)	$50.00
Event Standby (inside city limits)	$100.00*
Treatment without transport	$200.00**
Ambulance/Fire Rescue (tools come off the truck)	$500.00

B. * No fee will be charged for high school football games and other events authorized by the City Council. **Treatment with no Transport. If a patient receives treatment from the attendee, in addition to an initial patient assessment (such as taking vital signs or primary assessment), the following charges shall be made for treatments such as administering oxygen for a respiratory problem or a breathing treatment (such as the use of Albuterol), the provision of Glucose D-30 to a diabetic, or Epinephrine to a patient suffering an allergic reaction, bandaging and splinting of wounds and breaks and other similar treatments not constituting an initial patient assessment.

Sec. 10-26 Definitions.

For the purpose of this article, the following definitions shall apply:

1. "Emergency" means a life-threatening situation which requires that a patient be transported to a medical facility for immediate care;

2. "Medical facility" means an Oklahoma-licensed physician's office or an accredited hospital;

3. "Medically Necessary" means a non-life-threatening situation which requires that a patient be transported to or from a medical facility by ambulance.

4. "No-Charge" means all ambulance services shall be billed to the patient's insurance and the City will accept what payment is received from that insurance and waive any remaining balance on emergency and medically necessary ambulance services.

5. "Non-subscriber" means a person who is not charged and/or does not timely pay for a subscription for emergency ambulance service for those persons residing in the dwelling unit;

6. "Subscriber" means a person who is charged and timely pays for a subscription to receive no-charge emergency and medically necessary ambulance service for those persons residing in the dwelling unit;

7. "Transfer" means a non-life-threatening situation whereby a patient is transported to a medical facility for medical tests or examination, or when a patient is transported from a medical facility to the patient's place of residence.

Sec. 10-27 Services to be Rendered.

A. Emergency ambulance service will be the primary service provided by the ambulance service.

B. "Medically Necessary Service": Medically necessary ambulance service will be the secondary service provided by the Blackwell Ambulance Service. Medically necessary ambulance services will be provided when doing so will not compromise the Service's ability to provide emergency.

C. Transfer ambulance service will be the secondary service provided by the ambulance service. Transfer ambulance service will be provided when doing so will not compromise the service's ability to provide emergency ambulance services.

Sec. 10-28 Charges for Services.

A. Subscribers may receive no-charge emergency and medically necessary ambulance service during the period of their subscription. Ambulance service will be billed at the rates as provided in this Article.

B. Non-subscribers will be billed for ambulance services at the rates as provided in this Article.

C. The ambulance service is to be as financially self-supporting as possible. To that end:

1. Each person who receives ambulance service is considered the primary person responsible for the payment of all services rendered. Such person shall agree to provide all insurance information and sign all necessary documents. Failure to comply will void the subscription and the patient shall be billed 100% of the current charges.

2. Payment in full for service is expected in a timely manner after services are rendered. The city is dedicated to taking all necessary steps to collect all outstanding accounts. The failure to pay an outstanding account for ambulance services shall be considered reasonable grounds to refuse non-emergency transfer ambulance service;

3. Subscribers may receive no-charge emergency and medically necessary ambulance services as provided in paragraph A hereinabove provided that the subscriber is not delinquent in the payment of city electric services. In the event the city disconnects electrical service for non-payment for a period of time in excess of forty-eight (48) hours, then the subscriber shall be considered a non-subscriber and shall be responsible for the full payment of any ambulance services provided while the subscriber is delinquent in the payment for electrical services.

Sec. 10-29 Subscriptions.

A. Beginning on January 1, 2021, and each successive month thereafter, those persons who are year-round electric customers of the city at single and/or multi-family service locations (to include but not be limited to duplexes, triplexes, apartments and other residential uses) within and without the corporate limits of the city will be assessed a subscriber fee as provided in Section 10-31 as a monthly fee for no-charge emergency and medically necessary ambulance service; provided however, such electric utility customer may choose to opt out of receiving such subscription service by filling out and executing an OPT OUT FORM at City Hall with the City Clerk during the month of December 2020, and during the month of December for each successive year thereafter (hereinafter referred to as “opt out month”). Any electric utility customer failing to opt out during any successive opt out month shall continue to pay the monthly ambulance subscription fee and receive such monthly ambulance subscription service, until and unless such OPT OUT FORM is timely completed and filed with the City Clerk at City Hall during any successive opt out month.

B. Beginning on January 1, 2021, and each successive month thereafter, any landlord who pays the electric bill for a single and/or multi-family service locations (to include but not be

limited to duplexes, triplexes, apartments and other residential uses) within and without the corporate limits of the city will be assessed a subscriber fee as provided in Section 10-31 as a monthly fee per residential dwelling unit for no-charge emergency and medically necessary ambulance service; provided however, such landlord may choose to opt out of receiving such subscription service by filling out and executing an OPT OUT FORM at City Hall with the City Clerk during the month of December 2020, and during the month of December for each successive year thereafter (hereinafter referred to as "opt out month"). Any landlord failing to opt out during any successive opt out month shall continue to pay the monthly ambulance subscription fee per residential dwelling unit, until and unless such OPT OUT FORM is timely completed and filed with the City Clerk at City Hall during any successive opt out month.

C. Those persons who reside in nursing homes within the corporate limits of the city and do not receive a monthly electric bill for their individual place of residence may subscribe for no-charge emergency and medically necessary ambulance services by paying the annual subscription fee in full.

D. Those persons who reside outside the corporate limits of the city but within the ambulance service response area and are not year-round electric customers of the City may subscribe for no-charge emergency and medically necessary ambulance services by paying the annual subscription in full.

Sec. 10-30 Collection and Use of Ambulance Fee.

A. All ambulance services will be billed to the patient's insurance carrier(s). For subscription customers, the City will accept what the insurance pays for emergency and medically necessary ambulance service and waive the remaining balance. Charges for transfer service will not be waived and are not subject to the subscription program. Payments received from subscribers shall first be applied to any delinquent or current monthly ambulance service fees. All receipts thereafter shall be applied toward the payment of electrical service charges of the subscriber.

B. The proceeds of the ambulance subscription fee shall be placed in an account and may only be used for the purpose of providing ambulance services, including but not limited to ambulance capital expenditures and operations.

Sec. 10-31 Subscriber Fee.

Subscriber fees shall be as follows:

Electric customers at single and/or multi-family service locations (to include but not be limited to duplexes, triplexes, apartments and other residential uses) shall pay the following monthly subscriber fee for emergency and medically necessary services:

Located within or without the corporate limits/per utility customer or dwelling unit $5.00 per month

Non-electric customers, whether located within or without the corporate city limits, but within the Blackwell EMS Response District, may pay an annual fee in full for Ambulance Subscription Service of Sixty Dollars ($60.00) per subscriber/household per city fiscal year (January 1 through December 31). All annual Ambulance Subscriptions Service payments shall be due in January of each successive year; no proration shall be made for late applications. Ambulance Subscription Service Fees created by this section may be changed by resolution of the City Council from time to time.

Sec. 10-32 Assignment.

That assignment will be accepted on deceased patients but will not be accepted on any other claims covered by insurance. The patient shall be responsible for all billable charges not paid by said insurance unless such patient is in the subscriber program.

(Code 1967, § 3A-5; Ord. No. 2050, § 5, 10-30-1974; Ord. No. 2102, § 1, 2-10-1976; Ord. No. 2115, § 2, 6-1-1976; Ord. No. 2239, § 2, 11-27-1979; Ord. No. 2304, § 2, 9-29-1981; Ord. No. 2531, 6-5-1990; Ord. No. 2740, § 1, 12-21-2004; Ord. No. 2830, § I, 8-4-2016; Ord. No. 2840, § I, 11-17-2016); (Ordinance No. 2016-2840, 11-17-2016; Ordinance No. 2020-21, 11-19-2020)

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Chapter 11 HEALTH AND SAFETY

ARTICLE 1 CONTAGIOUS DISEASES

CHAPTER 11 HEALTH AND SAFETY

ARTICLE 1 CONTAGIOUS DISEASES

Sec. 11-1. Introducing Diseases.

1. It shall be unlawful for any person affected with, or exposed to, any contagious or infectious disease, to be upon any street or in any public place in the City of Blackwell, Oklahoma; the purpose of this requirement is to avoid exposing other persons to such a disease.

2. It shall be unlawful for any parent, guardian or person having charge of any child or children to allow, or permit, such child or children to attend any classes, school or any gathering of people, or to appear upon any street or in any public place in the City of Blackwell, Oklahoma, while infected with, or exposed to, any contagious or infectious disease, or in any manner to allow other persons to be exposed to such a disease.

3. No person suffering from, or infected with, the communicable form of a venereal disease, shall engage in any occupation involving intimate contact with persons, food or food products.

Sec. 11-2. Report of Contagious Diseases.

1. Every physician practicing in the City of Blackwell, Oklahoma, shall report to the County Health Official, within six (6) hours after the diagnosis of the same, the appearance of any of the following diseases: diphtheria (including membranous croup), scarlet fever, small pox, yellow fever, typhoid fever, typhus fever, asiatic cholera, chicken pox, tuberculosis, undulant fever, acute anterior, poliomyelitis (infantile paralysis), epidemic cerebrospinal meningitis, whooping cough, mumps, or any other pestilential, infectious or contagious disease.

2. Syphilis, gonococcus infection and chancroid are hereby and hereinafter recognized and declared to be contagious, infectious, communicable and dangerous to the public health. The term "venereal disease," as used in this Chapter, shall include all such diseases.

3. The Statutes of the State of Oklahoma governing the diseases stated hereinbefore shall apply to all cases of this nature, after said report is made.

Sec. 11-3. Quarantine.

1. It shall be unlawful for any person to enter, or go upon, any ground or premises under quarantine, without first having obtained permission to do so from the local or County Health Official.

2. It shall be unlawful for any person, when required by any authorized local or state official to be detained in quarantine, to neglect or refuse to be so detained, or to willfully violate any quarantine regulation thereof.

3. It shall be unlawful for any person to tear down, remove, deface, mutilate or destroy any order, notice or flag that may be posted or displayed by any authorized local or state official relating to a quarantine or other health related matter.

4. It shall be unlawful for any person to willfully violate, or refuse to comply with, any lawful order, direction, prohibition, rule or regulation of any officer or official charged with enforcement of such order, direction, prohibition, rule or regulation.

Secs. 11-4 through 11-9. (Reserved for future use.)

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Chapter 12 FIRE PREVENTION

ARTICLE I. IN GENERAL

ARTICLE II. FIREWORKS

Chapter 12 - FIRE PREVENTION

State Law reference— General authority of city relative to fire protection, 11 O.S. § 22-113.

ARTICLE I. - IN GENERAL

Sec. 12-1. Technical standards adopted.

(a) *International Fire Code.*

(1) *Adopted.* A certain document, one copy of which is on file in the office of the city clerk, being marked and designated as the International Fire Code, 2003 edition, including appendix chapters A through J, inclusive, as published by the International Code Council, is hereby adopted as the fire code of the city for regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, material and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises as herein provided, and providing for the issuance of permits and collection of fees therefor. Each and all of the regulations, provisions, penalties, conditions and terms of said International Fire Code on file in the office of the city 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 prescribed in subsection (a)(2) of this section.

(2) *Amendments.* The following sections of the International Fire Code adopted by reference in subsection (a)(1) of this section are hereby revised as follows:

Section R101.1. Insert "The City of Blackwell."

Sections 3204.3.1.1, 3404.2.9.5.1, 3406.2.4.4, and 3804.2. The geographic limits referred to in these sections shall be set by resolution.

(3) *Violations.* Violation of any provision of the International Fire Code adopted by reference in subsection (a)(1) of this section or any failure to comply with any of the requirements thereof shall be a class C offense.

(b) *Life Safety Code adopted.* The 2002 Code for Safety to Life from Fire in Buildings and Structures, commonly referred to as the Life Safety Code (NFPA 101), promulgated and published by the National Fire Protection Association, one copy of which is on file in the office of the city clerk, is hereby adopted and incorporated herein as fully as if set out at length to govern the construction of new structures and/or modification of existing buildings and structures, including the installation of safety devices and all other aspects of construction, maintenance and/or modification of buildings as described and defined by said Code for Safety to Life from Fire in Buildings and Structures.

(Ord. No. 2603, § 7-11, 6-1-1993; Ord. No. 2712, § 7-11, 12-5-2000; Ord. No. 2748, §§ 1—4, 7-22-2005)

State Law reference— Adoption by reference, 11 O.S. § 14-107.

Sec. 12-2. Duty of owners, occupants to keep premises clean.

It shall be the duty of every person keeping any place of business or residence within the fire limits of this city to clean away all rubbish, boxes, loose lumber or any other combustible material as often as they shall be directed by the fire chief or chief of police.

(Code 1952, title 12, ch. 3, § 30; Code 1967, § 10-1)

Sec. 12-3 Outdoor and Open Burning

A. Purpose. This section is intended to promote, protect and safeguard the health, safety and welfare of the residents of the City of Blackwell by regulating the fire hazards of outdoor and open burning.

B. Applicability. This section applies to all outdoor and open burning within the City of Blackwell. Provided however:

1. This section does not apply to grilling or cooking food using charcoal, wood, propane or natural gas in cooking or grilling appliances.

2. This section does not apply to the burning for the purpose of generating heat in a stove, furnace, fireplace or other heating device within a building used for human or animal habitation.

3. This section does not apply to the use of propane, acetylene, natural gas, gasoline or kerosene, in a device intended for heating, construction or maintenance activities, if permitted under this municipal code.

C. Definitions. The following words shall have the meanings ascribed to them in this subsection as follows:

1. “Construction and demolition waste” shall mean building waste materials, including but not limited to waste shingles, insulation, lumber, treated wood, painted wood, wiring, plastics, packaging and rubble that results from construction, remodeling, repair and demolition operations.

2. “Fire Chief” shall mean the Fire Chief of the City of Blackwell.

3. “Outdoor burning” shall mean open burning, as defined herein, but shall not include burning in an outdoor wood-fired boiler or patio wood burning unit or wood burning fire pit.

4. “Open burning” shall mean kindling or maintaining a fire where the products of combustion are emitted directly into the ambient air without passing through a stack or a chimney or a permitted wood burning fire pit.

5. “Outdoor wood-fired boiler” shall mean a wood-fired boiler, stove or furnace that is not located within a building intended for habitation by humans or domestic animals.

6. "Patio wood-burning unit" shall mean a chimnea, patio warmer, or other portable wood-burning device used for outdoor recreation and/or heating. Patio wood-burning unit shall not include any device not constructed for the purpose of burning.

7. Refuse shall mean any waste material except trees, logs, brush, stumps, leaves, grass clippings and other vegetative matter.

8. "Wood burning fire pit" shall mean a privately constructed wood burning pit or device (not constructed for a fire pit purpose), with or without a screen, which has been inspected and approved by the Fire Chief or designee, after application and issuance of a permit approved by the Fire Chief or his designee, and into which only timber is burned.

D. General Prohibition. Open burning and outdoor burning are prohibited within the corporate limits of the City of Blackwell unless the burning is specifically permitted by this section. No person shall maintain or permit the maintenance of any open burning or outdoor burning except in strict compliance with this section.

E. Open Burning of Refuse and Construction and Demolition Waste. Open burning of refuse and construction and demolition waste is prohibited.

F. Controlled Burn Permit. The open burning of trees, logs, brush, stumps, attached or incidental leaves or grass clippings and agricultural burns is prohibited unless permitted by the terms of a Controlled Burn Permit in accordance with all of the following provisions:

1. A Controlled Burn Permit issued in accordance with subsection G of this section must be obtained prior to the open burning.

2. Open burning of trees, logs, brush, stumps and agricultural burns may not be conducted within One Thousand Feet (1000') from the nearest building or structure which is not on the same property. Open burning of piles of leaves and/or piles of grass clippings are not permitted as a part of any open burning.

3. No open burning shall occur during a county or state burn ban. In addition, the Blackwell Fire Chief is hereby authorized to proclaim a prohibition upon the burning or setting of fires to any combustible material within the city when weather, drought or other natural conditions render any outside fires a danger to lives or property.

4. All allowed open burning shall be conducted in a safe, nuisance-free manner, when wind and weather conditions minimize adverse effects and do not create a health hazard or a visibility hazard on roadways or the airport. Open burning shall be conducted in conformance with all local and state fire protection regulations.

5. Open burning shall be conducted only on the property on which the materials were generated.

6. Open burning is limited to daylight hours only.

7. Open burning shall be constantly attended and supervised by a competent person of at least eighteen (18) years of age until the fire is extinguished and is cold. The person shall have available on the site of the open burning an adequate and available water supply or such other fire extinguishing equipment present as may be necessary for the total control of the fire.

G. Permits.

1. No person shall start or maintain any outdoor burning or open burning covered under this section in violation of any provision in this section and without first obtaining a Controlled Burn Permit issued by the Fire Chief or his designee.

2. The application shall state the street address of the burn, the description of the physical area or boundary of the burn, the date and time of the burn, the materials to be burned, and the quantities of the same. Whenever required by state regulation, the applicant must also obtain permission for the burn from the state department of environmental quality. Upon review of a completed application and a visit to the site, the Fire Chief or his designee may issue a Controlled Burn Permit if he believes the burn may be conducted without unduly endangering the safety of persons or property within the city. As a part of the permit, and when deemed necessary to protect the health, safety and welfare of the City, the Fire Chief can determine that any open burning must be accomplished under the supervision of the fire department member(s) during any part or the entire period of the open burning, with the charges for such supervision to be billed to the permittee. An appropriate deposit shall be set by the City Manager and paid to the City prior to the issuance of the permit. In addition, the applicant shall reimburse the city for its costs in deploying firefighters to a burn which has exceeded any of the conditions described in the permit or application or becomes unmanageable. The minimum nonrefundable application fee for a Controlled Burn Permit or a wood burning fire permit shall be Twenty-five Dollars ($25.00), plus such other required deposits or other charges which may be required as hereinbefore provided. No Controlled Burn Permit shall exceed four (4) days.

3. When weather conditions warrant, the Fire Chief may temporarily suspend issuing open burning permits.

4. A Controlled Burn Permit issued under this section shall require compliance with all applicable provisions of this section and any additional restrictions deemed necessary to protect the public health and safety.

5. Without regard to whether a permit has been issued or not, no person shall start or continue any open burning when otherwise directed by the Fire Chief.

6. The Fire Chief, or his designee, can list additional requirements on the face of the permit in order to better protect the public and which requirements shall be followed as if they were specifically listed in this section.

7. Any violation of the conditions of a Controlled Burn Permit or this section, by act or omission, shall be deemed a violation and subject the person to a fine of not greater than the Five

Hundred Dollars ($500.00), plus state assessments, fees and court costs. Any violation of this section or the burn permit shall void the permit. Each day of continuing violation shall be a separate offense.

H. Exemption. Nothing contained herein shall be construed as prohibiting the city from conducting controlled burns of the public rights-of-way or other city property, conducting burns for training purposes of fire department personnel or conducting burns for the removal of dilapidated structures or other public nuisances within the city.

I. Liability unaffected. This section shall not be construed to relieve from liability or lessen the liability of any permittee conducting a permitted burn for damages to any person or property injured resulting from such burn, nor shall the city be held as assuming any such liability by reason of the issuance of a Controlled Burn Permit or by supervision of such permitted burn.

(Code 1967, § 10-6; Ord. No. 2695, § 10-6, 9-15-1998; amended by Ord. 2019-20, 10-17-2019)

Sec. 12-4. False fire alarm.

(a) *Prohibited.* It shall be unlawful for any person, without reasonable cause, by outcry, ringing bells, or any other means whatever, to make or circulate or cause to be made or circulated in the city any false alarm of fire.

(b) *Penalty.* Any person who violates this section shall be guilty of a class C offense.

(Code 1952, title 10, ch. 10, § 133; Code 1967, § 17-15; Ord. No. 2523, 4-17-1990)

Sec. 12-5. Unlawful to injure hose, other fire apparatus.

It is unlawful for any person to injure any fire apparatus or hose belonging to the city.

(Code 1952, title 10, ch. 3, § 33; Code 1967, § 10-42)

Secs. 12-6-12-28. - Reserved.

ARTICLE II. - FIREWORKS

State Law reference— Sales to persons under 12, intoxicated persons prohibited, 68 O.S. § 1627(b); authority of city to enact ordinances regulating sale and use of fireworks, 68 O.S. § 1631.

Sec. 12-29. Definitions.

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

Distributor means any person who sells fireworks to other distributors, wholesalers or retailers for resale.

Fireworks means and includes any composition or device for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation and which is defined as common or special fireworks by the U.S. Department of Transportation (DOT). Fireworks are further classified in this law as class C or class B. The term "fireworks" shall not include toy cap pistols and caps, blank cartridges, railroad flares or model rockets.

(1) *Class C fireworks (DOT common fireworks)* means any devices suitable for use by the public that conform with the requirements of the U.S. Consumer Products Safety Commission (CPSC) and are designed primarily to produce visible effects by combustion, and some small devices designed to produce an audible effect.

(2) *Class B display fireworks (DOT special fireworks)* means all articles of larger fireworks designed primarily to produce visible or audible effects by combustion or explosion. Class B fireworks include, but are not limited to, firecrackers and salutes containing more than two grains (130 mg) of explosive composition and other exhibition display items that exceed the limits for classification as class C fireworks according to the department of transportation.

Manufacturer means any person engaged in the making or constructing of fireworks.

Non-permissible fireworks means:

1. All fireworks, the sale of which is prohibited in the State of Oklahoma

2. The following aerial devices:

   a. Aerial shell kit-reloadable tubes

   b. Aerial spinners

   c. Helicopters

   d. Mines

   e. Missile-type rockets

   f. Multiple tube devices

   g. Roman Candles

   h. Shells

   i. Stick-type rockets

   j. Bottle rockets

3. Ground audible devices, including:

   a. Chasers

   b. Firecrackers larger than two inch (2”) Black Cat or similar firecracker

Permissible fireworks means ground and hand-held sparkling devices, including:

1. Cone fountains
2. Crackling devices
3. Cylindrical fountains
4. Flitter sparklers
5. Ground spinners
6. Illuminating torches
7. Wheels
8. Two inch (2") or smaller Black Cat or similar firecracker
9. Novelty items

Retailer means any person who purchases fireworks for resale to consumers only. A retailer who sells to the consumer buys only a state retail license and may purchase merchandise in or out of the state as long as the retailer buys from a person that has a legal license to do business in the state.

Wholesaler means any person who purchases fireworks for resale only to retailers and consumers.

(Code 1967, § 10-17; Ord. No. 1604, § 1, 3-20-1956; Ordinance No. 2020-17, 8-6-2020)

Sec. 12-30. Manufacture, storage and sale; restrictions.

The manufacture, storage, sale, use or display of fireworks for sale other than as permitted herein, within the city is unlawful.

(1) *Sales.* Sales of Class C fireworks shall be permitted when licensed by the city. All areas displaying for sale non-permissible fireworks shall include a sign which shall state "These fireworks may not be discharged within the corporate limits of the City of Blackwell." A written notice providing such same message concerning non-permissible fireworks shall be delivered to the customer upon the purchase of non-permissible fireworks. The license shall be issued to a retailer upon the completion of an application and the payment of a fee in the sum of $25.00. The fee may be amended from time to time by resolution of the city. In order to obtain a license, the applicant must present a license issued by the State of Oklahoma and shall agree to operate pursuant to all the rules and laws of the state, violation of those regulations shall be an offense, and in addition to assessing a fine upon conviction, the fire chief or code enforcement officer shall have the authority to withdraw the license and shut the place of sales.

(2) *Manufacture.* Manufacture of fireworks of any kind is unlawful.

(3) *Prohibited fireworks.* Only Class C fireworks may be sold, stored, possessed or used. Fireworks not labeled as Division 1.4, UN0336 or Class C shall be confiscated.

(4) *Period of sale.* Fireworks may be sold only between June 22 and July 4 and on the days of December 31 and January 1.

(5) *Period of possession/discharge/cleanup/burn ban.* Residents of the city and their guests may discharge, ignite or in any manner aid, assist or abet in the discharging or igniting of any permissible fireworks at their residences or businesses, to include on the streets and sidewalks immediately contiguous and adjacent to such residences or businesses, within the corporate limits of the city on the second and third day of July, between the hours of 10:00 a.m. and 10:00 p.m., and on the fourth day of July and the 31st day of December, between the hours of 10:00 a.m. and 1:00 a.m. of the following day. Possession of fireworks shall be permitted anywhere in the city on the days that sales are permitted. No person who discharges permissible fireworks as authorized by this section or is the owner or person in lawful possession of the real property upon which the fireworks were discharged, to include on the streets and sidewalks immediately contiguous and adjacent to such real property, shall fail to clean up, and dispose of, in a proper trash container, all trash and residue of the expended fireworks within one hour of the completion of such firework discharge event. Notwithstanding any other provision in this municipal Code to the contrary, no fireworks may be discharged in the city during a state or local burn ban. Except as otherwise permitted by this Article, the discharge, firing or use of non-permissible fireworks within the corporate limits of the city is hereby prohibited. Provided however, the transportation of fireworks in their unopened original packaging in a motor vehicle within the corporate limits of the City is not prohibited. Except as otherwise permitted by this Article, no person shall discharge, fire or use any non-permissible fireworks within the corporate limits of the City. Any person convicted of a violation of this subsection, shall be fined a maximum of One Hundred Dollars ($100.00), plus court costs, fees and state assessments.

(6) Reserved.

(7) *No sales to children.* The offer to sell, or sale of fireworks to children under the age of 12 years is an offense.

(8) [*Property owned or leased by the city.*] No fireworks may be discharged on any real property owned or leased by the city or its public trust authorities, except with the express written approval of the governing bodies with rights to such real property.

(9) [*Violation.*] Violation of this section shall be a Class A offense.

(Code 1967, § 10-18; Ord. No. 1604, § 2, 3-20-1956; Ord. No. 1765, § 2, 7-31-1962; Ord. No. 2771, §§ 1, 2, 5-18-2009; Ord. No. 2788, §§ 1, 2, 6-7-2010; Ord. No. 2814, §§ 1, 2, 6-2-2014; Ord. No. 2833, § I, 8-18-2016)

Sec. 12-31. Fire chief to approve storage.

No fireworks shall be stored within the city by any person other than in fireproof containers first approved by the chief of the fire department of the city, and located at places approved by him for such storage. Such approval shall be given only upon a showing that there will be compliance with all applicable laws and ordinances.

(Code 1967, § 10-19; Ord. No. 1604, § 3, 3-20-1956)

Sec. 12-32. Displays; when permitted.

Pyrotechnic displays of fireworks under the control of qualified individuals may be authorized by the city manager by permit. No person who discharges fireworks as provided in this section shall fail to clean up, and dispose of, in a proper trash container, all trash and residue of the expended fireworks within one hour of the completion of such pyrotechnic firework display event. (Code 1967, § 10-20; Ord. No. 1604, § 4, 3-20-1956; Ord. No. 2833, § I, 8-18-2016)

State Law reference— Requirements for display of fireworks, 68 O.S. § 1629.

Chapter 13 RESERVED

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Chapter 14 LICENSES AND MISCELLANEOUS BUSINESS REGULATIONS

ARTICLE I. IN GENERAL

ARTICLE II. DAY CARE CENTERS AND HOMES

ARTICLE III. SOLICITORS AND ITINERANT PEDDLERS

DIVISION 1. GENERALLY

DIVISION 2. PERMIT AND LICENSE

ARTICLE IV. CABLE FRANCHISES

Chapter 14 - LICENSES AND MISCELLANEOUS BUSINESS REGULATIONS[1]

State Law reference— Authority of city to license and regulate certain occupations, 11 O.S. § 22-106.

ARTICLE I. IN GENERAL

Sec. 14-1. Occupation tax.

There is hereby levied an annual occupation tax upon all businesses in the amount established by resolution or ordinance.

State Law reference— Municipal licenses generally, 11 O.S. § 22-107.

Sec. 14-2. Community antenna television system; permit required; application, contents; lease rental agreement.

Before any owner of a community antenna television system shall use the streets, alleys and highways in the city in the construction and maintenance of said owner's community antenna television lines and equipment, said owner of said community antenna television system must first file with the city clerk an application for a permit which must show the name of the owner, nature of business, services to be rendered, and fees to be charged, and said application shall be accompanied by a proposed lease rental agreement to be entered into between said owner and the city for the use of poles, wire and other city facilities. Upon the filing of said application for a permit, together with the proposed lease rental agreement with the city clerk, the city council may authorize the city to enter into said lease rental agreement with said owner of the community antenna television system, and such lease rental agreement shall be signed by the owner of said community antenna television system and by the city, by the mayor, properly attested by the city clerk upon the approval of said contract by the city council, and an executed copy of said contract shall be retained in the file of the city clerk, and the city clerk may thereupon, at the direction of the city council, issue a permit to the owner of the community antenna television system or may, by appropriate reference, constitute any contract with such owner for such service as such permit.

(Code 1967, § 14-1; Ord. No. 1796, § 3, 2-18-1964)

Sec. 14-3. Liability insurance for taxicabs, livery automobiles.

(a) *Required; amount.* It shall be unlawful for any person to operate upon the streets of and within the corporate boundaries of the city any taxicab or livery automobile unless the owner or lessee thereof shall have filed with the city clerk, to be approved by him, a policy of insurance issued by an insurance company licensed and admitted to do business in the state and providing liability insurance coverage for each and every such vehicle owned and/or leased by such owner or lessee and so operated within said city, with a liability coverage of at least $50,000.00 for injury to or death of any one person and at least $100,000.00 for injuries to or deaths of any number of persons more than one in any one accident, and with a coverage of at least $50,000.00 for property damage in any one

accident, said insurance coverage to be effective whether such vehicle was, at the time of the accident, being used by the owner or lessee or his agent, employee, lessee, licensee or other person with his consent. If the minimum insurance liability requirements for such vehicles are increased by the state, the greater amount shall be required.

(b) *Cancellation of policy; requirements.* Such policy shall further provide that it cannot be cancelled until 30 days' written notice of intent by the insurer to effect its cancellation shall have been filed with the city clerk. If the owner or lessee of such vehicle covered by the policy involved in such proposed cancellation shall fail to provide, within said 30 days' notice period, another policy of insurance complying with the requirements of this section, operation of such vehicle as a taxicab or livery car within the city shall be ceased at the end of such period and until insurance coverage thereon complying with the provisions hereof shall have been obtained and filed with the city clerk. The cancellation of any policy shall in no way affect or terminate any liability thereunder arising prior to the effective date of such cancellation. Each policy of insurance provided hereunder shall carry the name of the owner of such vehicle and the vehicle identification number (VIN) thereof. No cancellation notice shall be called or recalled by a letter of reinstatement. Said policy shall contain a provision for continuing liability thereunder to the full amount thereof notwithstanding any recovery thereon, and shall provide that until the policy is revoked, as herein provided, the insurance company insurer will not be relieved of liability thereunder on account of the nonpayment of premiums or by lack of cooperation of the insured with the insurer, and it shall further provide that the insolvency or bankruptcy of the insured or principal shall not release the insurer or any bonding company involved in consequence thereof from any payment due under said policy or guaranteed by the terms thereof.

(c) *Penalty.* The operation within the city of any vehicle to which the terms of this section apply without compliance by the owner or lessee of such vehicle with the terms and requirements hereof is hereby declared to be a class C offense. In addition, the police department may order any vehicle being so operated and involved in the violation hereof to be impounded until the same shall be released by the proper authorities with the approval of the city clerk. Each day any such vehicle shall be so operated in violation hereof shall constitute a separate offense and be punishable as such.

(Code 1967, § 14-7; Ord. No. 1637, §§ 1, 2, 1-3-1958; Ord. No. 1942, § 7, 7-7-1970; Ord. No. 2738, §§ 1, 2, 11-16-2004)

State Law reference— Municipal authority to regulate taxicabs, 11 O.S. § 22-118.

Sec. 14-4. Annual inspection fee and service charge on telephone exchange services.

(a) *Levied; amounts; due date; disposition.* There is hereby levied an annual inspection fee and service charge upon each and every person, firm and corporation operating a telephone exchange in the city in an amount set by resolution for each current year for exchange telephone transmission service rendered wholly within the limits of the city to compensate said city for the expense incurred and services rendered incident to the exercise of its police power, supervision, police regulations and police control of the construction of lines and equipment of said telephone company in the city. The inspection fee and charge shall be due and payable to the city on or before June 1 of each year, commencing with June 1, 1980, for

the calendar year ending December 31, 1979, preceding, or fractional part thereof, and shall be paid into and appropriated and expended from the general revenue fund of the city; provided, however, that any amount due for a fractional part of the first year covered hereby shall be payable on June 1 of the year following the year in which the ordinance from which this section is derived is enacted.

(b) *Fee in lieu of other charges; exception.* During continued substantial compliance with the terms of this section by the owner of any telephone exchange, the charge levied hereby shall be and continue to be in lieu of all concessions, charges, excise, franchise, license, privilege and permit fees or taxes or assessments except ad valorem taxes.

(Code 1967, § 14-8; Ord. No. 2259, §§ 1, 2, 5-13-1980)

Secs. 14-5-14-26. - Reserved.

ARTICLE II. - DAY CARE CENTERS AND HOMES

Sec. 14-27. Statement of purpose.

The purpose of this article is to control the licensing and regulation of day care centers and day care homes, the city council being aware of the increase in number of this type of facility and the need for legislation to provide for the health and safety of those housed in these centers and homes.

(Code 1967, § 7-53; Ord. No. 2283, 1-6-1981)

Sec. 14-28. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, unless the context clearly indicates a different meaning:

Child means an individual under the age of 18 years.

Child care center means a facility which provides care and supervision for children and which operates for more than 30 hours per week. The term "child care center" shall not include informal arrangements which parents make independently with neighbors, friends, and others, or with caretakers in the child's own home.

Child care facility means any public or private child care residential facility, child placing agency, foster family home, group home, child care center, part-day child care program, family child care home, or large family child care home providing either fulltime or parttime care for children away from their own homes.

Child placing agency means a child welfare agency licensed to place children in foster family homes, group homes or adoptive homes.

Family child care home means a family home which provides care and supervision for seven or fewer children for part of the 24-hour day. The term "family child care home" shall not include informal arrangements which parents make independently with neighbors, friends, and others, or with caretakers in the child's own home.

Foster family home means the private residence of a family which provides foster care services to a child, and includes a specialized foster home, a therapeutic foster family home, or a kinship care home.

Foster parent eligibility assessment means and includes a criminal background investigation, including, but not limited to, a national criminal history records search based upon the submission of fingerprints, a home assessment, and any other assessment required by the department of human services, the department of juvenile justice, or any child-placing agency pursuant to the provisions of the Oklahoma Foster Care and Out-of-Home Placement Act, 10 O.S. § 7201 et seq. A foster parent eligibility assessment shall be similar to the procedures used by the department of public safety for determining suitability of an individual for employment as a highway patrol officer.

Fulltime care means continuous care given to a child beyond a minimum period of 24 hours.

Group home means a home providing fulltime care and community-based services for more than five but fewer than 13 children.

Large family child care home means a residential family home which provides care and supervision for eight to 12 children for part of the 24-hour day. The term "large family child care home" shall not include informal arrangements which parents make independently with neighbors, friends, and others, or with caretakers in the child's own home.

Part-day child care program means a facility that provides care and supervision for children and that operates for more than 15 and up to 30 hours per week.

Residential child care facility means a 24-hour residential facility where children live together with or are supervised by adults who are not their parents or relatives.

(Code 1967, § 7-54; Ord. No. 2283, § 1, 1-6-1981; Ord. No. 2582, 7-14-1992; Ord. No. 2708, § 7-53, 7-18-2000)

Sec. 14-29. Exemptions.

Places, homes or institutions excepted from this article are:

(1) Those public and private schools organized, operated or approved under state law and regulated by the state department of education.

(2) Those where custody of the children has been fixed by a court of competent jurisdiction.

(3) Those where children are related by blood or marriage within the third degree of the custodial person.

(4) Those public or private institutions caring for children while the parent, legal guardian or custodians are attending services, meetings, classes or otherwise engaging in that institution's activities to the extent such care and custody does not exceed four hours at any one time.

(Code 1967, § 7-55; Ord. No. 2283, § 2, 1-6-1981)

Sec. 14-30. Permitted districts.

A day care home or day care center is allowed only in the locations permitted by the zoning ordinance.

(Code 1967, § 7-56; Ord. No. 2283, § 3, 1-6-1981)

Sec. 14-31. License required; prerequisites to obtaining license; fee; inspections; revocation.

(a) No child care establishment may be operated in the city, regardless of zoning, without having a license from the city planning commission.

(b) No city license shall be issued unless and until the following requirements have been met:

(1) The proposed center or home must be licensed by the state department of human services.

(2) Inspection by the county health department must be made to ensure that the proposed center or home has adequate sanitary facilities to meet the needs of the children and staff and is in a clean and sanitary condition.

(3) Inspection must be had by the city fire department in order to ensure that the same is in compliance with the life safety code and meets all other minimum fire and safety standards.

(4) All applicants must be of good character and have never been convicted of any crime involving moral turpitude.

(c) All applicants for a license as set forth in subsection (b) of this section shall file an application with the planning commission of the city, along with a licensing fee set by resolution which shall be nonrefundable.

(d) Further, all holders of a license hereunder shall be subject to periodic inspections by the agencies above set forth in order to determine their continued compliance with the terms and conditions as set forth in this section. Should any violation be determined, the violator shall be punished as set forth hereinafter and shall be further subject to licensing revocation by the planning commission.

(Code 1967, § 7-57; Ord. No. 2283, § 4, 1-6-1981)

Sec. 14-32. Penalty for violation.

Any person violating any of the provisions of this article shall be guilty of a class B offense. Each day that a violation is permitted to exist shall constitute a separate offense.

(Code 1967, § 7-59; Ord. No. 2283, § 6, 1-6-1981)

Secs. 14-33-14-52. - Reserved.

ARTICLE III. SOLICITORS AND ITINERANT PEDDLERS

DIVISION 1. - GENERALLY

Sec. 14-53. Definitions.

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

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

(Code 1967, § 14-36; Ord. No. 2377, 11-8-1983)

Sec. 14-54. Penalty.

Any person violating any of the provisions of this article shall, upon conviction thereof, be guilty of a class B offense.

(Code 1967, § 14-44; Ord. No. 2377, 11-8-1983)

Sec. 14-55. Records.

The chief of police shall report to the city clerk all convictions for violation of this article, and the city clerk shall maintain a record for each license issued and record the reports of violation therein.

(Code 1967, § 14-43; Ord. No. 2377, 11-8-1983)

Secs. 14-56-14-84. - Reserved.

DIVISION 2. - PERMIT AND LICENSE

Sec. 14-85. Permit and license required.

It shall be unlawful for any solicitor or canvasser to engage in such business within the corporate limits of the city without first obtaining a permit and license therefor in compliance with the provisions of this division.

(Code 1967, § 14-35; Ord. No. 2377, 11-8-1983)

Sec. 14-86. Application; required information; fee.

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

(1) Name and description of the applicant;

(2) Permanent home address and full local address of the applicant;

(3) A brief description of the nature of the business and the goods to be sold;

(4) If employed, the name and address of the employer, together with credentials establishing the exact relationship;

(5) The length of time for which the right to do business is desired;

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

(7) A photograph of the applicant taken within 60 days immediately prior to the date of filing of the application and which shall be two inches by two inches showing the head and shoulders of the applicant in a clear and distinguishing manner.

(b) At the time of filing the application, a fee, as set by resolution, shall be paid to the city clerk. No license shall exceed 90 days' duration.

(Code 1967, § 14-37; Ord. No. 2377, 11-8-1983)

Sec. 14-87. Exhibition of license.

Solicitors and canvassers are required to exhibit their licenses at the request of any citizen.

(Code 1967, § 14-41; Ord. No. 2377, 11-8-1983)

Secs. 14-88-14-100. - Reserved.

ARTICLE IV. CABLE FRANCHISES

Sec. 14-101. Definitions.

For the purpose of this franchise the following terms, phrases, words and their derivations shall have the meaning given. Words used in the present tense include the future, words in the plural include in the singular number and words in the singular number include the plural number. The words "shall" and "will" are mandatory and "may" is permissive. Words not defined in this section shall have the meaning provided by the Communications Act of 1934 as amended by the Cable Communications Policy Act of 1984, the Cable Television Consumer Protection

and Competition Act of 1992 and the Telecommunication Act of 1996, and if not defined there, shall have their common and ordinance meaning in this franchise.

Affiliate means each person who:

(1) Has, directly or indirectly, a controlling interest in the franchisee;

(2) Each person in which the franchisee has, directly or indirectly, a controlling interest;

(3) Each officer, director, general partner, limited partner holding an interest of five percent or more, joint venture or joint venture partner of the franchisee; (iv) each person, directly or indirectly, controlling, controlled by, or under the common control with the franchisee.

Basic cable service means any tier of cable service that includes the retransmission of local television broadcast signals.

Cable Act means Title VI of the Communications Act of 1934, as amended by the Cable Communications Policy Act of 1984, by the Cable Television Consumer Protection and Competition Act of 1992 and by the Telecommunications Act of 1996 and as the same may be further amended from time to time.

Cable service means:

(1) The one-way transmission to subscriber of:

a. Video programming; or

b. Other programming service; and

(2) Subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service. If during the term of this franchise any service is classified to be or not to be "cable service" by a court of competent jurisdiction in a decision that is binding on the city or franchisee, then the term "cable service" shall be interpreted in accordance with such decision.

Cable system or *system* means a facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within the boundaries of the franchising authority, but such term does not include:

(1) A facility that serves only to retransmit television signals of one or more television broadcast stations;

(2) A facility that serves subscribers without using any public way;

(3) A facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the Cable Act, except that such facility shall be Considered a cable system (other than for purposes of Section 621(c) of the Cable Act to the extent such facility is used in transmission of video programming directly to subscribers unless the extent of such use is solely to provide interactive on-demand services; and

(4) Open video system that complies with Section 653 of Title VI of the Cable Act; or any facilities of any electric utility used solely for operating its electric system.

Channel shall mean as defined under Section 602 of the Communications Act, 47 U.S.C. § 522(4).

FCC means the Federal Communications Commission or successor governmental entity thereto.

Force majeure means strike, riot, war, earthquake, flood, tidal wave, unusually severe rain or snow storm, hurricane, tornado or other catastrophic act of nature, labor disputes, governmental, administrative or judicial order or regulation or other circumstances reasonably beyond the ability to anticipate and control. This provision includes work delays caused by waiting for utility providers to service or monitor their own utility poles to which the franchisee's cable system is attached, as well as unavailability of materials and/or qualified labor to perform the work necessary.

Franchise means the right granted by the franchising authority to a franchisee to construct, maintain and operate a cable system over, on, or under streets, roads and all other public ways, easements and rights-of-way within all or specified areas of the city. The term does not include any license or permit that may be required by this article or other laws, ordinances, or regulations of the city for the privilege of transacting and carrying on a business within the City or for disturbing the surface of any street or public thoroughfare.

Franchisee or *Get Real Cable* means GET, L.L.C., d/b/a Get Real Cable or the lawful successor, transferee or assignee.

Franchise area shall mean the incorporated area of the city and any area added thereto during the term of this franchise.

Franchising authority or *city* means the City of Blackwell, Oklahoma or the lawful successor, transferee, or assignee thereof.

Gross revenues means any and all revenue, in whatever form and from all sources, including cash, credits, property or other consideration received or recognized directly or indirectly by the franchisee, or by any other entity that is a cable operator of the cable system including franchisee's affiliates, from the operation of the franchisee's cable system to provide cable services. The parties intend for the definition of gross revenues to be as inclusive as possible consistent with existing applicable law; therefore, gross revenues shall include, by way of illustration and not limitation, monthly fees charged subscribers for basic service; any expanded tiers of cable service; optional premium services; per-channel, per-program service or cable programming service; installation, disconnection, reconnection and change-in-service fees; leased access channel fees; remote control rental fees; all cable service lease payments from the cable system; late fees and administrative fees; fees, payments or other consideration received by the franchisee from programmers for carriage of programming on the cable system; revenues from rentals or sales of converters or other cable system equipment; advertising revenues; launch fees; the fair market value of consideration of barter received by the franchisee for use of the cable system to provide cable service; revenues from program guides; revenue from data transmissions to the extent these transmissions are considered cable services under federal law; additional outlet fees; revenue from interactive services to the extent they are considered cable services under federal law; revenue from the sale or carriage of other cable services; and revenue from home shopping, bank-at-home channels and other revenue-sharing arrangements. Gross revenues shall include revenue received or recognized by franchisee or any entity other than the

franchisee where necessary to prevent evasion or avoidance of the obligation under this franchise to pay the franchise fees. Gross revenues shall not include:

(1) Bad debt; provided, however, that all or part of any such bad debt that is written off but subsequently collected shall be included in gross revenues in the period collected; or

(2) Any taxes on services furnished by the franchisee which are imposed directly on any subscriber or user by the state, city, county or other governmental unit and which are collected by the franchisee on behalf of said governmental unit. The franchise fee is not such a tax; or

(3) Revenues generated by services that are noncable services; or

(4) Any tax of general applicability imposed on the franchisee or subscribers by a city state, federal or other governmental entity and franchisee is required to collect and remit to a taxing authority; or

(5) Capital costs to be incurred by the franchisee in fulfilling the public, educational or governmental access facilities that are required by this article; or

(6) Requirements or charges incidental to awarding or enforcing the provisions of this article, including payments for bonds, security funds, letters of credit, insurance, indemnification, penalties or liquidated damages.

Noncable services shall mean any service that does not constitute a cable service.

PEG or *PEG channels* shall refer to public, educational and educational access that franchisee is required to provide under this article.

Normal operating conditions are those service conditions which are within the control of the franchisee. Those conditions that are not within the control of the franchisee include, but are not limited to force majeure events. Those conditions that are within the control of the franchisee include, but are not limited to, special promotions, pay-per view events, rate increases in regular peak or seasonal demand periods and maintenance or rebuild of the cable system.

Person means an individual, partnership, association, joint stock company, trust, corporation, limited liability company or partnership, or governmental entity.

Public way means the surface of, and the space above and below any public street, highway, freeway, bridge, land path, alley, court, boulevard, sidewalk, parkway, way, lane, drive, circle or other public right-of-way, including, but not limited to, public utility easements, dedicated utility strips, or rights-of-way dedicated for compatible uses now or hereafter held by the city, whether held by the city or leased to a trust of which it is the beneficiary, in the service area which shall entitle the city and the franchisee to use thereof for the purpose of installing, operating, repairing and maintaining the cable system.

Service area means areas within the present municipal boundaries of the city in which the franchisee provides cable service.

Service interruption means the loss of picture or sound on one or more cable channels.

Subscriber means a person who lawfully receives cable service of the cable system with the franchisee's express permission whether or not a fee is paid for that service.

(Ord. No. 2783, 12-30-2009)

Sec. 14-102. Grant of franchise.

Subject to the terms and conditions of this article, laws regulating franchisee in providing cable service, franchisee's acceptance of the terms of this franchise and the receipt of the monetary compensation required in this franchise, the franchising authority hereby grants to the franchisee a nonexclusive franchise, for the term herein described, which authorizes the franchisee to construct, expand, maintain, repair, use and operate a cable system in, along, among, upon, across, above, over, under, and through public ways within the service area.

This franchise grants no authority to franchisee to use the public ways for any other purpose unless expressly provided herein, nor is the franchisee authorized to attach any part of its cable system to any facilities, infrastructure, property, conduits or to use any such facilities, infrastructure, property or conduits in the public ways which are owned, leased or otherwise controlled by the franchising authority, or any political subdivisions or trusts in which the franchising authority is a beneficiary, until the franchisee shall have entered into a separate written agreement with the franchising authority, subdivision or trust for the rights of attachment or use.

The franchisee shall not allow the use of its system by another entity to provide any service, unless the entity has obtained all the authorizations required by the franchising authority in order to provide the service. The franchisee or its affiliates shall not install or construct facilities within the public ways which are not authorized by this franchise, by applicable law or another franchise.

The franchising authority makes no representation, warranty or guarantee that their interest in or right to control any public way is sufficient to permit franchisee's use and franchisee shall gain only those rights that are within the franchising authority power to convey. No privilege or power of eminent domain is bestowed by this grant or this article.

The grant to use and occupy the public way to provide cable services shall not be exclusive, and the franchising authority reserves the right to grant other franchises for similar uses or other uses of the public ways, or portions thereof to any person, or to make any such use itself at any time during the term of this franchise.

The grant of authority hereunder permits the use of public ways and does not, expressly or implicitly, authorize the franchisee to provide service to, or to install cables, wires or lines, or any other equipment or facilities on private property without the consent of the owner or to use public or privately owned utility poles or conduits without a separate agreement with the owners thereof.

The franchise is granted subject to the paramount right of the franchising authority and the public to use the public ways for public purposes and in the public interest.

Any contactor or subcontractor used by the franchisee to meet the obligations under this franchise or federal, state and local laws must be properly licensed and each contractor or subcontractor shall have the same obligations with respect to its work as the franchisee if the work were performed by the franchisee. Franchisee shall be responsible for the omissions and negligent actions of persons contracting or subcontracting or representing the franchisee in the course of providing cable service to any subscriber.

(Ord. No. 2783, 12-30-2009)

Sec. 14-103. Federal and state jurisdiction; municipal police powers.

This article shall be construed in a manner consistent with all applicable federal and state laws and to effectuate the objectives of such laws, this article and in the public interest. The franchisee is subject to and must comply with all applicable local, county, state and federal laws, ordinances, codes, rules, regulations and orders. Specifically, this article shall be governed by, and in accordance with, the laws of the State of Oklahoma, including 11 O.S. § 22-107.2.

If federal or state laws, rules or regulations preempt a provision or limit the enforceability of a provision of this franchise, then the provision shall be read to be preempted only to the extent and for the time required by law. In that event, the franchisee and franchising authority may negotiate, in good faith, an amendment or amendments to this article which to the extent possible, is consistent with the original intent of the parties and preserves the benefits of each party under this article. In the event such federal or state law, rule or regulation is subsequently repealed, rescinded, amended or otherwise changed so the provision preempted is no longer preempted, such provision of this article shall return to full force and effect and shall be binding on the franchisee and franchising authority without further action on the part of the franchising authority. In the event state or federal governments discontinues preemption in any area of cable communications of which it currently exercises jurisdiction in such a manner as to expand rather than limit municipal regulatory authority, the franchising authority may, if it so elects, adopt and enforce appropriate and necessary rules and regulations to the extent permitted by law. In the event state or federal governments enact legislation and/or regulations in such a manner as to limit municipal regulatory authority and/or in such a manner that results in a material alteration of the rights and powers of the franchising authority granted hereunder, then the parties may modify this article so as to ameliorate the adverse effect of the material alteration and to preserve intact, to the greatest extent possible, the rights and powers the franchising authority has under this article.

Nothing in this article shall be construed to prohibit the lawful exercise of police powers of the franchising authority and to enact and enforce ordinances and regulations related to the operation of the franchisee. If the exercise of such police powers results in any material alteration of the terms and conditions of this article, then the parties shall modify this article so as to ameliorate the adverse effect of the material alteration and to preserve intact, to the greatest extent possible, the benefits and obligations that the franchisee has under this article. If the franchise authority and the franchisee shall not be able to agree on such modification, either may consent to mediation or pursue whatever remedies are available at law or equity to enforce the respective rights under this article.

(Ord. No. 2783, 12-30-2009)

Sec. 14-104. Waiver.

The failure of the franchising authority or the franchisee, on one or more occasions, to exercise a right or to require compliance or performance under this franchise or other laws and regulations applicable to the operation of a cable system or to require compliance or performance under this franchise shall not be deemed to constitute a waiver of such right or a waiver of

compliance by the franchising authority or the franchisee, nor to excuse the franchising authority or franchisee from complying or performing, unless the franchising authority or franchisee has specifically waived, in writing, such right or such compliance or performance.

(Ord. No. 2783, 12-30-2009)

Sec. 14-105. Term.

The term of this franchise shall commence on the date the franchisee files its acceptance of the terms and conditions of this franchise and shall have fulfilled each and every prerequisite requirement for commencement, and shall continue for a period of ten years, unless otherwise lawfully terminated in accordance with the terms of this franchise. Upon the completion of the term of the franchise, if a new, extended, or renewed franchise is not granted by the franchising authority, the franchisee's right to provide cable service shall terminate.

(Ord. No. 2783, 12-30-2009)

Sec. 14-106. Compensation to the city.

The city councilors find that the public rights-of-way to be used by franchisee in the provision of services within the boundaries of the city is valuable public property, acquired and maintained by the city at great expense to its taxpayers. The grant of the use of such public rights of way is a valuable property right without which franchisee would be required to invest substantial capital in rights of way cost and acquisitions.

(1) The franchisee, in consideration of the privileges granted under the franchise for the operation of a cable television system within the public ways of the franchising authority and the expense of regulation pursuant to this franchise incurred by the franchising authority, shall pay to the franchising authority a franchise fee equal to three and one half percent of franchisee's annual gross revenues received during the period of its operation under this franchise.

(2) If the franchisee bundles cable services with noncable service, the franchisee shall not intentionally or unlawfully allocate such revenue for the purpose of evading the franchise fee payment due the franchising authority. In the event the franchisee shall bundle, tie, or combine cable services, which are subject to the franchise fee, with noncable services, which are not subject to franchise fee, so that subscribers pay a single fee for more than one class of service or receive a discount on cable service, a pro rata share of the revenue received for the bundled, tied, or combined services shall be allocated to gross revenue for the purpose of computing the franchise fee. Where charges are published, the pro rata share shall be computed on the basis of the published charge for each of the bundled, tied or combined service, when purchased separately.

(3) Calculation and payment of the annual franchise fee shall be made on a calendar quarterly basis. The franchisee shall file with the franchising authority, within 45 days after the expiration of each of the franchisee's fiscal quarters, a financial statement, in a form acceptable to the franchising authority, substantially in the form as set out in exhibit B [2] and certified under penalty of perjury by a manager or officer of the

franchisee clearly showing the gross revenues, by revenue stream category, received by franchisee during the preceding quarter, and shall simultaneously tender payment of the quarterly portion of the franchise fee. Without limitation on the discretion of the franchising authority to require additional information, the report shall:

a. Incorporate a statement reflecting the market value of all "trade" revenue (revenues from exchanges or barter which do not involve monetary compensation); and

b. Show all local, regional and national advertising revenue allocated to the operation of the cable system within the city.

In the event any franchise fee payment due and owing is not made on or before the required date, the franchisee shall also pay applicable penalties and interest charges provided in this article.

(4) In addition, the franchisee shall file, within 120 days following the conclusion of the franchisee's fiscal year, an annual certified audit, certified by an officer of the franchisee, clearly showing the yearly total gross revenues. The annual report and audit shall be paid for by the franchisee.

If any franchise payment, or recomputed amount, is not made on or before the applicable dates heretofore specified, interest shall be charged from such due date at the maximum rate allowed by law or one and one-half percent per month, whichever is greater.

Payment of money under this section does not limit or impair the rights or privileges of the franchising authority, whether under this franchise or otherwise. Acceptance of payment shall not be construed as an accord, satisfaction or agreement that the amount paid is correct, nor shall it be construed as a release of any claim which the franchise authority may have against the franchisee.

Any transaction or arrangement which has the effect of circumventing payment of required franchise fees or evasion of payment of franchise fees by noncollection, nonreporting or collections of revenues or any other means which evade actual collection of revenues by the franchisee or affiliates for services delivered over the cable system is prohibited and a violation shall constitute a violation of this franchise and be the basis for termination.

Nothing in this article shall be construed to limit the franchising authority to impose any tax, fee, or assessment of general applicability. The franchise fee required by this article shall be in addition to any and all taxes of a general nature or other fees, assessments or charges which the franchisee may be required to pay the franchising authority, or any state or federal agency as required by law, all of which shall be separate and distinct obligations of the franchisee. Franchisee may designate franchise fees as a separate item on any bill to a subscriber of the cable system, but shall not characterize such fee as a tax.

(5) Upon written request by the franchising authority, the franchising authority shall have the right to inspect the books and records of the franchise relating to the cable system and to audit and recompute any amounts determined to be payable under this section,

whether the records are held by the franchisee, an affiliate, or any other agent or representative of the franchisee. The franchisee shall be responsible for making available to the franchising authority all records necessary to confirm the accuracy of the payment of franchise fees and PEG grants without regard to by whom they are held. Such records shall be made available in according to the requirement of section 14-114 herein.

The audit expenses shall be borne by the franchising authority unless the audit discloses an undisputed underpayment of five percent or more of any quarterly payment, in which case the reasonable and verifiable out-of-pocket costs, including reimbursement of the costs associated with the time of franchise authority employees or agents shall be paid by the franchisee. Any additional undisputed amounts determined to be due the franchising authority as a result of the audit shall be paid within 30 days following written notice to the franchisee of the underpayment, which notice shall include a copy of the audit. The franchisee shall also pay any applicable penalties and interest charges computed from the original due date to the date of payment.

In the event the franchisee disputes any underpayment determined by the audit, the franchisee and the franchising authority shall work together in good faith to resolve such dispute. If the dispute remains unresolved, all legal rights and remedies available at law shall be reserved to both parties.

(Ord. No. 2783, 12-30-2009)

Note— Exhibit B is not set out at length, but is kept on file at the city clerk's office.

Sec. 14-107. Cable system characteristics.

The franchisee shall construct, install, operate, repair and maintain the cable system in a manner consistent with all applicable laws, ordinances, construction standards, governmental requirements, FCC technical standards and any standards set forth in this article. In addition, the franchisee shall provide to the franchising authority, upon request, a written report of the results of franchisee's periodic proof of performance test conducted pursuant to the FCC standards and guidelines. The cable system shall have at least the following characteristics and must conform to or exceed the following standards:

(1) Be designed capable of carrying analog and digital signals with a band up to 550 MHz and capable of two-way action for subscriber interaction, if any, required for selection of use of cable service.

(2) Be designed to permit availability of high speed internet services to the subscribers.

(3) Be designed to provide analog and digital channels in a number of not less that the franchisee currently provides to subscribers.

(4) Be capable of the transmission of emergency alert signals to all Subscribers in the form that permits the franchising authority to interrupt and cablecast video messages on all channels simultaneously in the event of a disaster or public emergency in compliance with the emergency alert system ("EAS") established by the FCC and other similar plans of the State of Oklahoma.

(5) Provide, upon request of any subscriber, a parental control locking device or digital code that permits blocking of the video and audio portions of any channels offered by franchisee.

(6) Designed to utilize structure that permits additional improvements necessary for high quality reliable cable service throughout the term of this franchise and the franchise area.

(7) Using faculties and equipment of good and durable quality sufficient to provide continuous 24-hour operations, including protection against power outages conforming to industry standards and capable of complying with any applicable FCC technical standards as amended from time to time.

(8) Facilities and equipment at the headend that will allow franchisee to transmit or cablecast video and audio signals in substantially the form received without alteration or deterioration, including closed caption signals.

(9) Capable of receiving and transmitting any high definition signals.

(10) Conform to all applicable sections of the following standards and regulations to the extent such remain in effect and are consistent with accepted industry standards:

a. Occupational safety and health administration safety and health standards.

b. The National Electrical Code.

c. National Electrical Safety Code.

d. Applicable rules and regulations of the Federal Aviation Administration.

e. Applicable rules and regulations of the Federal Communications Commission.

f. All applicable codes and ordinances of the City of Blackwell.

(Ord. No. 2783, 12-30-2009)

Sec. 14-108. Construction of the cable system and use of public right-of-way.

The franchisee shall not construct, reconstruct, maintain or repair any cable system facilities until the franchisee has secured the necessary permits from the franchising authority or other regulatory public agencies. The franchisee shall notify the city at least ten days prior to the intention of the franchisee to commence construction in any street or other public way.

In the event the cable system, both existing and future construction, does not comply with the terms and conditions of this franchise or laws, rules and regulations incorporated in this franchise, the franchisee shall, at its sole cost and expense, bring the cable system into compliance with such requirements.

The franchisee shall utilize existing poles, conduits and other facilities whenever possible and shall not construct or install any new, different or additional poles, conduits or other facilities whether on public or private property without prior written approval of the franchising authority, which shall not be unreasonably withheld. No location of any pole or wire holding structure of the franchisee shall be deemed to grant a vested interest and such poles or structures shall be removed or modified by the franchisee at its sole expense whenever the franchising

authority determines that the public convenience would be enhanced thereby or on the termination of this agreement. The franchisee shall comply with all of the rules and regulations contained in a pole attachment agreement with the Blackwell Municipal Authority.

In those areas of the service area where all or a majority of the transmission or distribution facilities of respective public utilities providing telephone communications and electric services are underground, the franchisee shall also construct, operate, repair and maintain all of its transmission and distribution facilities underground, provided that such facilities are actually capable of receiving the franchisee's cable and other equipment without technical degradation of the cable system's signal quality. In areas where telephone and electric facilities are installed aerially at the time of any construction of the system facilities, the franchisee may install its facilities aerially with the understanding that at such time as other existing aerially facilities are placed underground by the franchising authority, the franchisee shall likewise place its facilities underground. The franchising authority shall use its best efforts to provide the franchisee with written notice of the issuance of building or development permits for planned commercial/residential developments within the service area requiring undergrounding of cable facilities. The franchising authority shall use its best efforts to require any utility or developer to give franchisee reasonable access to open trenches for the deployment of cable facilities and written notice of the availability.

All transmission lines, equipment and structures of the franchisee shall be installed and located to cause minimum interference with the rights and reasonable convenience of property owners and other franchisees, and at all times shall be kept and maintained in a safe, adequate and substantial condition and in good order and repair. The franchisee shall, at all times, employ ordinary care and shall install and maintain such equipment and devises commonly accepted by the cable industry for preventing failures and accidents which are likely to cause damage, injury or nuisances to the public. Suitable barricades, flags, lights, flares or other devices shall be used at all times and places as are reasonably required for the safety of the public. Any poles or other fixtures placed in any public way by the franchisee shall be placed in such a manner as not to interfere with the usual travel on such public way.

Franchisee shall, at it sole cost and expense, and in a manner approved by the franchising authority restore to city standards and specifications any damage or disturbance caused to the public way as a result of the franchisee's operations, repairs or construction on its behalf.

Upon its receipt of reasonable advance written notice from the franchising authority, the franchisee shall, at its sole cost and expense, protect, support, temporarily disconnect, relocate, or remove any property of the franchisee when, in the opinion of the city, the same is required by reason of traffic conditions, public safety, street vacation, freeway or street construction, change or establishment of street grade, installation of sewers, drains, water pipes, power lines, signal lines, transportation facilities, tracks, or any other types of structure or improvements by governmental agencies, whether acting in a governmental or proprietary capacity, or any other structure or public improvement, including but not limited to movement of buildings, urban renewal and redevelopment, and any general program under which the city shall undertake to cause all such properties to be located or relocated beneath the surface of the ground. The franchisee shall in all cases have the option and privilege, subject to the corresponding obligations, to abandon any property of the franchisee in place in accordance with the provisions of abandonment contained herein.

When, in the case of fire or other disaster, it becomes necessary in the judgment of the chief of the fire department or chief of the police department to remove any of the franchisee's property or facilities, no charge or claim shall be made by the franchisee against the city for restoration or repair, unless such actions result from the gross negligence or willful disregard by the city, its agents, employees and/or representatives.

At the request of any person holding a valid building/moving permit and upon sufficient notice, the franchisee must temporarily raise, lower or cut its wires as necessary to facilitate the move. The direct expense incurred by the franchisee in making such temporary changes including, standby time, shall be paid by the permit holder.

Upon failure of the franchisee to commence, pursue or complete any work required by law or by the provisions of this article to be done in any street or public way within the time prescribed and to the satisfaction of the city, the city may, at its option, cause the work to be done and the franchisee shall pay to the city the cost thereof, in the itemized amounts reported by the city to franchisee within 30 days after the receipt of such itemized report.

Subject to the supervision and direction of the city, the franchisee or its designee shall have the authority, at its own expense, to trim trees located in the public ways as necessary to protect its wires and facilities. The franchisee may trim trees on private property only with the consent of the property owner.

(Ord. No. 2783, 12-30-2009)

Sec. 14-109. - Service availability.

The franchisee shall make cable services available to any person living within the service area at the time of the request. The franchisee shall, at its sole expense other than installation charges, make all services available to every existing residence or business within the city whenever the density of at least 25 residential dwelling units per cable mile is realized, as measured from the exiting facilities of franchisee's cable system in the city. For purposes of this section, density per cable mile shall be computed by dividing the number of residential dwelling units in the area by the length, in miles or fractions thereof, of the total amount of aerial or underground cable necessary to make cable service available to the residential units. The cable length shall be measured from the nearest point of access to the then-existing cable system. The total cable length shall not include the drop cable necessary to serve individual subscriber premises.

The franchisee shall extend its cable system to provide cable and other services to every residence and business in the city where the potential subscriber or subscribers agree to pay the cost of labor and materials used in constructing the extension except as otherwise provided above. The franchisee may require the payment of all costs to be paid in advance.

The franchisee shall not unreasonably discriminate, nor permit discrimination regarding the availability of cable or other services, or in the rates, terms and conditions thereof. The franchisee shall assure that access to cable or other services is not denied to any potential subscriber because of income level of the residents of the area to be served. It shall be the right of all subscribers to continuously receive all available cable or other services so long as financial and other contractual obligations to the franchisee are honored.

(Ord. No. 2783, 12-30-2009)

Sec. 14-110. Service to community facilities.

The franchisee shall, upon request, provide without charge to the franchise authority, one standard installation and outlet of cable service, not including premium or pay per view programming not included within basic cable service, to administrative buildings owned/and or occupied by the franchising authority including, but not limited to, fire stations and police stations that are located within 300 cable feet of the franchisee's cable system. If requested by any public, primary and secondary school within 300 cable feet of franchisee's cable system the same service shall also be made available to such schools. The service may be provided where the facility is in excess of 300 cable feet where the franchisee and the organization entitled to the service agree on the allocation of expenses for installation beyond the 300 cable feet. The franchisee may not charge for additional outlets unless the charge is required to be made by the franchisee's contractual commitments or the charge is for equipment used in providing the additional outlets.

The cable service shall not be extended beyond the outlets installed by the franchisee without authorization from the franchisee. The cable service provided shall not be used to distribute or sell services in or throughout such buildings or for other commercial purposes and such outlets shall not be located in areas generally open to the public.

(Ord. No. 2783, 12-30-2009)

Sec. 14-111. Customer service standards.

Franchisee shall meet or exceed the customer service standards as adopted by a resolution of the Blackwell City Council, and as amended from time to time. The customer service standards as adopted shall be considered a part of the terms and conditions of this franchise article and remedies available to the city pursuant to this franchise article for violations hereunder shall be available to the city for violations of the customer service standards.

(Ord. No. 2783, 12-30-2009)

Sec. 14-112. Public, educational and governmental access channels.

The franchising authority reserves the right to provide PEG access facilities for the benefit of the public. At any time during the term of this franchise, and at the request of the franchising authority, the franchisee shall make available up to three PEG access channels for the use and benefit of the public, the Blackwell Educational System and the franchise authority, provided however, until the franchising authority, or other beneficiary of this paragraph, exercises the rights granted by this section, the franchisee shall have the right to utilize such dedicated channels for its own purposes. A PEG channel shall be made available within 90 days from the date of the request unless a different time is agreed upon by the franchisee and the franchising authority.

Whenever either the educational access channel or the government access channel is: (i) in use for 50 percent of the time from 9:00 a.m. to 9:00 p.m. weekdays (Monday—Friday) for six

consecutive weeks of non-repeated, noncharacter-generated programming, the public schools or the city shall be deemed to have established a need for additional educational or governmental access channels. The franchisee shall then have 60 days after receipt of request from the franchising authority to provide one additional channel, free of charge, for such designated purpose. The franchising authority and the public-school system shall have access to any production facilities of the franchise pursuant to reasonable rules established by the franchisee.

The PEG channels shall all be transmitted on the cable system on the basic cable service tier of channels in a format so that every subscriber can receive and display the PEG signals using the same converters and signal equipment that is used for other basic cable channels. Further, each PEG channel shall be delivered with transmission quality that is the same as or better than the transmission quality of any other channel on basic cable service. To the extent feasible, the PEG channels shall not be separated numerically from other channels carried on the basic cable service tier. The channel numbers assigned to the PEG channels shall be the same channel numbers used by other cable and video operators within the franchise area, if any.

At the time of a request for a PEG access channel, the franchisee shall designate the channel assignment for such PEG channel. After the initial designation of PEG channel numbers, the channel numbers shall not be changed or relocated within the channel spectrum of the cable system without the agreement of the franchising authority. In the event of reassignment of PEG channels, the franchisee shall provide the franchising authority or the public-school administration of at least 120-day notice of the change. In addition, the franchisee shall pay the franchising authority's and/or the public-school system's costs or expenses incurred and associated with the change of channel assignment. Payment shall be made within 30 days of the effective date of change. Such expenses may only be recovered by the franchisee as "external costs" as defined by the FCC, if the relocation was required by federal, state or local law. The channel to which any PEG channel is located must be equal in signal and picture quality, and in full compliance with FCC standards as the channel previously assigned. The franchisee shall have no responsibility or liability for claims resulting from the operations of a PEG channel except as provided herein.

The franchising authority shall have the full responsibility for the operation and management of the PEG channels, facilities and equipment and may designate this responsibility to one or more entities to perform any such responsibilities in accordance with the direction of the franchising authority. The franchising authority shall provide the funding for the expenses associated with operation of the PEG channels to the extent required by the rules of the FCC. The capital cost of the facilities and equipment shall be the responsibility of the franchisee and paid for under the PEG channel fees herein provided.

The franchising authority shall require all local producers or users of the PEG facilities or channels to agree in writing to authorize franchisee to transmit programming consistent with this article and to defend and hold harmless the franchisee and the franchising authority from and against any and all liability or other injury, including the reasonable cost of defending claims or litigation arising from or in connection with claims for failure to comply with applicable federal law, rules, regulations or other requirements of local, state or federal authorities; for claims of libel, slander, invasion of privacy or the infringement of common law or statutory copyright; for unauthorized use of any trademark, trade name or service mark; for breach of contractual or other obligations owing to third parties by the producer or user; and for any other injury or damage in law or equity, which results from the use of a PEG facility or channel.

Franchisee shall provide grants to the franchising authority to be used for the capital expenses to be incurred and associated with the construction of facilities and equipment necessary for the construction operation and maintenance of the PEG channels. This shall include but not be limited to studio facilities, studio and portable production equipment, editing and playback equipment and other similar costs necessary to establish the operation of the PEG channels. It is understood that any cost estimates regarding any PEG grant made and requested by the franchising authority shall not be arbitrary and capricious. The PEG grants shall not exceed three percent of franchisee's gross revenues which shall be paid on a quarterly basis and in the same manner as franchise fees. The first payment shall be due on the same date as the first quarter after the franchisee and the franchising authority have reached an agreement as to the nature, extent and capital cost of the proposed PEG facilities and equipment. To the extent permitted by federal law, the franchisee shall be allowed to recover the costs of PEG grants or any other costs arising from the provision of PEG services and may include such costs as a separately billed line item on each subscriber's bill. Similar capital costs necessary to subsequently upgrade the PEG facilities and equipment may be paid by additional PEG grants and recovery thereof by the franchisee as the initial grant.

The capital grants and other support provided franchising authority by virtue of this section do not constitute franchise fee payments as provided herein and defined by 47 U.S.C § 542 and may be passed through to subscribers. Nor shall such actions be considered as "payments-in-kind" chargeable against the compensations paid to the franchising authority.

Franchisee shall maintain or modify, at its sole cost, its system facilities and equipment at franchisee's headend and cable system as necessary so that the PEG facilities and equipment may be used as intended under this article. If franchisee is unable to accept signals from the PEG facilities in an analog format, the franchisee shall pay for or reimburse the PEG entity for the reasonable costs incurred in replacing equipment necessary to send PEG programming in the signal format required by the franchisee.

Franchisee shall provide such technical assistance necessary to facilitate transmission of PEG access programming on as needed basis or as otherwise directed by the franchising authority.

Upon the request of the franchising authority, the franchisee shall provide, at its sole cost, such cable transmission facilities at the below listed origination points as may be necessary for activated return capacity. Franchisee shall also provide at its sole costs, the necessary equipment to introduce programming onto the transmission facilities by linking the listed original origination point with the franchisees' headend, or through hubs to the headend, to distribution to all subscribers generally and for distribution to discrete audiences vial scrambled signals and decoders. The originations points shall be located in specific locations as designated by the franchising authority but placed in the following buildings or building complex:

(1) Blackwell High School.

(2) Blackwell City Hall.

Except as expressly permitted by federal law, the franchisee shall not exercise any editorial control over the content of programming on the PEG channel. Productions of the franchisee presented on the PEG channels are not subject to this provision, but the franchising authority shall have the right to accept or reject any programming proposed by the franchisee.

The franchising authority, or the entity that may manage a PEG channel for the franchising authority, may establish and enforce rules and procedures for the use of the PEG channels and access facilities pursuant to the Communications Act, 47 U.S.C. § 53 1(d).

The PEG channels shall be used only for noncommercial purposes to the extent such use would constitute competition for the franchisee. For the purposes of this section commercial programming or advertisements shall mean such programming or advertisements for which the franchising authority would receive payment from a third party. However, advertising, underwriting or sponsorship recognition may be carried on the channels for the purpose of funding PEG-related programming or activities.

All PEG channels shall have at a minimum the same bandwidth, signal quality and interactive functionality as federal law may from time to time set aside for PEG use, the parties shall negotiate in good faith an agreement that would enable the affected channels to add the desired functionality.

(Ord. No. 2783, 12-30-2009)

Sec. 14-113. Regulation of rates and charges.

The franchising authority may regulate rates and charges for the provision of cable service and charges to the extent expressly permitted by applicable law, including, without limitation, 11 O.S. § 22-107.2 and applicable FCC regulations.

The following to be added to the customer service standards.

The franchisee may charge a fee for the recovery of cost to collect late payment for cable services if the following conditions have been met:

(1) The subscriber's bill sets forth when the fee will be assessed which shall not be before the subscriber shall have fully received such services for the period covered by the billing.

(2) The late fee is not assessed any earlier than the tenth day after the due date as reflected on the subscriber's bill; and

(3) The bill sets forth the amount of the late fee which shall not exceed the statutory limitation.

The assessment of a late fee pursuant to this section shall not be construed as a limitation on the franchisee's right to charge any other lawful fees or charges.

(Ord. No. 2783, 12-30-2009)

Sec. 14-114. Books, records, and reports.

The franchisee shall keep complete and accurate books of accounts and records of its business and operations pursuant to the franchise. Such books and records of account shall be kept in a manner that identifies revenues by type. Unless otherwise provided or authorized by the franchising authority, all information and materials required by this section shall be maintained for a period of five years. The required books and records shall include, but not be limited to:

(1) Financial records which identify gross revenues by service category, and the expenses, expenditures and depreciation which are the basis for rates, fees and charges;

(2) Records of all written complaints received about any aspect of the cable system or franchisee's cable operations;

(3) Records of outages, indicating dates, duration, types and causes of outages;

(4) Records of installation/reconnection and requests for service extension and action thereon;

(5) Copies of all promotional offers made to potential or current subscribers;

(6) Maintain a file of records open to the public in accordance with applicable rules and regulations of the FCC;

(7) Maintain accurate maps and improvement plans which show the location, size and general description of all facilities installed in the public ways and any power supply sources, including voltages and connections. Such maps shall be based on post construction inspection for verification and shall be available for inspection by the franchising authority at convenient locations, including in the field, if necessary;

(8) Upon notice, such additional information and records as may be determined necessary as it pertains to the operations of the franchise.

The franchising authority, upon written application and for good cause shown, may waive the reporting provisions of this section.

(1) Subject to applicable law the franchising authority or its designee(s) shall have the right, upon 15 days' prior written notice to the franchisee, to inspect and copy at any time during normal business hours and on a nondisruptive basis all books and records, including all documents in whatever form maintained, including electronic media and form to the extent such books and records relate to the cable system or to the franchisee's provision of cable service and are reasonably necessary to ensure compliance with the terms of this article. Such notice shall specifically reference the section of the franchise which is under review, so the franchisee may organize the necessary books, records and information for appropriate access by the franchising authority.

If the books and records sought for review are not easily accessible or not available at the local office of the franchisee, the franchisee may request that the inspection and copying take place at a location mutually acceptable, provided, the franchisee must make necessary arrangements for copying of reviewed records and pay all travel and additional copying expenses incurred by the franchising authority or its representatives above costs that would have been incurred had the records been available locally.

The franchisee shall take all reasonable steps required to ensure that it is able to provide the franchising authority with all information that must be provided or may be requested under this article, including the issuance of appropriate subscriber privacy notices. The franchisee shall be responsible for redacting any data that applicable law prevents it from providing to the franchising authority. Nothing in this section shall require the franchisee to violate federal or state law protecting subscriber privacy.

If the franchisee believes in good faith that the requested information or record is confidential or proprietary, the Franchisee must provide the following documentation to the franchising authority in a verified statement: (i) specific identification of the information claimed as protected; (ii) a statement attesting to the reason(s) the franchisee believes the information sought is confidential; (iii) a statement that the documents, records or information are available at the designated location for inspections and copying. The franchising authority shall take reasonable steps to protect the proprietary and confidential nature of any books, records, maps, or other requested documents that are provided to the extent that are designated as such by the franchisee.

The franchising authority will maintain confidentiality of information provided by the franchisee to the extent permitted by law, if the franchisee has notified the franchising authority in writing of its intent to claim confidentiality of any information submitted. The franchisee shall not be required to provide subscriber information in violation of Section 631 of the Cable Act or any comparable state law or regulation regarding the protection of subscriber privacy. At the request of the franchisee, the franchising authority will provide the franchisee with copies of any request made under the Oklahoma Open Records Act for information or records submitted to the franchising authority. The franchisee may seek any legal remedy available to it for the non-disclosure of such information.

(2) Unless waived in whole or in part by the franchising authority, no later that April 30 of each year during the term of the franchise, the franchisee shall submit an annual written report to the franchising authority, which shall include:

a. A summary of the previous year's activities in development of the cable system.

b. A summary of complaints, identifying both the number and nature of the complaints and the resolution of such complaints. Where recurrent problems are reflected, a statement of corrective measure taken or to be taken.

c. A copy of franchisee's rules, regulations and policies available to subscribers of the cable system, including but not limited to: (i) all subscriber rates, fees and charges; (ii) a copy of the franchisee's contract and application form for cable services; (iii) a detailed summary of the franchisee's policies concerning the processing of subscriber complaints; delinquent subscriber disconnect and reconnect policies; subscriber privacy and other terms and conditions adopted by the franchisee in connection with the provision of cable service to subscribers.

d. A list of persons holding five percent or more of the stock or financial interests in the franchisee.

e. A list of managers, officers and members of the board of directors of the franchisee and its parents and subsidiaries, if any for similar officers if franchisee is not a corporation.

f. A copy of stockholder's reports issued by the franchisee or its parents.

(3) In addition, beginning six months after the effective date of the franchise granted hereunder, the franchisee shall submit a written report to the franchising authority no later than 30 days after the end of each calendar quarter during the term of the franchise

which report shall be in a form satisfactory to the franchising authority and shall include:

a. A report showing the number of service calls sorted by the nature and number of actual service calls received and resolved during the preceding quarter and any line extension requests;

b. A report showing the number of outages, planned and unplanned, for the preceding quarter, its cause, duration, the impacted streets and number of subscribers affected;

c. A report showing the franchisee's performance with respect to all applicable customer service standards signed and certified by a manager or officer of the franchisee. If the franchisee cannot certify as to full compliance, the report must indicate each standard which it is in compliance and in non compliance, the reasons for the noncompliance and the remedial plan. Records shall be maintained to support the details of the report.

(4) Unless waived in whole or in part by the franchising authority, the franchisee shall also submit the following reports to the franchising authority not more than ten business days from the occurrence of the following events:

a. A copy and explanation of any notice of any deficiency, forfeiture or other document issued by any state or federal agency.

b. A copy and explanation of any request for protection under the bankruptcy laws filed by the franchisee or any entity what owns or controls the franchisee, directly or indirectly.

c. At the request of the franchising authority, the franchisee shall submit a copy of all pleadings, applications, notifications, communications and correspondence submitted to or received from the franchisee or affiliates and actions by any federal, state and local courts, regulatory agencies and other governmental bodies, including the FCC, securities and exchange commission, the Oklahoma Corporation Commission, relating to the operations of its cable system and its use of the public ways within the city.

(5) No more than six times per year, upon 30 days' written notice by the city, and not later than ten days following such notice, the franchisee shall provide the franchising authority information as to all matters in connection with or affecting the construction, reconstruction, removal, maintenance, operations and repair of the franchisee's cable system and any other facilities in the public way as required hereinabove. The city may extend the time for providing such information upon a reasonable showing by the franchisee that such extension is justified. The maps shall be filed with the city and shall be updated annually. The required maps shall be provided to the city in both hard copy format and in a computer file format suitable for use by the computer programs of the city.

(Ord. No. 2783, 12-30-2009)

Sec. 14-115. Indemnification.

Franchisee agrees, at its sole cost and expense, to indemnify, save and hold harmless, and defend the city, its elected and appointed officers, employees, agents, boards, commissions and, commissioners from and against any and all claims, suits, causes of action, proceedings and judgments or liability of any type of nature whatsoever for damages and for any liability or claims resulting from tangible property damage or bodily injury (including accidental death), liability, cost or expense, including court and appeal costs and attorney fees or expenses, arising from any casualty or accident to person or property, including, without limitation, copyright infringement, trade mark, trade name, service mark, patent or of any other intellectual property right and defamation, and all other damages in any way arising out of, or by reason of, any construction, excavation, operation, repair, maintenance, reconstruction, or any other act done under this franchise, by or for franchisee, its agents, or its employees, or by reason of any neglect or omission of franchisee. Notwithstanding the foregoing, the franchisee shall not indemnify the franchising authority for any damages, liability or claims resulting from the willful misconduct or gross negligence of the franchising authority.

Franchisee shall consult and cooperate with the franchising authority while conducting its defense of franchising authority, provided that the city shall give franchisee written notice of its obligation to indemnify the city. City shall use its best efforts to provide such notice within 30 days of receipt of a claim or action pursuant to this subsection, but in all events such notice shall not be so late as to adversely affect the franchisee's ability to defend such claim. Nothing herein shall be deemed to prevent the city from cooperating with the franchisee and participating in the defense of any litigation by its own counsel at its own cost and expense provided however, that after consultation with the city, franchisee shall have the right to defend, settle or compromise any claim or action arising hereunder to the extent city shall approve of such settlement or compromise in writing. In such event, franchisee shall have the authority to decide the appropriateness and the amount of any such settlement. In the event that the terms of any such proposed settlement include the full and complete release of the city and do not expose the city to other liability due to such settlement and the city does not consent to the terms of the settlement, franchisee shall not settle the claim or action but its obligation to indemnify the city shall be limited to the amount of such proposed settlement and franchisee shall have no further obligation to defend such claims.

In the event the franchisee, after notice of claim as provided herein, fails to undertake the defense of the franchising authority for any claims encompassed within this section, the franchisee's indemnification shall also include, but shall not be limited to, franchise authority's reasonable attorneys' fees, including fees for outside counsel hired to defend the franchising authority, interest charges, out of pocket expenses and reasonable value of services rendered by franchising authority staff and personnel, incurred in defending against any claim, suit, cause of action or proceeding arising under this section. In all cases, the franchising authority may participate in the defense of a claim at franchisee's expense and, in any event, franchisee may not agree to any settlement of claims affecting franchising authority without franchising authority's approval.

The fact that franchisee carries out any activities under this franchise through independent contractors shall not constitute an avoidance of or defense to franchisee's duty of defense and indemnification under this section.

This section does not and shall not be construed as a waiver, relinquishment or abrogation of the statutory limitation of liability of the city or the city's right of sovereign immunity or protection under applicable constitutional and statutory provisions in the State of Oklahoma. Franchisee shall, at all times, maintain and ensure the protections of franchising authority by the Oklahoma Governmental Tort Claims Act, or any amendments or successor statutes thereto, and any other federal, state, or local laws that may protect franchising authority from liability for any reason, and will take no action that effects or purports to effect a waiver or exemption from said protections on behalf of, or to, franchising authority.

Franchisee shall indemnify franchising authority for any damages, claims, additional costs or expenses assessed against, or payable by, franchising authority arising out of, or resulting, directly or indirectly, from, franchisee's failure to remove, adjust or relocate any of its facilities in the streets in a timely manner in accordance with any relocation required by franchising authority.

Franchisee shall also indemnify, defend and hold franchising authority harmless for any claim for injury, damage, loss, liability, cost or expense, including court and appeal costs and attorney fees or expenses in any way arising out of:

(1) The lawful actions of franchising authority in granting this franchise to the extent such actions are consistent with this franchise and applicable law;

(2) Damages arising out of any failure by franchisee to secure any or all required consents from the owners, authorized distributors or licensees/licensors of programs to be delivered by the cable system, whether or not any act or omission complained of is authorized, allowed or prohibited by this franchise.

It is a condition of the grant of authority given by this article that at no time shall the franchising authority be liable for injury or damage occurring to any person or property from acts or omissions of the franchisee in the construction, repair, maintenance, use, operation or condition of the cable system.

(Ord. No. 2783, 12-30-2009)

Sec. 14-116. Insurance.

Franchisee shall maintain in full force and effect, at its own costs and expense throughout the entire franchise term, the following insurance coverage:

(1) Commercial general public liability and property damage insurance that protects franchisee and franchising authority, its officials, officers, agents, and employees from any and all claims for damages or personal injury including death, demands, actions, and suits brought against any of them arising from the construction, operation, repair, and maintenance of the cable system, and the conduct of franchisee's cable service business or other operations or in connection therewith in the city, in accordance with the subsections below. The insurance shall provide coverage at all times for not less than $1,000,000.00 for personal injury to each person, $2,500,000.00 aggregate for each occurrence, and $1,000,000.00 for each occurrence involving property damages, plus costs of defense; or a single limit policy of not less than $2,500,000.00 covering all claims per occurrence, plus costs of defense. The insurance limits hereunder shall be

revised upward in the event the statutory maximums pursuant to Oklahoma laws pertaining to governmental immunity are raised during the term of this franchise.

(2) Workers' compensation insurance meeting the statutory requirement of the State of Oklahoma and employers' liability coverage for all of franchisee's employees. In the event any work is sublet, franchisee shall also require all subcontractors to provide worker's compensation insurance for all subcontractors' employees in order to fully protect the franchising authority from any and all claims arising out of occurrences of work performed on behalf of the franchisee. The obligation of the franchisee to indemnify the franchising authority pursuant to section 14-115 shall extend to any and all claims made against the franchising authority pursuant to the worker's compensation laws of the State of Oklahoma.

(3) Automobile liability coverage with a minimum limit of liability of $1,000,000.00 per occurrence combined single limit for bodily injury and property damage. Such policies must include coverage for owned, non-owned, leased or hired automobiles.

Each of the required insurance policies shall be with sureties qualified to do business in the State of Oklahoma, with an A- or better rating for financial condition and financial performance by Best's Key Rating Guide, Property/Casualty Edition.

Any deductible or self-insured retention shall be disclosed to the franchising authority. Further, each required policy shall have an endorsement which shall state that the coverage is the primary insurance and insurance held by the franchisee will not be called on or be available to contribute to any loss under this section.

Franchisee shall deliver to the franchising authority original certificates of insurance showing evidence of the required coverage on the effective date of this article and annually thereafter or at any time following a material change in the required insurance or when the franchisee obtains new insurance.

The franchising authority, its elected and appointed officials, officers, boards, commissions, commissioners, agents and employees shall be designated, by specific endorsement, as an additional named insured under each of the insurance policies required in this subsection except workers' compensation, any employer's liability insurance and/or umbrella liability insurance. Such designation must be noted on the required certificate of insurance.

Notwithstanding the naming of additional insured, the insurance shall protect each insured in the same manner as though a separate policy had been issued to each, but nothing herein shall operate to increase the insurer's liability as set forth elsewhere in the policy beyond the amount or amounts for which the insurer would have been liable if only one person or interest had been named as insured. The coverage must apply as to claims between insureds on the policy.

All insurance policies shall contain a provision that the insurance shall not be cancelled or materially altered so as to be out of compliance with the requirements of this section without 60 days' written notice first being given to franchising authority. If the insurance is cancelled or materially altered so as to be out of compliance with the requirements of this section within the term of this franchise, franchisee shall provide a replacement policy in a timely manner which results in no lapse of the coverage required. In the event the franchisee shall fail to provide insurance as provided in this section, the franchising authority, at its option, may secure the

required insurance to afford the protection required in this section and the costs thereof may be recovered by the city in accordance with the procedures governing default by the franchisee.

Franchisee shall maintain on file with franchising authority a certificate of insurance certifying the coverage required above, which certificate shall be subject to the approval of franchising authority as to the adequacy of the insurance represented on the certificate. Willful failure to maintain adequate insurance as required under this section shall constitute a material violation of this franchise and cause for termination of this franchise.

Nothing herein shall be in any way construed as a waiver on behalf of franchising authority of any of the protections or provisions of the Oklahoma Governmental Tort Claims Act, including the limitations on the maximum amounts of liability even if the franchisee shall have limit in amount higher than the statutory limits, and franchisee shall ensure that in naming franchising authority as an insured under this section, all insurance policies or agreements shall specifically contain a nonwaiver provision, and shall not impair said protections and provisions.

(Ord. No. 2783, 12-30-2009)

Sec. 14-117. Receivership and foreclosure.

At the option of the city, the franchise herein granted may be revoked 90 days after the appointment of a receiver or trustee to take over and conduct the business of franchisee whether in receivership, reorganization bankruptcy or other action or proceeding unless:

(1) In the event of the filing resulting in the appointment of a receiver or trustee:

   a. The receivership or trusteeship is vacated within 90 days; or

   b. The receiver(s) or trustee(s) have, within the 90 days after their election or appointment, fully complied with all the terms and provisions of the franchise article, and have remedied all defaults under the franchise; and the receiver(s) or trustee(s) have executed an acceptance of the franchise pursuant to the terms of this franchise article duly approved by the court having jurisdiction, by which the receiver(s) or trustee(s) assume and agree to be bound by each and every term, provision and limitation of the franchise article.

   c. Any transfer by the receiver(s) or trustee(s) of the Franchise granted under this article shall be subject to approval by the franchising authority in the manner provided by the terms of this article or as otherwise provided by law.

(2) In the event there is a foreclosure or other involuntary sale of the whole or part of the property, equipment and assets of franchisee, the city may serve notice of revocation of this franchise on franchisee and to any purchaser at the sale that the rights and privileges held by virtue of this franchise shall be revoked 30 days after service of such notice, unless:

   a. The city has approved the transfer of this franchise to the purchaser in the manner provided by law and this franchise; and

   b. The successful purchaser have covenanted and agreed with the city to assume and be bound by all the terms and conditions of this franchise.

(Ord. No. 2783, 12-30-2009)

Sec. 14-118. Security fund.

No later than the effective date of this franchise, the franchisee shall deposit with the franchising authority the amount of $50,000.00 in the form of an irrevocable, unconditional letter of credit or other instrument satisfactory to the franchising authority, which letter of credit or other instrument shall in no event require the consent of the franchisee prior to the collection by the franchising authority of any amounts covered by such letter of credit or other instrument. The amount of such letter of credit or other instrument shall constitute the franchisee's security fund ("security fund"). A letter of credit shall be in the form acceptable to the franchising authority.

The security fund shall serve as security for the following items and shall only have monies withdrawn therefrom by the franchising authority in those instances where the franchisee has not cured any default within the time periods allotted under this agreement:

(1) The faithful performance by the franchisee of all terms, conditions and obligations of this franchise and to cure any performance failure which can be cured through payment out of the security fund;

(2) Any expenditure, damage or loss incurred by the franchising authority occasioned by the franchisee's failure to comply with all rules, regulations, orders, permits and other directives of the franchising authority issued pursuant to this franchise;

(3) The payment of compensation set forth in this franchise;

(4) The payment of premiums for the liability insurance required pursuant to this franchise;

(5) Any removal of the system ordered by the franchising authority;

(6) The payment to the franchising authority of any amounts for which the franchisee is liable which are not paid by the franchisee's insurance;

(7) The payment of any other amounts which become due to the franchising authority pursuant to this franchise or other applicable law;

(8) The timely renewal of the letter of credit that constitutes the security fund;

(9) Any costs, losses or damages incurred by the franchising authority as a result of a default and enforcement of the franchisee's obligations under this franchise;

(10) The failure to comply with the customer service standards; and

(11) Monetary remedies, penalties or damages assessed against the franchisee by the franchising authority due to default or breach under the terms of this franchise.

Throughout the term of this franchise, or for as long as the franchisee operates the system, whichever period is longer, and for at least 90 days thereafter, the franchisee shall maintain the security fund in the amount specified hereinabove. Within 30 business days after receipt of notice from the franchising authority that any amount has been withdrawn from the security fund, as provided herein, the franchisee shall restore the security fund to the required amount originally specified, provided that said restoration obligation shall be suspended during the period of any judicial challenge by the franchisee to the propriety of said withdrawal from the security fund. If a court determines that said withdrawal by the franchising authority was

improper, the franchising authority shall restore the improperly withdrawn amount to the security fund. Failure of the franchisee to replenish the security fund as provide herein shall constitute a material breach of this franchise by the franchisee.

If the franchisee fails:

(1) To make any payment required by this franchise within the time fixed herein;

(2) To pay to the franchising authority, within 30 business days after receipt of notice, any liabilities relating to the system that are due and unpaid;

(3) To pay to the franchising authority, within 30 business days after receipt of notice from the franchising authority, any damages, claims, costs or expenses which the franchising authority has been compelled to pay or incur by reason of any act or default of the franchisee;

(4) To comply, within 30 business days after receipt of notice from the franchising authority, with any provision of this franchise which the franchising authority determines can be remedied by an expenditure of an amount in the security fund; or

(5) To cure, within 30 business days of receipt of notice from the franchising authority, any of said failures or present written comments contesting the validity of the withdrawal, then the franchising authority may withdraw the amount thereof from the security fund and pay it to the franchising authority. The withdrawal of amounts from the security fund shall constitute a credit against the amount of the applicable liability of the franchisee to the franchising authority but only to the extent of said withdrawal.

The rights granted to the franchising authority with respect to the letter of credit are in addition to all other rights of the franchising authority whether accorded by this franchise or authorized by law, and no action, proceedings or exercise of a right with respect to such letter of credit shall constitute a waiver of any other right vested in the franchising authority.

Within 30 days after the termination of this franchise due to the expiration of the term of the franchise, the franchisee shall be entitled to the return of the security fund, or portion thereof as remains on deposit with the franchising authority at said termination, provided that all offsets necessary to compensate the franchising authority for any uncured failure to comply with any provision of this franchise or violation have been taken by the franchising authority. Notwithstanding the foregoing sentence, if the franchisee continues to operate the system following termination of this franchise, the franchisee shall not be entitled to a return of the security fund until 60 days after the end of such continued operation. In the event of a termination of this franchise for cause due to a violation by the franchisee or otherwise, such security fund shall become the property of the franchising authority to the extent necessary to satisfy the purposes of the security fund as set forth above, including the covering of any costs, loss, or damage incurred by the franchising authority as a result of such termination or violation, provided that any amounts in excess of such costs, loss or damage shall be refunded to the franchisee.

(Ord. No. 2783, 12-30-2009)

Sec. 14-119. Violations and remedies.

If the franchisee violates any provision of the law or its obligations under this franchise, the franchising authority may take one or more of the following actions:

(1) Impose liquidated damages in the amount, whether per day, incident, or other measure of violation, as provided in this franchise;

(2) Require the franchisee to pay its subscribers or classes of subscribers in an amount and on the basis the franchising authority determines is necessary to cure the breach or equitably compensate for the violation;

(3) Revoke this franchise as provided herein; or

(4) Seek legal or equitable relief from any court of competent jurisdiction.

The franchising authority shall have the right to revoke and terminate this franchise for the franchisee's material violations of this article. For the purposes of this section a material violation shall include, but shall not be limited to, any of the following acts or failures to act by the franchisee:

(1) Any failure to comply with any material provision of this Franchise that is not cured within 45 days after written notice pursuant to this section;

(2) The occurrence of any event which lead to the foreclosure or other similar judicial or nonjudicial sale of all or any material part of the System, including, but not limited to, any of the following events:

a. Default under any loan or any financing arrangement material to the system or the obligations of the franchisee under this franchise;

b. Default under any contract material to the system or the obligations of the franchisee under this franchise; or

c. Termination of any lease or mortgage covering all or any material part of the system.

(3) The condemnation by a public authority other than the franchising authority, or sale or dedication under threat or in lieu of condemnation, of all or any part of the system, the effect of which would materially frustrate or impede the ability of the franchisee to carry out its obligations, and the purposes of this franchise;

(4) In the event that:

a. The franchisee shall suspend or discontinue its business, shall make an assignment for the benefit of creditors, shall fail to pay its debts generally as they become due, shall become insolvent (howsoever such insolvency may be evidenced), shall be adjudicated insolvent, shall petition or apply to any tribunal for, or consent to, the appointment of, or taking possession by, a receiver, custodian, liquidator or trustee or similar official pursuant to state or local laws, ordinances or regulations of or for it or any substantial part of its property or assets, including all or any part of the system; or

b. A writ or warrant of attachment, execution, distraint, levy, possession or any similar process shall be issued by any tribunal against all or any material part of the franchisee's property or assets; or

c. Any creditor of the franchisee petitions or applies to any tribunal for the appointment of, or taking possession by, a trustee, receiver, custodian, liquidator or similar official for the franchisee or of any substantial parts of the assets of the franchisee under the law of any jurisdiction, whether now or hereinafter in effect, and an order, judgment or decree is entered appointing any such trustee, receiver, custodian, liquidator or similar official, or approving the petition in any such proceedings; or

d. Any order, judgment or decree is entered in any proceedings against the franchisee decreeing the voluntary or involuntary dissolution of the franchisee.

(5) If there shall occur any denial, forfeiture or revocation by any federal, state or local governmental authority of any authorization required by law or the expiration without renewal of any such authorization, and such events either individually or in the aggregate, materially jeopardize the system or its operation;

(6) The habitual and persistent failure by the franchisee to comply with any of the provisions, terms or conditions of this franchise or with any rules, regulations, orders or other directives of the franchising authority after having received written notice of a failure to comply; specifically, the following shall be such violations:

a. A transfer of the franchise without franchising authority approval or failure to notify pursuant to applicable provisions of this article;

b. Failure to provide cable service;

c. Failure to make cable service under the provisions of this article governing extension of service;

d. Failure to meet FCC technical standards;

e. Failure to provide the PEG channels or PEG grants;

f. Failure to provide service to public buildings;

g. Failure to pay franchise fees;

h. Failure to meet reports and records requirements in a timely manner;

i. Failure to satisfy insurance, security fund or letter of credit requirements;

j. Failure to satisfy consumer protection, consumer privacy requirements and discrimination among subscribers;

k. Failure to comply with customer service standards other than those for which liquidated damages have been assessed and paid;

l. Attempts to or creates a pattern and practice of fraud or deceit on the franchising authority or any subscriber; or

m. Failure to have a current, valid and enforceable agreements with all pole owners.

Upon the occurrence of a material violation, then, in accordance with the procedures provided in this section the franchising authority may, at any time during the term of this franchise:

(1) Require the franchisee to take such actions to comply with the franchise or cure the breach as the franchising authority deems appropriate in the circumstances; and/or

(2) Seek money damages from the franchisee as compensation for such violation; and/or

(3) Seek to obtain the appointment of a court-appointed trustee or similar person to take any actions which the franchising authority deems appropriate in the circumstances; and/or

(4) Revoke the franchise by termination of this franchise pursuant to this section;

(5) In addition to all other remedies granted or available to the franchising authority, the franchising authority shall be entitled, to the extent appropriate under law, to the restraint by injunction of the violation, or attempted or threatened violation, by the franchisee of any terms or provisions of this article, or to a decree compelling performance by the franchisee of any term or provision therein.

In the event of an alleged violation, the franchising authority shall exercise the rights provided in this section in accordance with the procedures set forth below:

(1) The Blackwell City Manager, or designee, shall notify the franchisee, in writing, of an alleged violation, which notice shall specify the alleged violation with reasonable particularity. The franchisee shall, within 60 days after receipt of such notice or such longer period of time as the city manager may specify in such notice, either cure such alleged violation or, in a written response to the franchising official, either present facts and arguments in refutation or excuse of such alleged violation or state that such alleged violation will be cured and set forth the method and time schedule for accomplishing such cure.

(2) The city manager shall determine:

   a. Whether a violation has occurred;

   b. Whether such violation is excusable; and

   c. Whether such violation has been cured or will be cured by the franchisee.

(3) If the city manager determines that a violation has occurred and that such violation is not excusable and has not been or will not be cured by the franchisee in a manner and in accordance with a schedule reasonably satisfactory to the city manager, then the city manager shall prepare a written report which may recommend the action to be taken by the franchising authority's governing body. The franchising authority shall provide notice and a copy of such report to the franchisee. In the event that the franchising authority's governing body determines that such violation has not occurred, or that such violation either has been or will be cured in a manner and in accordance with a schedule reasonably satisfactory to the franchising authority's governing body, or that such violation is excusable, such determination shall conclude the investigation.

(4) If the franchising authority's governing body determines that such has occurred, and that such violation has not been and will not be cured in a manner and in accordance with a schedule reasonably satisfactory to the franchising authority's governing body, and that

such violation is not excusable, then the franchising authority may take any of the actions provided in this section, including assessment of liquidated damages or termination of this franchise.

If the action shall be an assessment of liquidated damages the franchisee shall be liable to the franchising authority for the amounts specified in this section for any of the following failures by the franchisee to comply with the provisions of this franchise, unless, within 45 days after receipt of notice by the franchisee from the franchising authority, or such longer period as the franchising authority shall specify, the franchisee has cured the alleged failure, presented facts and arguments in refutation or excuse of each such alleged failure that satisfies the franchising authority, or provided a cure plan and schedule that reasonably satisfies the franchising authority. At the option of the franchising authority, such amounts may be withdrawn from the security fund and paid to the franchising authority for:

(1) Failure to furnish, maintain, and continue to offer all requested services to any household within the franchise area as required by this franchise: $200.00 per day, for each day that such failure continues;

(2) Failure to provide accurate data, documents, records, reports or information to the franchising authority, pursuant to the terms of this franchise: $200.00 per day, of each day that such failure continues;

(3) Substantial failure to construct, operate and maintain and upgrade the system offering the full range of services, facilities and equipment provided for in accordance with this franchise: $200.00 per day, for each day that such failure continues;

(4) Failure to provide all or substantially all the capital grants, equipment and other support for the PEG channels pursuant to this franchise: $250.00 per day for each day that such failure occurs or continues; and

(5) Failure to provide all or substantially all of the capital grants, equipment and other support pursuant to this article: $200.00 per day for each day that such failure occurs or continues;

(6) For violation of customer service standards: $100.00 per violation and providing each failure as a separate violation;

(7) For failure to pay any assessed fees, including audit fees or liquidated damages: $75.00 per day payment is delayed or delinquent;

(8) Failure to restore damaged property: $50.00 per day, in addition to the cost of the restoration;

(9) For the transfer of the system without approval: $500.00 per day for each day the violation continues;

(10) For failure to maintain the insurance, the security fund, or any guarantee: $150.00 per each day the violation continues;

(11) For any other significant violation of this franchise: $50.00 per day for each day the violation is not remedied.

The assessment and payment of liquidated damages shall not be a substitute for actual performance of any obligation of the franchisee imposed by this franchise, but shall be in addition to such performance.

Each of the foregoing failures set forth in this section shall result in injuries to the franchising authority and the residents, businesses and institutions of the franchising authority, the compensation for which will be difficult to ascertain and to prove. Accordingly, by acceptance of this franchise, the franchisee agrees that the liquidated damages in the amounts set forth above are fair and reasonable compensation for such injuries. Such liquidated damages shall be without prejudice to any other remedies available to the franchising authority to the extent permitted by law. Further, by acceptance of this franchise, the franchisee agrees that the foregoing amounts are liquidated damages and not a penalty or forfeiture.

The rights and remedies reserved to both parties herein are cumulative and shall be in addition to all other rights and remedies which either party may have with respect to enforcement of the terms and conditions of this article, whether reserved herein or authorized by applicable law.

(Ord. No. 2783, 12-30-2009)

Sec. 14-120. Renewal of franchise.

(a) The franchising authority and the franchisee agree that any proceedings undertaken by the franchising authority that relate to the renewal of the franchisee's franchise shall be governed by and comply with the provisions of Section 626 of the Cable Act.

(b) Notwithstanding anything to the contrary set forth in this section, the franchisee and the franchising authority agree that at any time during the term of the then-current franchise, while affording the public appropriate notice and opportunity to comment, the franchising authority and the franchisee may agree to undertake and finalize informal negotiations regarding renewal of the then-current franchise and the franchising authority may grant a renewal thereof.

(Ord. No. 2783, 12-30-2009)

Sec. 14-121. Termination; continued operations.

In the event of any termination of this franchise, whether by expiration (if the franchisee does not seek a renewal or does not have any renewal rights under federal, state or local law), denial of renewal, revocation or otherwise, the franchising authority shall direct the franchisee to operate the system on behalf of the franchising authority pursuant to the provisions of this franchise and such additional terms and conditions as are equitable to the franchising authority and the franchisee, for a period of no less than four and up to 12 months.

(Ord. No. 2783, 12-30-2009)

Sec. 14-122. Franchising authority's right to order removal or to acquire or affect a transfer of the system.

In addition to its rights under this franchise, upon any termination or if for any other reason the franchisee abandons, terminates or otherwise fails to operate or maintain service to its subscribers the franchising authority may, in its sole discretion and subject to applicable law, but shall not be obligated to, direct the franchisee to remove, at the franchisee's sole cost and expense, all or any portion of the system from all streets and other public or nonpublic property within the franchise area, subject to the following:

(1) This provision shall not apply to buried cable which the franchising authority determines should not be removed;

(2) In removing the system, or part thereof, the franchisee shall refill and compact, at its own expense, any excavation that shall be made by it and shall leave all streets and other property in as good condition as that prevailing prior to the franchisee's removal of the system and without affecting, altering or disturbing in any way any electric, telephone or other utility cables, wires or attachments (except to the extent such affecting, altering or disturbing is permitted by an agreement between the franchisee and the applicable utility);

(3) The franchising authority shall have the right to inspect and approve the condition of such streets and public property after removal;

(4) The liability insurance and indemnity provisions of this franchise shall remain in full force and effect during the entire period of removal and associated repair of all streets and other public property;

(5) Removal shall be commenced within 30 days of the removal order by the franchising authority and shall be completed within 12 months thereafter including all associated repair of all streets and other public property;

(6) If, in the reasonable judgment of the franchising authority, the franchisee fails to substantially-complete such removal, including all associated repair of streets and other public property within 12 months thereafter, then, to the extent not inconsistent with applicable law, the franchising authority shall have the right to:

a. Declare that all rights, title and interest to the system belong to the franchising authority with all rights of ownership, including, but not limited to, the right to operate the system or to effect a transfer of the system to another person for operation; or

b. Authorize removal of the system, at the franchisee's cost, by another person; and

c. To the extent not inconsistent with applicable law, any portion of the system not designated by the franchising authority for removal shall belong to and become the property of the franchising authority without compensation to the franchisee and the franchisee shall execute and deliver such documents, as the franchising authority shall request, in form and substance acceptable to the franchising authority, to evidence such ownership by the franchising authority.

Notwithstanding the foregoing, the franchisee may dispose of any portion of the system not designated by the franchising authority for removal during such 12-month period, provided, however, that if the franchisee fails to complete the removal of the portion(s) of the system designated for removal by the franchising authority within such period, then all such portion(s) of the system not disposed of and all amounts collected for any portion(s) of the system disposed of by the franchisee during such period shall belong to the franchising authority, with no price due to the franchisee.

Upon any termination and as an alternative to ordering removal of the system, the franchising authority shall have the right to, and may, in its sole discretion, acquire or effect a transfer to a third party acceptable to the franchising authority of all or any part of the system and all components thereof necessary to maintain and operate the system pursuant to the terms of this franchise.

The price to be paid to the franchisee upon an acquisition or transfer by the franchising authority to the franchising authority or a qualified third party acceptable to the franchising authority shall depend upon the nature of the termination. If the franchise expires without being renewed (if the franchisee does not seek a renewal or does not have any renewal rights under federal, state or local law), or if the renewal of the franchise is denied, then the price shall be fair market value, determined on the basis of the system valued as a going concern but with no value allocated to the franchise itself (i.e., the fair market value of the system valued as a going concern, with a deduction for the value allocable to the franchise itself). If the termination is due to the revocation of the franchise for cause, including, but not limited to, revocation due to material violations of this franchise by the franchisee, then the price shall be an equitable price, determined with due regard to the injury to the franchising authority and the residents of the City of Blackwell and with no value allocable to the franchise itself.

In the event of any such acquisition, transfer or abandonment, the franchisee shall:

(1) Cooperate with the franchising authority or any third party in maintaining the distribution of services over the cable system in order to maintain continuity of service to subscribers;

(2) Promptly execute all appropriate documents to transfer to the franchising authority or third party, free of any duties, obligations, encumbrances or liabilities, title to the system, all components thereof necessary to operate and maintain the system pursuant to the terms and conditions of this franchise, as well as all contracts, leases, licenses, permits, rights-of-way, and any other rights, contracts or understandings necessary to maintain the cable system and the distribution of services over the cable system; provided that such transfers shall be made subject to the rights, under Article 9 of the Uniform Commercial Code as in effect in the State of Oklahoma and, to the extent that any collateral consists of real property, under Oklahoma property law, of banking or lending institutions which are secured creditors or mortgagees of the franchisee at the time of such transfers; and provided that, with respect to such creditors or mortgagees, the franchising authority shall have no obligation following said transfers to pay, pledge, or otherwise commit in any way any general or any other revenues or funds of the franchising authority, other than the net operating revenues received by the franchising authority from its operation of the system, in order to repay any amounts outstanding on any debts secured by the system which remain owing to such creditors

or mortgagees; and provided, finally, that the total of such payments by the franchising authority to such creditors and mortgagees, from the net operating revenues received by the franchising authority from its operation of the system, shall in no event exceed the lesser of:

a. The fair market value of the system on the date of the transfer of title to the franchising authority; or

b. The outstanding debt owed to such creditors and mortgagees on said date.

Nothing in this section shall be construed to limit the rights of any such banking or lending institutions to exercise its or their rights as secured creditors or mortgagees at any time prior to the payment of all amounts due pursuant to the applicable debt instruments;

(3) Promptly supply the franchising authority with all necessary records to reflect the franchising authority's or third party's ownership of the system and to operate and maintain the system, including, without limitation, all subscriber records and plant and equipment layout documents; and

(4) Waive relocation fees in the event of termination, purchase, or condemnation of the system or this franchise.

The franchising authority and the franchisee shall negotiate in good faith all other terms and conditions of any such acquisition or transfer, except that, in the event of any acquisition of the cable system by the franchising authority:

(1) The franchising authority shall not be required to assume any of the obligations of any collective bargaining agreements or any other employment contracts held by the franchisee or any other obligations of the franchisee or its officers, employees, or agents, including, without limitation, any pension or other retirement, or any insurance obligations; and

(2) The franchising authority may lease, sell, operate, or otherwise dispose of all or any part of the system in any manner.

(Ord. No. 2783, 12-30-2009)

Sec. 14-123. Transfer or assignment of franchise.

Neither this franchise, nor all or substantially all of the assets held by the franchisee for use under this franchise, including assets located within the public ways, nor any rights or privileges of the franchisee under this franchise, either separately or collectively, shall be sold, resold, assigned, transferred or conveyed by the franchisee to any other person, firm, affiliate or entity, without the prior written consent of the franchising authority, which consent shall not be unreasonably withheld. The change of an ownership interest of ten percent or more in the franchisee shall be considered a transfer requiring prior approval of the franchising authority under this section. The sale of property and equipment in the normal course of business shall not be subject to this section. The franchising authority's approval shall not be unreasonably withheld when sought pursuant to this franchise, applicable laws, rules and regulations.

The following events, by way of illustration and not limitation, shall be deemed to be a sale, transfer or assignment requiring compliance with this section:

(1) The sale, assignment or other transfer of all or the majority of franchisee's assets, either in a single event or in multiple events;

(2) The sale, assignment, transfer of or issuance of additional capital stock, partnership membership or other equity interest in franchisee by one or more of its existing shareholders, partners, members or other equity owners so as to create a new controlling interest in franchisee;

(3) The entry by the franchisee into an agreement with respect to management or operation of the franchisee and or the cable system.

For the purposes of this section, "controlling interest" shall mean an ownership interest in excess of 25 percent of the franchisee.

Franchisee shall notify the franchising authority at least 90 days prior to the effective date of any proposed transfer of the franchise by submitting to the franchising authority an application for consent to transfer requesting the approval of the franchising authority or submitting documentation evidencing that no such consent is required. The application shall fully describe the proposed action and shall be accompanied by an explanation for the action. The application shall include all information required to be filed with the FCC and the franchising authority pursuant to the FCC's regulations. The application also shall provide complete and accurate information on the proposed transaction, including details on the legal, financial, technical and other qualifications of the transferee and the potential impact of the transfer on cable service.

After receipt of the application, the franchising authority may, in compliance with applicable law and as it deems necessary or appropriate, schedule a public hearing or hearings as necessary, on the application to consider all relevant issues necessary and appropriate to evaluate the application. The franchising authority may perform a comprehensive audit of the incumbent franchisee's performance under the terms and conditions of the franchise and, as appropriate, the franchisee shall secure the cooperation and assistance of all persons involved in said action. The incumbent franchisee and proposed transferee shall provide all requested assistance to the franchising authority in connection with any such public hearing. For the purpose of determining whether it shall grant its consent, franchising authority may inquire into:

(1) The qualifications of the proposed franchisee;

(2) All matters relevant to whether said proposed franchisee will adhere to all applicable provisions of the terms and condition of the franchise and all applicable rules and regulations governing the operation of a cable system;

(3) Whether the operation proposed by the transferee will adversely affect cable services to subscribers or otherwise be contrary to the public interest;

(4) The plan of the transferee to any and all deficiencies, violations, or defaults of the incumbent franchisee; and

(5) The proposal of the transferee to all other matters the franchising authority deems relevant in evaluating the application.

In accordance with the Cable Act, the franchising authority shall act upon any request for a transfer of the franchise within 120 days of such request provided that such request contains or is accompanied by such information as is required by the FCC's regulations and by the franchising authority. If the franchising authority fails to render a final decision on the request within 120 days of receipt of all required and appropriate information, the request shall be deemed granted unless the franchisee and the franchising authority agree to an extension of time.

The franchising authority may impose on a proposed transferee a processing fee to reimburse the franchising authority for its actual out of pocket expenses in excess of the filing fee, if any, in considering the application for transfer of the franchise.

All transfers or assignments shall be contingent upon the transferee accepting in writing the franchise in its then current terms and assumes the obligations, responsibility for any and all liability for all acts and omissions, or defaults, known and unknown of the transferring franchisee. No transfer or assignment pursuant to this section shall be construed or deemed as a waiver of any claim, action or right, accrued prior to the date of transfer or accruing after the date of transfer, of the franchising authority against the franchisee under the terms of this franchise unless such waiver is expressly made and contained is the approving document, including an approval by failure of the franchising authority to act on a transfer request as set out in the FCC rules. Further, all such rights and claims of the franchising authority shall survive the transfer and shall become the obligation assumed by the transferee of the franchise. In addition, the franchising authority reserves whatever rights it may have to impose such other lawful conditions as it deems necessary and appropriate, and the franchisee reserves all of its rights to contest the lawfulness of any such conditions.

Should the franchisee sell, assign, transfer, convey or otherwise dispose of its right or interests under this franchise, including capacity on its system, or attempt to do so, without the prior consent of the franchising authority, the franchising authority may revoke this franchise. On revocation all right and interest of the franchisee shall cease, subject to provisions for continuation contained herein. A transfer in violation of this section shall be null and void and unenforceable.

No consent of the franchising authority is required for the transfer of an ownership or other interest in franchisee, or the rights held by franchisee under this franchise made in trust, by mortgage or by other hypothecation, by assignment of any rights, title or interest of the franchisee in the franchise or cable system in order to secure indebtedness.

In the event the franchisee has provided a guaranty pursuant to section 14-118 herein, the franchisee or any guarantor may request that the franchising authority release said guaranty and the franchising authority shall act upon such request without delay. In considering such request, the franchising authority shall make its decision as to whether or not to release said guaranty by and upon evaluating the performance by the franchisee of its material obligations under the terms of the franchise and determining whether the guarantee of the transferee of the franchise provides remedies for violations and defaults of the franchisee prior to the effective date of the transfer. The franchising authority shall conduct such evaluation and reach its decision as promptly as practicable and shall not unreasonably withhold, delay or deny its consent to the release of said guaranty. Upon making its decision, the franchising authority shall promptly deliver to franchisee written notice thereof. If the franchising authority shall agree to release said guaranty,

it shall promptly deliver to the franchisee or any guarantor written document evidencing such release of said guaranty.

(Ord. No. 2783, 12-30-2009)

Sec. 14-124. Mutual periodic evaluation and review of performance.

At any time, either party may request an evaluation and performance review conference (the "conference") with the other party to discuss the parties' compliance with this franchise agreement and to alert the other party of the requesting party's issues and concerns. The parties shall cooperate fully with a conference request. The time and location of the conference shall be mutually agreed to by the parties, except that unless agreed to otherwise by the parties, the conference shall be held no later than five business days from the date of the conference request. It is understood that the conference shall be conducted in an in person, private, face to face manner. The parties agree that every attempt shall be made to communicate their issues and concerns through a conference prior to making public statements, including interviews with the press. However, when public health, safety and welfare is seriously affected, or in other instances where disclosure is required by law, the parties may make the information public. Nothing herein shall be used to contravene the Oklahoma Public Records Act or Oklahoma Open Meeting Act.

Minutes shall be prepared by a representative of the franchising authority who is actually present at the conference, and shall be presented to the parties within five business days after the end of the conference. The minutes shall be deemed accepted unless disputed within ten business days of their submission. If the dispute cannot be resolved, the parties shall each place its own minutes in the file.

The franchising authority may in its request for a conference require the franchisee to submit financial or technical reports at the conference that are reasonably calculated to address issues and concerns raised by the franchising authority in its conference request. If the franchisee is required to submit materials to the franchising authority hereunder, it shall have the right to avail itself of the confidentiality provisions of section 14-114.

During the course of a conference, if the franchising authority determines that reasonable evidence exists of inadequate performance of franchisee's obligations required by this article it may require the franchisee to perform such tests reasonably directed to resolving the inadequacies as deemed appropriate through mutual discussion between the franchising authority and the franchisee. The franchisee shall prepare the results of such tests and report to the franchising authority as to plans to remedy any deficiencies.

(Ord. No. 2783, 12-30-2009)

Sec. 14-125. Elective mediation.

The parties may agree to engage in nonbinding mediation with regard to any dispute under this franchising agreement. Each party shall bear its own legal fees and costs associated with any such mediation. Nothing herein shall preempt any party's right to seek judicial intervention or engage in a judicial challenge with regard to any dispute under this franchising agreement.

(Ord. No. 2783, 12-30-2009)

Sec. 14-126. First amendment rights.

The franchising authority shall endeavor to respect franchisee's rights under the first amendment of the U.S. Constitution.

(Ord. No. 2783, 12-30-2009)

Sec. 14-127. Acceptance of franchise.

Franchisee shall, within ten days after the passage of this franchise article, file in the office of the city clerk a written instrument accepting this franchise and all terms and conditions, signed and acknowledged by officers of franchisee empowered to bind the corporation in a form acceptable to the city. The acceptance shall acknowledge and accept that the franchising authority has the full legal right to adopt this article and enforce the terms hereof. Further, franchisee shall acknowledge that grant of authority to operate a cable system within the public ways of Blackwell, Oklahoma pursuant to this article is granted pursuant to processes and procedures consistent with all applicable laws and will not raise any claim, at law or equity, to the contrary.

(Ord. No. 2783, 12-30-2009)

Sec. 14-128. Force majeure.

Franchisee shall not be held in default under, or in noncompliance with, the provisions of this franchise, nor suffer any enforcement or penalty relating to noncompliance or default, where such noncompliance or alleged defaults occurred or were caused by a force majeure. The time within which the franchisee shall be required to perform any act under the franchise shall be extended by a period of time equal to the number of days performance is delayed due to force majeure. The franchising authority shall not subject franchisee to penalties, fines, forfeitures or revocation of the franchise for violations of the franchise where the violation was beyond franchisee's control, resulted in no or minimal negative impact on subscribers and any default or noncompliance was cured in a timely manner.

(Ord. No. 2783, 12-30-2009)

Sec. 14-129. Notices.

Any notices, requests, or other communications required or permitted to be given hereunder shall be in writing and shall be either:

(1) Delivered by hand;

(2) Mailed by United States registered or certified mail, return receipt requested, postage prepaid;

(3) Sent by a reputable, national overnight delivery service (e.g., Federal Express, Airborne, etc.) which provides tracking and receipt service; or

(4) Sent by facsimile (with the original being sent by one of the other permitted means or by regular United States mail) and addressed to each party at the applicable address set forth herein.

Any such notice, request, or other communications shall be considered given or delivered, as the case may be, on the date of hand delivery, or if delivered by hand, on the third day following deposit in the United States mail, or if sent by United States registered or certified mail, on the next business day following deposit with an overnight delivery service with instructions to deliver on the next day or on the next business day, if sent by overnight delivery service, or on the day sent by facsimile, if sent by facsimile, provided the original is sent by one of the other permitted means as provided in this section. Rejection or other refusal to accept or inability to deliver because of changed address of which no notice was given shall be deemed to be receipt of the notice, request, or other communication. Any notice to the franchisee shall also be accompanied by a courtesy e-mail copy to the franchisee at the address below. By giving at least ten days' prior written notice thereof, any party hereto may from time to time and at any time, change its/his notice address hereunder.

Franchising Authority:	The City of Blackwell	
	221 West Blackwell	
	Blackwell, OK 74631	
	Attention:	The Mayor
		The City Manager
	Telephone:	(580) 363-7250
	Facsimile:	(580) 363-5527
With a copy to:	The City Attorney	
Franchisee:	GET, L.L.C. d/b/a Get Real Cable	
	1004 West Doolin	

	Blackwell, OK 74631
	Attention: System Manager

(Ord. No. 2783, 12-30-2009)

EXHIBIT A

LETTER OF CREDIT
[NAME OF FINANCIAL INSTITUTION]

IRREVOCABLE STANDBY LETTER OF CREDIT

Issue Date:	
Amount: USD $ _____ Fifty Thousand Dollars and 00/100 Cents	
Beneficiary:	Applicant:
The City of Blackwell, Oklahoma 221 West Blackwell Blackwell, OK 74631	GET, LLC, an Oklahoma Limited Liability Corporation 1004 West Doolin Ave Blackwell, OK 74631
The City of Blackwell, Oklahoma	
An Oklahoma Municipal Corporation	

We hereby establish this irrevocable Letter of Credit No. _____ in your favor, for the aggregate amount not to exceed the amount indicated above expiring at the close of business on the date of the expiration of the Franchise and or cessation of business as a Franchisee to operate a Cable System.

This Letter of Credit is available with (Name of Financial Institution) against presentation of your draft at sight drawn on (Name of Financial Institution) and accompanied by the documents indicated herein.

A Statement of the Beneficiary purportedly signed by the City Manager of the City of Blackwell as authorized by the City Council reading as follows:

"The amount of this drawing of USD $ _____ under (Name of the Financial Institutional) Letter of Credit No. _____ represents funds due us as GET, LLC has failed to perform its duties pursuant to the Cable Franchise Ordinance No. _____ , dated _____ , 200 _____ .

It is a condition of the irrevocable Letter of Credit that it shall be automatically extended without amendment for additional one year periods from the present or each future expiration date unless at least sixty (60) days prior to such expiration date, we send you a notice in writing by registered mail, return receipt requested or hand delivery at the above address that we elect not to renew this Letter of Credit for such an additional period.

Upon such notice to you, you may draw drafts on us at sight for an amount not to exceed the balance remaining in this Letter of Credit within the then remaining period, accompanied by your dated Statement purportedly signed by the City Manger and authorized by the City Council reading as follows:

'The amount of this drawing USD $ _____ under (Name of Financing Institution) Letter of Credit No. _____ represents funds due us as we have received notice from (Name of Financing Institution) of their decision not to extend Letter of Credit No. _____ for an additional period of time.

We agree with you that drafts drawn under and in compliance with the terms and conditions of this Letter of Credit will be duly honored.

This Letter of Credit shall be governed by, and construed in accordance with, the laws of the State of Oklahoma without regard to principles of conflict of laws.

All correspondence and any drawings hereunder are to be directed to:

Name of Financing Institution	
Address	

	_____ Authorized Signature

EXHIBIT B

(Reserved)

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Chapter 15 RESERVED

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Chapter 16 MUNICIPAL COURT

Chapter 16 - MUNICIPAL COURT

State Law reference— Municipal court, 11 O.S. § 27-101 et seq.

Sec. 16-1. Scope; interpretation of provisions; effect of conflict of provisions.

This chapter shall govern the organization and operation of the municipal court of the city, as put into effect and operation by resolution duly passed on November 28, 1978, and filed in accordance with law, as authorized by 11 O.S. § 27-102.

(Code 1967, § 15-1; Ord. No. 1897, § 1, 1-14-1969; Ord. No. 2194, § 1, 11-28-1978)

Sec. 16-2. Original jurisdiction of court.

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

(Code 1967, § 15-3; Ord. No. 1897, § 3, 1-14-1969)

State Law reference— Similar provisions, 11 O.S. § 27-103.

Sec. 16-3. Qualifications of judge.

(a) *Qualifications.* There shall be one judge of the court. A judge must be duly licensed to practice law in the state except as provided for in subsection (b) of this section. He may engage in the practice of law in other courts, but he shall not accept employment inconsistent with his duties as judge or arising out of facts which give rise to or are connected with cases within the jurisdiction of the court, pending thereon or which might become the subject of proceedings therein. He need not reside within the city, and may serve as judge of other municipal courts, if such service may be accomplished consistently with his duties as judge of this court, with the consent of the city council.

(b) *Exceptions.* The municipal judge may also be:

(1) An attorney licensed to practice law in the state who resides in the county or in an adjacent county;

(2) An attorney licensed to practice law in the state who maintains a permanent office in the city; or

(3) Any suitable person who resides in the county or in an adjacent county.

(Code 1967, § 15-4; Ord. No. 1869, § 4, 1-14-1969)

State Law reference— Similar provisions, 11 O.S. § 27-103.

Sec. 16-4. Term of office of judge.

The judge shall serve at the will and option of the appointing authority. Each judge shall serve for a term of two years, said term to commence upon the first Tuesday in May, 1977, and shall expire on the first Tuesday in May of each odd-numbered year thereafter, and until his successor is appointed and qualified, unless sooner removed by the vote of a majority of all members of the city council for such cause as provided by the laws of the state for removal of public officers. Any appointment to fill a vacancy shall be for the unexpired term.

(Code 1967, § 15-5; Ord. No. 1869, § 5, 1-14-1969; Ord. No. 2140, § 2, 3-29-1977)

State Law reference— Similar provisions, 11 O.S. §§ 27-104, 27-107.

Sec. 16-5. Appointment, function of acting judge.

In the event of disqualification of the judge in a particular case or his absence or inability to act, the mayor may appoint some person, qualified as provided in this chapter, as acting municipal judge of the court in the place of the judge during his absence or inability to act or in a case wherein the judge is disqualified; or, in its discretion, the city council may provide by ordinance for the appointment of an alternate judge of the court, in the same manner and for the same term as the judge and possessing the qualifications prescribed by this chapter, and such person shall sit as acting judge of the court in case of the absence, inability or disqualification of the judge. If both the judge and the alternate judge are unable to sit, the mayor may appoint an acting judge as provided in this section.

(Code 1967, § 15-6; Ord. No. 1869, § 6, 1-14-1969)

State Law reference— Similar provisions, 11 O.S. § 27-106.

Sec. 16-6. Compensation of judge, acting judge.

(a) A judge, other than an acting judge, shall receive a salary, the amount of which shall be fixed by the city council, paid in the same manner as the salaries of other officials of this city.

(b) An acting judge shall be paid the sum set by the city council for each day devoted to the performance of his duties, except that, for any month, the total payments so calculated shall not exceed the salary of the judge in whose stead he sits. An acting judge who sits for an entire month shall receive the amount specified in this chapter as the salary of the judge in whose stead he sits.

(Code 1967, § 15-8; Ord. No. 1869, § 8, 1-14-1969; Ord. No. 2110, § 1, 4-6-1976; Ord. No. 2339, 10-26-1982)

State Law reference— Compensation of judges, 11 O.S. §§ 25-104, 27-106.

Sec. 16-7. Proceedings for removal of judges.

(a) 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 100 or more qualified electors of this city; in the latter event, verification may be executed by one or more of the petitioners.

(b) The city council shall set a date for hearing the matter and shall cause notice thereof, together with a copy of the petition, to be served personally upon the judge at least ten days before the hearing. At the hearing, the judge shall be entitled to:

(1) Representation by counsel;

(2) Present testimony and to cross-examine the witnesses against him; and

(3) Have all evidence against him presented in open hearing.

(c) So far as they can be made applicable, the provisions of the Oklahoma Administrative Procedure Act governing individual proceedings (75 O.S. §§ 309—317 and any amendments or additions thereto in effect at the time of the hearing) shall govern removal proceedings hereunder. Judgment of removal shall be entered only upon individual votes, by a majority of all members of the city council, in favor of such removal.

(Code 1967, § 15-9; Ord. No. 1897, § 9, 1-14-1969)

Sec. 16-8. Vacancy in office of judge.

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

(1) Dies;

(2) Resigns; or

(3) Ceases to possess the qualifications for the office or is removed and the removal proceedings have been affirmed finally in judicial proceedings or are no longer subject to judicial review.

(Code 1967, § 15-10; Ord. No. 1897, § 10, 1-14-1969)

Sec. 16-9. Disqualification of judge in prosecution before court.

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 acting judge, appointed as provided in this chapter.

(Code 1967, § 15-11; Ord. No. 1897, § 11, 1-14-1969)

Sec. 16-10. Writs, process of court directed to chief of police.

All writs or process of the court shall be directed, in his official title, to the chief of police, who shall be the principal officer of the court.

(Code 1967, § 15-12; Ord. No. 1897, § 12, 1-14-1969)

State Law reference— Marshal of court, 11 O.S. § 27-110.

Sec. 16-11. Designation, duties of clerk of court; use of money received by clerk.

(a) The city clerk or a designated deputy shall be the clerk of the court. The court clerk shall have authority to carry out the duties of the position as required by law; provided that the person who serves as court clerk may separately perform other duties for the city. The clerk of the court shall:

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

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

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

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

(5) Receive and give receipt for and disburse or deliver to the city treasurer all fines, forfeitures, fees, deposits, and sums of money properly payable to the municipal court. Such funds and sums of money, while in the custody of the clerk, shall be deposited and disbursed upon checks as directed by the city council.

(b) All of the fees, fines, and forfeitures which come into the municipal court shall be paid by the clerk of the court to the city treasury. Such deposits shall be credited to the fund designated by the council.

(Code 1967, § 15-13; Ord. No. 1897, § 13, 1-14-1969)

State Law reference— Similar provisions, 11 O.S. §§ 27-109, 27-112.

Sec. 16-12. Designation, duties of prosecuting officer of court.

The city attorney or his duly designated assistant shall be the prosecuting officer of the court. He shall prosecute all alleged violations of the ordinances of the city. He shall be authorized, in his discretion, to prosecute and resist appeals, proceedings in error and review from the court to any other courts of the state, and to represent the city in all proceedings arising out of matters in the court.

(Code 1967, § 15-14; Ord. No. 1897, § 14, 1-14-1969)

State Law reference— Similar provisions, 11 O.S. § 27-108.

Sec. 16-13. Rules for conduct of court business.

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

(Code 1967, § 15-16; Ord. No. 1897, § 16, 1-14-1969)

State Law reference— Similar provisions, 11 O.S. § 27-114.

Sec. 16-14. Authority to administer oaths, enforce orders, rules, judgments.

The municipal judge may administer oaths and make and enforce all proper orders, rules and judgments.

(Code 1952, title 15, ch. 1, § 3; Code 1967, § 15-17)

Sec. 16-15. Enforcement of orders, rules, judgments; punishment for contempt.

(a) Obedience to the orders, rules and judgments made by the judge or by the court may be enforced by the judge, who may fine or imprison, not more than 30 days in jail, or impose both such fine and imprisonment for contempt, whether direct or indirect, committed as to him while holding court, or committed against process issued by him, in the same manner and to the same extent as the district courts of this state.

(b) In addition to 10 O.S. § 7003-8.7, parents of juvenile offenders shall be fully responsible for all costs and damages caused by their juveniles to the greatest extent possible.

(Code 1967, § 15-18; Ord. No. 1897, § 17, 1-14-1969; Ord. No. 2572, § 15-18, 2-4-1992)

State Law reference— Similar provisions, 11 O.S. § 27-125.

Sec. 16-16. Initiation, style of prosecutions for ordinance violations.

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

(Code 1967, § 15-19; Ord. No. 1897, § 18, 1-14-1969)

State Law reference— Similar provisions, 11 O.S. § 27-115.

Sec. 16-17. Initiation of prosecution for traffic violation.

(a) *Generally.*

(1) If a resident of a municipality served by a municipal court is arrested by a law enforcement officer for the violation of any traffic ordinance for which subsection (b) of this section does not apply, or is arrested for the violation of a nontraffic ordinance, the officer shall immediately release said person if the person acknowledges receipt of a citation by signing it; provided, however, that the arresting officer need not release said person if it reasonably appears to the officer that the person may cause injury to himself or others or damage to property if released, that the person will not appear in response to the citation, or the person is arrested for an offense against a person or property. If said person fails to appear in response to the citation, a warrant shall be issued for his arrest and his appearance shall be compelled. If the arrested resident is not released by being permitted to sign a citation as provided for in this subsection, he shall be admitted to bail, either before or after arraignment, or shall be released on personal recognizance.

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

(3) The amount and conditions of bail granted pursuant to the provisions of this subsection (a) of this section shall be determined by the judge, who shall prescribe rules for the receipt of bail and for the release on personal recognizance. The amount of bail for each offense shall not exceed the maximum fine plus court costs, unless the defendant has a previous history of failing to appear according to the terms or conditions of a bond, in which case the amount of bail shall not exceed $1,000.00. In the event of arrests at night, emergencies, or when the judge is not available, a court official, the chief of police or his designated representative may be authorized by the judge, subject to such conditions as shall be prescribed by the judge, to accept a temporary cash bond in a sufficient amount to secure the appearance of the accused. The cash bond shall not exceed the maximum fine provided for by ordinance for each offense charged, unless the defendant has a previous history of failing to appear according to the terms or conditions of a bond, in which case the amount of the cash bond shall not exceed $1,000.00. The court official, chief of police or his designated representative is authorized, subject to such conditions as shall be prescribed by the judge, to release a resident of the city on personal recognizance.

(b) *Traffic violation other than parking or standing.* If a resident or nonresident of a municipality having a municipal court is arrested by a law enforcement officer solely for a violation of a traffic ordinance, other than an ordinance pertaining to a parking or standing traffic violation, and the arrested person is eligible to sign a written promise to appear and be released upon personal recognizance as provided for in 22 O.S. § 1115.1, then the procedures provided for in the State and Municipal Traffic Bail Bond Procedure Act (22 O.S. § 1115 et seq.), as applied to municipalities, shall govern. The city, by ordinance, may prescribe a bail bond schedule for this purpose and may provide for bail to be used as payment of the fine and costs upon a plea of guilty or nolo contendere, as provided for in 22 O.S. § 1115.1. Absent such ordinance, the municipal court may prescribe a bail bond

schedule for traffic offenses. The amount of bail shall not exceed the maximum fine and costs provided by ordinance for each offense, unless the defendant has a previous history of failing to appear according to the terms or conditions of a bond, in which case the amount of bail shall not exceed $1,000.00.

(Code 1967, § 15-20; Ord. No. 1897, § 19, 1-14-1969)

State Law reference— Similar provisions, 11 O.S. §§ 27-117, 27-117.1.

Sec. 16-18. Traffic violations bureau established; schedule of traffic fines; failure to pay fine.

(a) A traffic violations bureau is established as a division of the office of the clerk of the court, to be administered by the clerk or by others designated by him for that purpose. Persons who are cited for traffic violation of one of the traffic regulatory ordinances of the city may elect to pay a fine in the traffic violations bureau according to the schedule set by the city council.

(b) The court may adopt rules to carry into effect this section. Payment of a fine under this section shall constitute a final determination of the cause against the defendant. If a defendant who has elected to pay a fine under this section fails to do so, prosecution shall proceed under the provisions of this chapter.

(Code 1967, § 15-21; Ord. No. 1897, § 20, 1-14-1969; Ord. No. 1943, § 2, 7-7-1970; Ord. No. 2197, 12-19-1978; Ord. No. 2338, 10-26-1982; Ord. No. 2380, 12-27-1983; Ord. No. 2524, 4-17-1990)

Sec. 16-19. Issuance, content, service of summons; effect of failure to respond.

(a) Upon the filing of a complaint charging violation of an ordinance, the judge, unless he determines to issue a warrant of arrest, or unless the defendant previously has been issued a citation or has been arrested and has given bond for appearance, shall issue a summons, naming the person charged, specifying his address or place of residence, if known, stating the offense with which such person is charged and giving such person notice to answer the charge in the court on a day certain, Sundays and holidays excepted, after the summons is served upon such, containing a provision for the official return of the summons, and including such other pertinent information as may be necessary.

(b) The summons shall be served by delivering a copy to the defendant personally. If he fails to appear and to answer the summons within the prescribed period, a warrant shall be issued for his arrest, as provided by this chapter.

(Code 1967, § 15-22; Ord. No. 1897, § 21, 1-14-1969)

Sec. 16-20. Issuance, content; execution of warrant of arrest.

(a) Except as otherwise provided by ordinance, upon the filing of a complaint approved by endorsement by the city attorney or by the judge, there shall be issued a warrant of arrest.

(b) It shall be the duty of the chief of police, either personally or through any other persons lawfully authorized so to act, to execute said warrant as promptly as possible.

(Code 1967, § 15-23; Ord. No. 1897, § 22, 1-14-1969)

State Law reference— Similar provisions, 11 O.S. § 2-110.

Sec. 16-21. Bail for appearance; entitlement; amount; use of driver's license for bail.

(a) Upon arrest, or upon appearance without arrest in response to citation or summons, or at any other time before trial, before or after arraignment, the defendant shall be eligible to be released upon giving bail for his appearance in an amount and upon conditions fixed by the judge, who shall prescribe appropriate rules of court for the receipt of bail. In case of arrests made at night or under other conditions of emergency or when the judge is not available, the rules shall authorize the chief of police or his designated representative to accept a temporary cash bond in an amount not less than $100.00 nor more than the maximum monetary penalty provided by ordinance for such offense charged.

(b) One who is arrested for a municipal traffic violation or served a ticket for such violation, in addition to other methods of posting bail, shall be allowed to post bail by depositing with the arresting officer a valid license to operate a motor vehicle in exchange for a receipt therefor, issued by the arresting officer, which shall be recognized as an operator's license and shall authorize his operation of a motor vehicle to the date of the hearing but not to exceed 20 days. Such license and traffic ticket shall be rendered by the arresting officer unto the court clerk.

(c) The making of an application for a duplicate license to operate a motor vehicle during a period when the original license is posted for and in the court shall be unlawful.

(d) If a defendant who has posted bail under the above described procedure subsequently posts a cash bond or pleads guilty, the defendant's driver's license shall be returned to him by the court clerk. If a defendant who has chosen to post bond by the above described method fails to appear in person or by counsel at the stated time and place for arraignment or fails to arrange with the court within the time designated on the traffic ticket for a future appearance, the court clerk shall immediately forward to the department of safety the driver's license attached to an official notification form furnished by the department of public safety, advising that the defendant failed to appear.

(Code 1967, § 15-24; Ord. No. 1897, § 23, 1-14-1969; Ord. No. 2200, 12-26-1978)

State Law reference— Driver’s license as bail, 22 O.S. § 1115 et seq.

Sec. 16-22. Arraignment of defendant.

Upon making his appearance before the court, the defendant shall be arraigned. The judge or the city attorney shall read the complaint to the defendant, inform him of his legal rights, including the right of trial by jury, if available, and of the consequences of conviction, and ask him whether he pleads guilty or not guilty. If the defendant pleads guilty, the court may proceed

to judgment and sentence or may continue the matter for subsequent disposition. If the plea is not guilty, and the case is not for jury trial, the court may proceed to try the case, or may set it for hearing at a later date.

(Code 1967, § 15-25; Ord. No. 1897, § 24, 1-14-1969)

Sec. 16-23. Postponement of trial for cause.

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

(Code 1967, § 15-26; Ord. No. 1897, § 25, 1-14-1969)

Sec. 16-24. Defendant to be present at trial; failure to appear.

(a) Any person who is charged with a violation of the ordinances and who, having been admitted to bail or released on personal recognizance, bond or any undertaking or appearance before the municipal court of the city, incurs the forfeiture of the bail or violates such undertaking or recognizance or does not voluntarily appear before the court on the designated date and time, regardless of the disposition of the charge for which the citation was originally issued shall be guilty of an offense.

(b) It shall be unlawful for any person to violate, disobey or otherwise fail to comply with any order of the municipal court. Any person, who shall violate any of the provisions of this section of this Code, shall be deemed guilty of a Class A offense.

(Code 1967, § 15-27; Ord. No. 1897, § 26, 1-14-1969; Ord. No. 2778, § 1, 9-8-2009; Ord. No. 2810, § 1, 10-7-2013)

Editor's note— Ord. No. 2778, § 1, adopted Sept. 8, 2009, did not specify the manner of codification; hence, inclusion as § 16-24 was at the editor's discretion and the authorization of the city.

Sec. 16-25. Procedure at trial.

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

(Code 1967, § 15-28; Ord. No. 1897, § 27, 1-14-1969)

Sec. 16-26. Judgment, sentence upon plea of guilty or conviction.

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

(Code 1967, § 15-29; Ord. No. 1897, § 28, 1-14-1969)

Sec. 16-27. Imprisonment until fine is satisfied.

A judgment that the defendant pay a fine may direct also that he be imprisoned until the fine is satisfied, at a rate not less than that set by state law.

(Code 1967, § 15-30; Ord. No. 1897, § 29, 1-14-1969)

Sec. 16-28. Authority of judge to issue warrant of arrest to compel attendance of witness.

Whenever it shall appear to the satisfaction of the municipal judge, by proof made before him, that any person has been duly served with a subpoena to appear and give testimony before him in any matter in which he has authority to require such witness to appear and testify, that such person's testimony is material, and that such person refuses or neglects to attend as a witness in conformity with such subpoena, the municipal judge shall issue a warrant to arrest the delinquent for the purpose of compelling such person's attendance and punishing such person's disobedience.

(Code 1952, title 15, ch. 1, § 14; Code 1967, § 15-31)

Sec. 16-29. Fees and mileage expenses for witnesses.

(a) Witnesses in any proceeding in the court, other than police officers or peace officers, shall be entitled to the fees and expenses provided for by ordinance per each day of attendance. No witness shall receive fees or mileage in more than one case for the same period of time or the same travel.

(b) A defendant seeking to subpoena witnesses must deposit with the clerk a sum sufficient to cover fees and mileage for one day of attendance for each witness to be summoned, but such deposit shall not be required from an indigent defendant who files an affidavit setting out:

    (1) That the defendant, by reason of his poverty, is unable to provide the fees and mileage allowed by law;

    (2) That the testimony of said witnesses is material; and

    (3) That his attendance at the trial is necessary for his proper defense.

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

(Code 1967, § 15-32; Ord. No. 1897, § 30, 1-14-1969)

State Law reference— Witness fees, 11 O.S. § 27-121.

Sec. 16-30. Rendering judgment, entering in docket.

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

(Code 1967, § 15-33; Ord. No. 1897, § 31, 1-14-1969)

Sec. 16-31. Contents of docket.

The municipal judge shall state in the docket:

(1) The name of the complainant;

(2) The nature of the offense;

(3) The plea;

(4) The date of the trial;

(5) The names of witnesses sworn and examined;

(6) The finding of the court;

(7) The judgment rendered;

(8) The amount and date of payment of fine, costs and/or forfeiture;

(9) The date of issuing commitment, if any; and

(10) Every other fact necessary to show the full proceedings in the case.

(Code 1952, title 15, ch. 1, § 9; Code 1967, § 15-34)

Sec. 16-32. Discharge of defendant upon acquittal.

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

(Code 1967, § 15-35; Ord. No. 1897, § 32, 1-14-1969)

Sec. 16-33. Suspension of sentence.

After conviction and sentence, the judge may suspend sentence, in accordance with the provisions of and subject to the conditions and procedures imposed by 11 O.S. §§ 27-123 and 27-124.

(Code 1967, § 15-36; Ord. No. 1897, § 33, 1-14-1969)

Sec. 16-34. Taxation of costs to defendant.

(a) If judgment of conviction is entered, the clerk of the court shall tax court costs of $30.00 to the defendant, plus such other fees as the city may set by ordinance, including fees and mileage of jurors and witnesses.

(b) If a deferred sentence is imposed, an administrative fee in the amount of $50.00 may be imposed by the court as cost in the case, in addition to any deferral fee otherwise authorized by law and in addition to other costs authorized by ordinance or otherwise.

(Code 1967, § 15-37; Ord. No. 1897, § 34, 1-14-1969; Ord. No. 1942, § 8, 7-7-1970; Ord. No. 2198, 12-18-1978; Ord. No. 2524, 4-17-1990; Ord. No. 2772, §§ 1, 2, 5-18-2009; Ord. No. 2800, § 1, 6-18-2012)

State Law reference— Similar provisions, 11 O.S. § 27-126.

Sec. 16-35. Authority of judge to remit costs.

The municipal judge is hereby granted the power and authority to permit the costs in actions brought before him for the violation of city ordinances, either where the accused is convicted after trial or where the accused pleads guilty, when, in his discretion the remitting of the cost would be to the best interest of the city.

(Code 1952, title 15, ch. 1, § 20; Code 1967, § 15-38)

Sec. 16-36. Authority to require prisoners to work on public premises or property.

(a) All prisoners confined to jail on conviction or on plea of guilty may be compelled, if their health permits, to work on the public premises or property. For each day of such work, the prisoner shall be credited for serving two days of imprisonment under his sentence.

(b) The chief of police, subject to the direction of the city manager, shall direct where the work shall be performed. The head of the department in charge of the place where the work is to be performed, himself or by some person designated by him, shall oversee the work. If a guard is necessary, the chief of police shall make provision therefor.

(Code 1967, § 15-39; Ord. No. 1897, § 35, 1-14-1969)

Sec. 16-37. Costs taxed against complainant.

If the charge against a defendant is dismissed due to the complainant's failure to cooperate in the preparation and presentation of the charge or if the defendant is discharged after trial and the judge finds that the prosecution was malicious and without probable cause, then, in either event, the judge may enter a judgment reflecting such findings on his docket and tax the costs against the complaining witness, and such taxed costs shall be enforced as judgments for costs in other cases and execution may issue therefor.

(Code 1967, § 15-40; Ord. No. 2199, 12-19-1978)

Sec. 16-38. Jurors—Summons.

The summons of the jurors for the municipal court shall be served in person by the chief of police or any member of the police department, or may be served by the clerk of the municipal court by certified mail. The summons shall be served or mailed at least ten days before the day the prospective jurors are to appear before the court. If service is by mail, the court clerk shall make return of such service by filing therewith the certified mail return reflecting service thereof.

(Code 1967, § 15-41; Ord. No. 2199, 12-19-1978)

Sec. 16-39. Same—Fees.

Jurors shall be paid the sum established by ordinance, and said jurors' fees shall be paid out of the court fund on warrant of the court clerk.

(Code 1967, § 15-42; Ord. No. 2199, 12-19-1978)

State Law reference— Juror fees, 11 O.S. § 27-121.

Chapter 17 RESERVED

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Chapter 18 NUISANCES

ARTICLE I. IN GENERAL

ARTICLE II. JUNK MOTOR VEHICLES

ARTICLE III. DILAPIDATED BUILDINGS

ARTICLE IV. WEEDS AND TRASH

Chapter 18 NUISANCES

State Law reference— Authority of city to define and abate nuisances, 50 O.S. § 16.

ARTICLE I. IN GENERAL

Sec. 18-1. Definitions.

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

Nuisance.

(1) The term "nuisance" means unlawfully doing an act, or omitting to perform a duty, which act or omission either:

a. Annoys, injures or endangers the comfort, repose, health, or safety of others;

b. Offends decency;

c. Unlawfully interferes with, obstructs or tends to obstruct, or renders dangerous for passage, any lake or navigable river, stream, canal or basin, or any public park, square, street or highway; or

d. In any way renders other persons insecure in life, or in the use of property.

(2) This definition shall not apply to preexisting agricultural activities.

(Ord. No. 2726, § 2(16-1), 8-15-2003)

State Law reference— Similar provisions, 50 O.S. § 1.

Sec. 18-2. Agricultural activities.

(a) The following words, terms, and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Agricultural activities means and includes, but is not limited to, the growing or raising of horticultural and viticultural crops, berries, poultry, livestock, grain, mint, hay, dairy products and forestry activities.

Farmland means and includes, but is not limited to, land devoted primarily to production of livestock or agricultural commodities.

Forestry activity means any activity associated with the reforesting, growing, managing, protecting and harvesting of timber, wood and forest products, including, but not limited to, forestry buildings and structures.

(b) Agricultural activities conducted on farm or ranch land, if consistent with good agricultural practices and established prior to nearby nonagricultural activities, are presumed to be reasonable and do not constitute a nuisance unless the activity has a substantial adverse affect on the public health and safety. If that agricultural activity is undertaken in conformity

with federal, state and local laws and regulations, it is presumed to be good agricultural practice and not adversely affecting the public health and safety.

State Law reference— Similar provisions, 50 O.S. § 1.1.

Sec. 18-3. Public nuisances defined; enumerated.

(a) *Defined.* 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.

(b) *Enumerated.* The following are hereby declared to be public nuisances:

(1) Any building or other structure or part thereof which is so constructed, or which has become so dilapidated, that it endangers the health or life of the occupants thereof or of the general public or the property of others.

(2) Any advertising sign, signboard, billboard or other object which is so constructed or which has become so dilapidated that it endangers the lives of persons who come under or near it or that it endangers the property of others.

(3) Any advertising sign, signboard, billboard, or other object so located that it prevents pedestrians or persons riding in or driving automobiles, or other vehicles, or person in the rightful use of any street, avenue, alley or other public way, from having a clear and unobstructed view of approaching trains, vehicles or persons coming in a diagonal or cross direction along another street, avenue, alley or other public way or line of travel or locomotion.

(4) Any kitchen, restaurant, building or premises in or on which there is garbage, slop, sewage, refuse, feculent or decaying matter, dead carcasses, waste or filth of any kind, which gives off foul odors or endangers the public health.

(5) Any water closet, privy, outhouse, cesspool, septic tank, other sanitary facility, stable, enclosure or building for fowl or other animals, which gives off foul odors or endangers the public health.

(6) Any building in which humans reside, are employed or congregate, which is not equipped with facilities for the disposal of human excrement as required by this chapter.

(7) Any premises or part thereof where stagnant water stands or where there are downed tree limbs, tall grass or weeds. The term "tall grass or weeds," for the purpose of this section, shall mean as defined in section 18-100.

(8) Any structure, building, fence, plant or other object which interferes with, or encroaches upon, any public lake, stream, park, alley, sidewalk, drainageway, utility easement or other public property.

(9) Any vicious dog or dog which barks at passersby and acts as if it intended to attack them, when it is not confined by a proper enclosure or leash.

(10) Anything which annoys, injures or endangers the comfort, repose, health or safety of the public.

(11) Any place where there have been violations of any law, statute, or ordinance resulting in two or more convictions in a period of 12 months.

(12) Anything which renders the public insecure in the use of the property.

(13) Any place where intoxicating liquor or beverage, illegal drugs or other illegal intoxicants are manufactured, sold, bartered, given away or otherwise furnished to others in violation of the ordinances of the city or state law.

(14) All open, uncovered, exposed and unprotected excavations, cellars or wells in and on any premises in the city.

(15) Any wild or vicious animal which is kept or permitted to be kept on any premises, whether as a pet or display or for exhibition purposes, whether gratuitously or for a fee. This subsection shall not be construed to apply to zoological parks, performing animal exhibitions, or circuses. For the purpose of this subsection, the term "vicious animal" means any animal which constitutes a physical threat to human beings or other animals, and the term "wild animal" means any monkey (nonhuman primate), raccoon, skunk, fox, poisonous snake, bear, leopard, panther, tiger, lion, lynx, or any other warm-blooded animal which can normally be found in the wild state.

(16) Any place where persons engage in conduct that is offensive to community standards of decency.

(17) Any accumulation of junk or trash, not contained in an appropriate trash container for regular disposal, upon any premises or part of such premises. For the purpose of this subsection, the terms "junk" or "trash" mean any refuse, litter, ashes, leaves, debris, paper, combustible materials, rubbish, offal or waste, or matter of any kind or form which is uncared for, discarded or abandoned.

(18) Any violation of the zoning code of the city.

(Ord. No. 2726, § 2(16-2), 8-15-2003; Ord. No. 2731, §§ 1, 2, 3-16-2004)

Sec. 18-4. Remedies for public nuisances.

The remedies against a public nuisance available to the city are:

(1) Prosecution on citation or complaint before the municipal court.

(2) Prosecution on information or indictment before another appropriate court.

(3) Summary abatement.

(4) Suit in the district court for the abatement of the nuisance, brought pursuant to a resolution of the city council in accordance with law.

(5) Proceedings as set out in this chapter.

(Ord. No. 2726, § 2(16-3), 8-15-2003; Ord. No. 2731, § 3, 3-16-2004)

State Law reference— Similar provisions, 50 O.S. § 8.

Sec. 18-5. Authority of city to define and abate.

The city 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, the wastewater treatment system, and the public water supply, outside of its corporate limits. Whenever it is practical or necessary to do so, the city has the power to summarily abate any such nuisance after notice to the owner and an opportunity for him to be heard, as provided herein, when such notice and opportunity for hearing can be done without immediate danger to life and property.

(Ord. No. 2726, § 2(16-4), 8-15-2003)

State Law reference— Similar provisions, 50 O.S. § 16.

Sec. 18-6. Persons liable.

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.

(Ord. No. 2726, § 2(16-5), 8-15-2003)

State Law reference— Similar provisions, 50 O.S. § 5.

Sec. 18-7. Lapse of time not to legalize public nuisance.

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

(Ord. No. 2726, § 2(16-6), 8-15-2003)

State Law reference— Similar provisions, 50 O.S. § 7.

Sec. 18-8. Removal of nuisances.

(a) *Authority vested.* The code official may order the owner or occupant of any private premises to remove any nuisance within a period specified following the date of the notice of the order, and the owner or occupant shall bear all costs of the removal, whether the removal is accomplished by the owner or occupant or by the city.

(b) *Order, requirements.* All orders made under this chapter shall be in writing. They shall be served by posting a copy in a conspicuous place upon the private property where the nuisance is located and by mailing a duplicate copy to the address shown on the current year's tax rolls in the office of the treasurer of the county in which the property lies. At the time of mailing, the city shall obtain a receipt of mailing from the postal service, which receipt shall indicate the date of mailing and the name and address of the mailee. Personal service upon the owner and/or occupant of the property shall be made at the option of the code official, whenever it is possible to do so. Personal service shall be a substitute for

service by mail. If no address for the owner or occupant is known, or if the owner resides out of the state, one publication in a newspaper of general circulation shall constitute notice. The order shall set forth the nature of the nuisance; the remedy required; the amount of time within which the abatement must take place; the procedure for requesting a hearing; and the consequences of a failure to remove or abate the nuisance.

(c) *Time for removal or abatement.* The code official shall determine the time to be allotted for the removal or abatement of the nuisance. In cases that cause an immediate danger to the health, comfort, repose or safety of others; interfere with or obstruct any public lake, basin, stream, park, street, avenue, alley, drainage way, utility easement, or other public property, or render the public insecure in life or in the use of property, the abatement or removal may be ordered within 24 hours. In all other cases, the time for abatement or removal shall be set for a time deemed reasonable by the code official.

(d) *Request for hearing.* Any owner or occupant who receives an order of abatement or removal who disagrees with the finding of the code official may request a hearing before the city council. A request for a hearing must be made within the time allotted for abatement or removal or ten days, whichever period is shorter. The request shall be made in writing to the city clerk. When a request for hearing is made, the order of abatement or removal shall be stayed until the determination of the city council is made.

(e) *Hearing, how conducted.* At any hearing held pursuant to this chapter, the city council shall hear the matter and shall receive information thereon, including anything which may be presented by the owner or occupant of the premises, personally or by agent or attorney, as well as anything presented by the code official and the public. At the conclusion of the hearing, the city council in its sole discretion shall determine whether to rescind, modify or delay the order, or order that the nuisance be summarily abated by use of city personnel or private contractor.

(f) *Failure to obey order.* It shall be a violation to fail, neglect or refuse to comply with the terms of an order, citation or complaint issued pursuant to this chapter.

(Ord. No. 2726, § 2(16-7), 8-15-2003; Ord. No. 2731, § 4, 3-16-2004)

Sec. 18-9. Summary abatement of nuisance.

Upon expiration of the period of compliance specified in the order or any modification thereof, if the nuisance specified in the order has not been abated, and if no further written request for hearing has been filed, the code official shall have the authority to have the nuisance summarily abated by use of city personnel or private contractor.

(Ord. No. 2726, § 2(16-8), 8-15-2003)

Sec. 18-10. Assessment of costs and collection of same.

(a) *Costs, how computed.* Whenever the nuisance is removed or abated by action of the city, the actual cost of removal or abatement, including costs of mailing, publication or other method of service, shall be itemized and forwarded to the city clerk. If the work is performed by city employees, the cost shall include the total personnel cost to the city, including benefits; the

cost of equipment, gasoline, and other supplies; and any other direct costs. If the work is performed by a private contractor, it shall be performed by the lowest and best bidder and the cost shall be the actual cost to the city.

(b) *Notification of costs to owner.* After the city clerk has received notice of the costs, he shall prepare a statement and forward it to the owner or occupant of the property at the address shown by the current tax rolls in the office of the treasurer of the county in which the property lies. The statement shall demand payment and shall be sent by certified mail, return receipt requested. If the whereabouts of the owner or occupant is unknown, notice shall be by one publication in a newspaper of general circulation in the city.

(c) *Failure to pay costs of work.* If the owner or occupant of the premises upon which the work was performed fails to pay the costs of such work within 30 days from the date of the mailing of the statement, the city clerk shall forward a certified statement of the amount of the cost to the county treasurer of the county in which the property is located and the same shall be levied on the property and collected by the county treasurer as other taxes authorized by law. Until fully paid, the cost and the interest thereon shall be the personal obligation of the property owner from and after the date the cost is certified to the county treasurer. In addition, the cost and interest thereon shall be a lien against the property from the date the cost is certified to the county treasurer, coequal with the lien of ad valorem taxes and all other taxes and special assessments and prior and superior to all other titles and liens against the property, and the lien shall continue until the cost shall be fully paid. At the time of collection, the county treasurer shall collect a fee of $5.00 for each parcel of property. The fee shall be deposited to the credit of the general fund of the county. At any time prior to the collection as provided in this subsection, the city may pursue any civil remedy for collection of the amount owing and interest thereon including an action in personam and against the property owner and an action in rem to foreclose its lien against the property. A mineral interest, if severed from the surface interest and not owned by the surface owner, shall not be subject to any tax or judgment lien created pursuant to this section. Upon receiving payment, if any, the city clerk shall forward to the county treasurer a notice of such payment and directing discharge of the lien.

(Ord. No. 2726, § 2(16-9), 8-15-2003)

Sec. 18-11. Abandoned refrigerators, iceboxes.

It shall be unlawful for any person to keep, store or display or permit to remain in any public place or unenclosed building or lot any icebox, mechanical refrigeration box or home freezing or storage box, without having first removed therefrom either the hinges, locks or latches of said box; provided however, that this section shall not apply to the display of such icebox or refrigeration appliances for retail in an enclosed building or any other enclosure which is not readily accessible to the public, and provided also that the same shall not apply to such appliances which are securely created.

(Code 1967, § 17-1)

Secs. 18-12-18-40. - Reserved.

ARTICLE II. JUNK MOTOR VEHICLES

State Law reference— Abandoned motor vehicles, 47 O.S. § 901 et seq.

Sec. 18-41. Junk motor vehicles defined.

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

Junk motor vehicle means any motor vehicle, the condition of which is wrecked, dismantled, partially dismantled, inoperative, abandoned, discarded, cannot be operated legally upon public streets or which does not display current vehicle registration.

Motor vehicle means any vehicle which is self-propelled and designed to travel along the ground and shall include, but not be limited to, automobiles, buses, motor bikes, motorcycles, motor scooters, trucks, tractors, go-carts, golf carts, campers, and trailers.

Private property means any real property located within the city which is privately owned and which is not included within the definition of public property.

Public property means any street or highway which shall include the entire width between the boundary lines of every way publicly maintained for the purposes of vehicular travel, and any other publicly owned property or facility.

(Ord. No. 2726, § 2(16-21), 8-15-2003)

Sec. 18-42. Storing, parking, etc.

No person shall park, store, leave, or permit the parking, storing, or leaving of a junk motor vehicle, whether attended or not, upon any private property within the city for a period in excess of ten days. Each and every day such vehicle is parked, stored or left shall be deemed a separate offense. This section shall not apply to any vehicle in an enclosed building, a vehicle on the premises of a business enterprise which is properly operated in the appropriate business-zone pursuant to the zoning ordinance, to a vehicle being restored or repaired when reasonable progress is being made, or when any such vehicle has been placed in an appropriate storage place or depository maintained in a lawful place and manner.

(Ord. No. 2726, § 2(16-22), 8-15-2003)

Sec. 18-43. Vehicles stored at automobile repair shops.

(a) *Defined.* As used in this section, "automobile repair shop" means any business entity which regularly offers automobile repair services to the public for the purpose of restoring, painting or otherwise repairing any damaged or inoperative automobile.

(b) *Storage regulated.* Notwithstanding any other provision of this article, it shall be a violation and an offense for any junk motor vehicle to be stored at an automobile repair shop for a period of more than 30 days, unless such junk motor vehicle is stored within a building, garage, privacy fence or other structure which eliminates the junk motor vehicle from the

public view. Violations of this section shall be prosecuted and enforced in the same manner as other violations of this article.

(Ord. No. 2726, § 2(16-23), 8-15-2003)

Sec. 18-44. General responsibility for removal.

The owner of the junk motor vehicle and the owner or occupant of the private property on which it is located either or all of them, shall be responsible for the vehicle's removal.

(Ord. No. 2726, § 2(16-24), 8-15-2003)

Sec. 18-45. Notice to remove.

When it comes to the attention of the code official that a violation of this article exists, then a written notice of the violation and a demand for the removal of the junk motor vehicle within ten days of service of notice shall be served on the occupant of the land where the vehicle is, or in case there is no such occupant, then upon the owner of the property or agent. The notice may be served by posting a copy in a conspicuous place upon the private property upon which the junk motor vehicle is located and by mailing duplicate copies to the owner or occupant of the private property at the last known address with proof of mailing.

(Ord. No. 2726, § 2(16-25), 8-15-2003)

Sec. 18-46. Content of notice.

The notice shall contain the request for removal within the time specified in this article and shall advise that, upon failure to comply with the notice to remove, the city shall undertake prosecution in municipal court against the responsible party.

(Ord. No. 2726, § 2(16-26), 8-15-2003)

Sec. 18-47. Violations.

A violation of this article shall be unlawful. Any person who violates or refuses to comply with any of the provisions of this article upon conviction shall be guilty of a class B offense for each offense. Each day that a violation is permitted to exist shall constitute a separate offense. In addition to assessing a fine, the municipal court may order removal of the vehicle; if the responsible party fails to remove the vehicle in the time set by the court, the court may enter an order authorizing the code official to go onto the property and remove the vehicle, with the costs to be assessed against the responsible party.

(Ord. No. 2726, § 2(16-27), 8-15-2003)

Secs. 18-48-18-67. - Reserved.

ARTICLE III. DILAPIDATED BUILDINGS

State Law reference— Removal of dilapidated buildings, 11 O.S. § 22-112.

Sec. 18-68. Definitions.

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

Dilapidated building means:

(1) A structure which through neglect or injury lacks necessary repairs or otherwise is in a state of decay or partial ruin to such an extent that the structure is a hazard to the health, safety, or welfare of the general public;

(2) A structure which is unfit for human occupancy due to the lack of necessary repairs and is considered uninhabitable or is a hazard to the health, safety, and welfare of the general public;

(3) A structure which is determined by the city or administrative officer of the city to be an unsecured building, as defined by section 18-74, more than three times within any 12-month period;

(4) A structure which has been boarded and secured, as defined by section 18-74, for more than 36 consecutive months; or

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

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

(Ord. No. 2726, § 2(16-31), 8-15-2003)

Sec. 18-69. Determination of dilapidated building.

(a) A hearing shall be held by the city code official to determine if the property is dilapidated and has become detrimental to the health, safety, or welfare of the general public and the community, or if the property creates a fire hazard which is dangerous to other property.

(b) At least ten days' notice that a building is to be torn down or removed shall be given to the owner of the property before the city holds the hearing. A copy of the notice shall be posted on the property to be affected. In addition, a copy of the notice shall be sent by mail to the property owner at the address shown by the current year's tax rolls in the office of the county treasurer. Written notice shall also be mailed to any mortgage holder as shown by the records in the office of the county clerk to the last-known address of the mortgagee. At the time of mailing of notice to any property owner or mortgage holder, the city shall obtain a receipt of mailing from the postal service, which receipt shall indicate the date of mailing and the name and address of the mailee. However, if neither the property owner nor mortgage holder can be located, notice may be given by posting a copy of the notice on the property, or by publication in a newspaper of general circulation in the county. The notice may be published once not less than ten days prior to any hearing or action by the city pursuant to the provisions of this section.

(Ord. No. 2726, § 2(16-32), 8-15-2003)

Sec. 18-70. Order for demolition; assessment of costs.

(a) Pursuant to a finding that the condition of the property constitutes a detriment or a hazard and that the property would be benefited by the removal of such conditions, the city may cause the dilapidated building to be torn down and removed. The city shall fix reasonable dates for the commencement and completion of the work. The city clerk shall immediately file a notice of dilapidation and lien with the county clerk describing the property, the findings of the city at the hearing, and stating that the city claims a lien on the property for the destruction and removal costs and that such costs are the personal obligation of the property owner from and after the date of filing of the notice. The agents of the city are granted the right of entry on the property for the performance of the necessary duties as a governmental function of the city if the work is not performed by the property owner within dates fixed by the city.

(b) The city shall determine the actual cost of the dismantling and removal of dilapidated buildings and any other expenses that may be necessary in conjunction with the dismantling and removal of the buildings, including the cost of notice and mailing. The city clerk shall forward a statement of the actual cost attributable to the dismantling and removal of the buildings and a demand for payment of such costs, by mail to the property owner. In addition, a copy of the statement shall be mailed to any mortgage holder at the address provided for in subsection (a) of this section. At the time of mailing of the statement of costs to any property owner or mortgage holder, the city shall obtain a receipt of mailing from the postal service, which receipt shall indicate the date of mailing and the name and address of the mailee. If a city dismantles or removes any dilapidated buildings, the cost to the property owner shall not exceed the actual cost of the labor, maintenance, and equipment required for the dismantling and removal of the dilapidated buildings. If dismantling and removal of the dilapidated buildings is done on a private contract basis, the contract shall be awarded to the lowest and best bidder.

(c) When payment is made to the city for costs incurred, the city clerk shall file a release of lien, but if payment attributable to the actual cost of the dismantling and removal of the buildings is not made within 30 days from the date of the mailing of the statement to the owner of such property, the city clerk shall forward a certified statement of the amount of the cost to the county treasurer of the county in which the property is located. Once certified to the county treasurer, payment may only be made to the county treasurer except as otherwise provided for in this section. The costs shall be levied on the property and collected by the county treasurer as are other taxes authorized by law. Until finally paid, the costs and the interest thereon shall be the personal obligation of the property owner from and after the date of the notice of dilapidation and lien is filed with the county clerk. In addition the cost and the interest thereon shall be a lien against the property from the date the notice of the lien is filed with the county clerk. The lien shall be coequal with the lien of ad valorem taxes and all other taxes and special assessments and shall be prior and superior to all other titles and liens against the property. The lien shall continue until the cost is fully paid. At the time of collection, the county treasurer shall collect a fee of $5.00 for each parcel of property. The fee shall be deposited to the credit of the general fund of the county. If the county treasurer and the city agree that the county treasurer is unable to collect the assessment, the

city may pursue a civil remedy for collection of the amount owing and interest thereon by an action in personam against the property owner and an action in rem to foreclose its lien against the property. A mineral interest, if severed from the surface interest and not owned by the surface owner, shall not be subject to any tax or judgment lien created pursuant to this section. Upon receiving payment, the city clerk shall forward to the county treasurer a notice of such payment and shall direct discharge of the lien.

(Ord. No. 2726, § 2(16-33), 8-15-2003)

Sec. 18-71. Hearings.

(a) *Request for hearing.* Any owner or occupant who receives an order of abatement or removal who disagrees with the finding of the code official may request a hearing before the city council. A request for a hearing must be made within ten days of the order for abatement or removal. The request shall be made in writing to the city clerk. When a request for hearing is made, the order of abatement or removal shall be stayed until the determination of the city council.

(b) *Hearing, how conducted.* At any hearing held pursuant to this article, the city council shall hear the matter and shall receive information thereon, including anything which may be presented by the owner or occupant of the premises, personally or by agent or attorney, as well as anything presented by the code official and the public. At the conclusion of the hearing, the city council in its sole discretion shall determine whether to rescind, modify or delay the order, or order that the nuisance be summarily abated by use of city personnel or private contractor.

(Ord. No. 2726, § 2(16-34), 8-15-2003)

Sec. 18-72. Abatement of nuisance.

Nothing in the provisions of this article shall prevent the city from abating a dilapidated building as a nuisance or otherwise exercising its police power to protect the health, safety, or welfare of the general public.

(Ord. No. 2726, § 2(16-35), 8-15-2003)

Sec. 18-73. Officers, employees and agents not liable.

The officers, employees or agents of the city shall not be liable for any damages or loss of property due to the removal of dilapidated buildings performed pursuant to the provisions of this article or as otherwise prescribed by law.

(Ord. No. 2726, § 2(16-36), 8-15-2003)

Sec. 18-74. Removal and securing of dilapidated buildings.

(a) *Definitions.* The following words, terms, and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Boarding and securing and *boarded and secured* mean the closing, boarding or locking of any or all exterior openings so as to prevent entry into the structure.

Unsecured building means any structure which is not occupied by a legal or equitable owner thereof, or by a lessee of a legal or equitable owner, and into which there are one or more unsecured openings such as broken windows, unlocked windows, broken doors, unlocked doors, holes in exterior walls, holes in the roof, broken basement or cellar hatchways, unlocked basement or cellar hatchways or other similar unsecured openings which would facilitate an unauthorized entry into the structure.

Unfit for human occupancy means a structure that due to lack of necessary repairs is considered uninhabitable and is a hazard to the health, safety, and welfare of the general public.

(b) After a building has been declared dilapidated, as provided herein, and before the commencement of the tearing and removal of a dilapidated building, the city may authorize that such a building be boarded and secured. However, if the dilapidated building is vacant and unfit for human occupancy, the city may authorize the structure to be demolished in accordance with this article.

(c) Before the city orders such action, at least ten days' notice that such unsecured building is to be boarded and secured shall be given by mail to any property owners and mortgage holders as provided in section 18-69. At the time of mailing of notice to any property owner or mortgage holder, the city shall obtain a receipt of mailing from the postal service, which receipt shall indicate the date of mailing and the name and address of the mailee. A copy of the notice shall also be posted on the property to be affected. However, if neither the property owner nor mortgage holder can be located, notice may be given by posting a copy of the notice on the property or by publication as defined in section 18-69. Such notice shall be published one time, not less than ten days prior to any hearing or action by the city pursuant to the provisions of this section. If a city anticipates summary abatement of a nuisance, the notice shall state: that any subsequent need for boarding and securing the building within a six-month period after the initial boarding and securing of the building pursuant to such notice may be summarily boarded and secured by the city; that the costs of such boarding and securing shall be assessed against the owner; and that a lien may be imposed on the property to secure such payment, all without further prior notice to the property owner or mortgage holder.

(d) The owner of the property may give written consent to the city authorizing the boarding and securing of such unsecured building and to the payment of any costs incurred thereby. By giving written consent, the owner waives any right the owner has to a hearing by the code official.

(e) If the property owner does not give written consent to such actions, a hearing may be held by the code official to determine whether the boarding and securing of such unsecured building would promote and benefit the public health, safety or welfare. Such hearing may be held in conjunction with a hearing on the accumulation of trash or the growth of weeds or grass on the premises of such unsecured building held pursuant to the provisions of the

article. In making such determination, the city shall apply the following standard: the boarding and securing of the unsecured building may be ordered when the boarding and securing thereof would make such building less available for transient occupation, decrease a fire hazard created by such building, or decrease the hazard that such building would constitute an attractive nuisance to children. Upon making the required determination, the code official may order the boarding and securing of the unsecured building.

(f) After the code official orders the boarding and securing of such unsecured building, the city clerk shall immediately file a notice of unsecured building and lien with the county clerk describing the property, stating the findings of the city at the hearing at which such building was determined to be unsecured, and stating that the city claims a lien on the property for the costs of boarding and securing such building and that such costs are the personal obligation of the property owner from and after the date of filing the notice.

(g) Pursuant to the order of the code official, the agents of the city are granted the right of entry on the property for the performance of the boarding and securing of such building and for the performance of all necessary duties as a governmental function of the city.

(Ord. No. 2726, § 2(16-37), 8-15-2003)

Sec. 18-75. Assessment of costs; lien; and release.

(a) After an unsecured building has been boarded and secured, the code official shall determine the actual costs of such actions and any other expenses that may be necessary in conjunction therewith including the cost of the notice and mailing. The city clerk shall forward a statement of the actual costs attributable to the boarding and securing of the unsecured building and a demand for payment of such costs, by mail to any property owners and mortgage holders as provided in section 18-69. At the time of mailing of the statement of costs to any property owner or mortgage holder, the city shall obtain a receipt of mailing from the postal service, which receipt shall indicate the date of mailing and the name and address of the mailee.

(b) If the city boards and secures any unsecured building, the cost to the property owner shall not exceed the actual cost of the labor, materials and equipment required for the performance of such actions. If such actions are done on a private contract basis, the contract shall be awarded to the lowest and best bidder.

(c) When payment is made to the city for costs incurred, the city clerk shall file a release of lien, but if payment attributable to the actual costs of the boarding and securing of the unsecured building is not made within 30 days from the date of the mailing of the statement to the owner of such property, the city clerk shall forward a certified statement of the amount of the costs to the county treasurer of the county in which the property is located. Once certified to the county treasurer, payment may only be made to the county treasurer except as otherwise provided for in this section. At the time of collection the county treasurer shall collect a fee of $5.00 for each parcel of property and such fee shall be deposited to the general fund of the county. The costs shall be levied on the property and collected by the county treasurer as are other taxes authorized by law. Until fully paid, the costs and the interest thereon shall be the personal obligation of the property owner from and after the date the notice of unsecured building and lien is filed with the county clerk. In addition, the

costs and the interest thereon shall be a lien against the property from the date the notice of the lien is filed with the county clerk. The lien shall be coequal with the lien of ad valorem taxes and all other taxes and special assessments and shall be prior and superior to all other titles and liens against the property. The lien shall continue until the costs and interest are fully paid. If the county treasurer and the city agree that the county treasurer is unable to collect the assessment, the city may pursue a civil remedy for collection of the amount owing and interest thereon by an action in personam against the property owner and an action in rem to foreclose its lien against the property. A mineral interest if severed from the surface owner, shall not be subject to any tax or judgment lien created pursuant to this section. Upon receiving payment, the city clerk shall forward to the county treasurer a notice of such payment and shall direct discharge of the lien.

(Ord. No. 2726, § 2(16-38), 8-15-2003)

Sec. 18-76. Appeal.

The property owner or mortgage holder shall have a right of appeal to the city council from any order of the code official. Such appeal shall be taken by filing written notice of appeal with the city clerk within ten days after the administrative order is issued. The hearing shall be conducted in accordance with section 18-8(e).

(Ord. No. 2726, § 2(16-39), 8-15-2003)

Sec. 18-77. Subsequent need for boarding and resecuring.

If the city causes a structure within the city to be boarded and secured, any subsequent need for boarding and securing within a six-month period constitutes a public nuisance and may be summarily boarded and secured without further prior notice to the property owner or mortgage holder. At the time of each such summary boarding and securing, the city shall notify the property owner and mortgage holder of the boarding and securing and the costs thereof. The notice shall state that the property owner may request an appeal with the city clerk within ten days after the mailing of the notice. The notice and hearing shall be as provided for in this article. Unless otherwise determined at the hearing, the cost of such boarding and securing shall be determined and collected as provided for in this article.

(Ord. No. 2726, § 2(16-40), 8-15-2003)

Sec. 18-78. Building need not be dilapidated.

The city may determine that a building is unsecured and order that such building be boarded and secured in the manner provided for in this article even though such building has not been declared, by the city, to be dilapidated.

(Ord. No. 2726, § 2(16-41), 8-15-2003)

Secs. 18-79-18-99. Reserved.

ARTICLE IV. WEEDS AND TRASH

State Law reference— Weed abatement, 11 O.S. § 22-111.

Sec. 18-100. Definitions.

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

Cleaning means the removal of trash from property.

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

Trash means any refuse, litter, ashes, leaves, debris, paper, combustible materials, rubbish, offal, or waste, or matter of any kind or form which is uncared for, discarded, or abandoned.

Weed.

(1) The term "weed" means and includes, but is not limited to, poison ivy, poison oak, or poison sumac and all vegetation at any state of maturity which:

   a. Exceeds 12 inches in height, except healthy trees, shrubs; or produce for human consumption grown in a tended and cultivated garden unless such trees and shrubbery by their density or location constitute a detriment to the health, benefit and welfare of the public and community or a hazard to traffic or create a fire hazard to the property or otherwise interfere with the mowing of said weeds;

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

   c. Harbors rodents or vermin;

   d. Gives off unpleasant or noxious odors;

   e. Constitutes a fire or traffic hazard; or

   f. Is dead or diseased.

(2) The term "weed" shall not include tended crops on land zoned for agricultural use which are planted more than 150 feet from a parcel zoned for other than agricultural use.

(Ord. No. 2725, § 1(11-26), 8-15-2003)

Sec. 18-101. Notice required; contents.

At least ten days' notice shall be given to the owner and the occupant of the property by mail at the address shown by the current year's tax rolls in the county treasurer's office before the city holds a hearing or takes action. The notice shall order the property owner to clean the property of trash, or to cut or mow the weeds or grass on the property, as appropriate, and the notice shall further state that unless such work is performed within ten days of the date of the notice or an appeal has been made, the work shall be done by the city and a notice of lien shall be filed with the county clerk against the property for the costs due and owing the city. At the time of mailing

of notice to the property owner, the city shall obtain a receipt of mailing from the postal service, which receipt shall indicate the date of mailing and the name and address of the mailee. However, if the property owner cannot be located within ten days from the date of mailing by the city, notice may be given by posting a copy of the notice on the property or by publication in a newspaper of general circulation in the county, one time not less than ten days prior to any hearing or action by the city. If the city anticipates summary abatement of a nuisance in accordance with the provisions herein, the notice, whether by mail, posting or publication, shall state that any accumulations of trash or excessive weed or grass growth on the owner's property occurring within six months from and after the date of this notice may be summarily abated by the city; that the costs of such abatement shall be assessed against the owner; and that a lien may be imposed on the property to secure such payment, all without further prior notice to the property owner. The clerk shall comply with 11 O.S. § 22-111A(4) concerning notice of lien.

(Ord. No. 2725, § 1(11-27), 8-15-2003)

Sec. 18-102. Consent for removal.

The owner of the property may give written consent to the city authorizing the removal of the trash or the mowing of the weeds or grass. By giving written consent, the owner waives the owner's right to a hearing by the city.

(Ord. No. 2725, § 1(11-28), 8-15-2003)

Sec. 18-103. Right to appeal.

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

(Ord. No. 2725, § 1(11-29), 8-15-2003)

Sec. 18-104. Removal and costs.

(a) Upon a finding that the condition of the property constitutes a detriment or hazard, and that the property would be benefited by the removal of such conditions, the agents of the city are granted the right of entry on the property for the removal of trash, mowing of weeds or grass, and performance of the necessary duties as a governmental function of the city. Immediately following the cleaning or mowing of the property, the municipal clerk shall file a notice of lien with the county clerk describing the property and the work performed by the city, and stating that the city claims a lien on the property for the cleaning or mowing costs.

(b) The city shall determine the actual cost of such cleaning and mowing and any other expenses as may be necessary in connection therewith, including the cost of notice and mailing. The municipal clerk shall forward by mail to the property owner specified in subsection (a) of this section a statement of such actual cost and demanding payment. If the cleaning and mowing are done by the city, the cost to the property owner for the cleaning and mowing shall not exceed the actual cost of the labor, maintenance, and equipment

required. If the cleaning and mowing are done on a private contract basis, the contract shall be awarded to the lowest and best bidder.

(Ord. No. 2725, § 1(11-30), 8-15-2003)

Sec. 18-105. Assessment of costs, lien and release.

If payment is not made within 30 days from the date of the mailing of the statement, then within the next 60 days the city clerk shall forward a certified statement of the amount of the cost to the county treasurer of the county in which the property is located and the same shall be levied on the property and collected by the county treasurer as other taxes authorized by law. Once certified by the county treasurer, payment may only be made to the county treasurer except as otherwise provided for in this section. Until fully paid, the cost and the interest thereon shall be the personal obligation of the property owner from and after the date the cost is certified to the county treasurer. In addition, the cost and the interest thereon shall be a lien against the property from the date the cost is certified to the county treasurer, coequal with the lien of ad valorem taxes and all other taxes and special assessments and prior and superior to all other titles and liens against the property, and the lien shall continue until the cost shall be fully paid. At the time of collection the county treasurer shall collect a fee of $5.00 for each parcel of property. The fee shall be deposited to the credit of the general fund of the county. If the county treasurer and the city agree that the county treasurer is unable to collect the assessment, the city may pursue a civil remedy for collection of the amount owing and interest thereon by an action in personam against the property owner and an action in rem to foreclose its lien against the property. A mineral interest, if severed from the surface interest and not owned by the surface owner, shall not be subject to any tax or judgment lien created pursuant to this section. Upon receiving payment, if any, the municipal clerk shall forward to the county treasurer a notice of such payment and directing discharge of the lien.

(Ord. No. 2725, § 1(11-31), 8-15-2003)

Sec. 18-106. Summary abatement.

If a notice is given by the city to a property owner ordering the property within the city to be cleaned of trash and weeds or grass to be cut or mowed in accordance with the procedures provided for in this article, any subsequent accumulations of trash or excessive weed or grass growth on the property occurring within a six-month period may be declared to be a nuisance and may be summarily abated without further prior notice to the property owner. At the time of each such summary abatement the city shall notify the property owner of the abatement and the costs thereof. The notice shall state that the property owner may request a hearing within ten days after the date of mailing the notice. The notice and hearing shall be as provided for herein. Unless otherwise determined at the hearing the cost of such abatement shall be determined and collected as provided for herein. This section shall not apply if the records of the county clerk show that the property was transferred after notice was given pursuant to this section.

(Ord. No. 2725, § 1(11-32), 8-15-2003)

Sec. 18-107. Discharging grass clippings, vegetative material, sand, dirt or other litter or waste onto any street, alley, gutter or other public place prohibited.

No person shall discharge, or permit to be discharged, grass clippings, vegetative material, sand, dirt or other litter onto the public street, alley, gutter or other public place or permit the same to remain in the public street, alley, gutter or other public place. Persons owning or occupying any real property shall keep the sidewalk, street, alley, gutter or other public place abutting or adjacent to their real property free of grass clippings, vegetative material, sand, dirt or other litter. A violation of this section, by act or omission, shall be an offense and each continued day that such condition remains shall be deemed a subsequent offense.

(Ord. No. 2834, § I, 8-4-2016)

Chapter 19 RESERVED

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Chapter 20 OFFENSES AND MISCELLANEOUS PROVISIONS

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Chapter 20 OFFENSES AND MISCELLANEOUS PROVISIONS

ARTICLE I. - IN GENERAL

Sec. 20-1. Reserved.

Editor's note— Ord. No. 2838, § II, adopted Oct. 20, 2016, repealed former § 20-1 which pertained to prevention of youth tobacco use, and derived from Ord. No. 2755, §§ 1—6, adopted Aug. 21, 2006.

Sec. 20-2. Obstructing public officers.

(a) It is unlawful for any person to resist, oppose or obstruct the chief of police, any other policeman, municipal judge or any other officer or employee of the city in the discharge of his official duty; or, by threats or otherwise, to intimidate or attempt to intimidate such officer or employee from the discharge of official duty. While such officer or employee of the city is in discharge of his official duty.

(b) Any person who is found guilty of violating the provisions of this section shall be guilty of a class A offense.

(Code 1952, title 10, ch. 9, § 108; Code 1967, §§ 17-50, 21-9; Ord. No. 2208, 1-23-1979; Ord. No. 2611, § 17-50, 11-16-1993)

State Law reference— Resisting or refusing to aid officers, 21 O.S. §§ 537, 540; intimidating officers, 21 O.S. § 545; obstructing officer, 21 O.S. § 540.

Sec. 20-3. Impersonating an officer.

It is unlawful to impersonate an officer of the city, falsely represent himself to be an officer of the city, or exercise or attempt to exercise any of the duties, functions or powers of an officer of the city, without being duly authorized to do so.

(Code 1952, title 10, ch. 9, § 113; Code 1967, § 17-20)

Sec. 20-4. Forcibly resisting peace officer; penalty.

Every person who knowingly resists, by the use of force or violence, any peace officer in the performance of his duty is guilty of a class A offense.

(Code 1967, § 17-55; Ord. No. 2519, 4-17-1990; Ord. No. 2611, § 17-55, 11-16-1993)

State Law reference— Resisting or refusing to aid officers, 21 O.S. §§ 537, 540.

Sec. 20-5. Assisting escape of prisoners.

It is unlawful for any person in said city to give aid to any person in the custody of the chief of police or any of the police officers of said city, or to aid or abet any person in escaping from such officer, or from the place of confinement.

(Code 1952, title 10, ch. 9, § 109; Code 1967, § 17-4)

State Law reference— Aiding escape, 21 O.S. §§ 437, 438.

Sec. 20-6. Escaping from city jail.

(a) *Prohibited.* It is unlawful for any person confined in the city jail or other place of confinement by the city, or working upon the streets or other public places of the city in pursuance of any judgment, or otherwise held in legal custody by authority of the city, to escape or attempt to escape any such jail, prison or custody.

(b) *Penalty.* Any person who violates this section shall upon conviction thereof be deemed guilty of a class A offense.

(Code 1952, title 16, ch. 9, § 111; Code 1967, § 17-14; Ord. No. 2523, 4-17-1990)

Sec. 20-7. Loafing around city jail; giving to prisoners.

It shall be unlawful for any person within said city to give anything to any prisoner confined therein without the permission of the chief of police.

(Code 1952, title 10, ch. 9, § 110; Code 1967, § 17-27)

Sec. 20-8. Truancy.

(a) It shall be unlawful for a parent, guardian, or other person having custody of a child who is over the age of five years, and under the age of 18 years, to neglect or refuse to cause or compel such child to attend and comply with the rules of some public, private or other school, unless other means of education are provided for the full term the schools of the district are in session or the child is excused as provided in this section. One-half day of kindergarten shall be required of all children five years of age or older unless the child is excused from kindergarten attendance as provided in this section. A child who is five years of age shall be excused from kindergarten attendance until the next school year after the child is six years of age if a parent, guardian, or other person having custody of the child notifies the superintendent of the district where the child is a resident by certified mail prior to enrollment in kindergarten, or at any time during the first school year that the child is required to attend kindergarten pursuant to this section, of election to withhold the child from kindergarten until the next school year after the child is six years of age.

(b) It shall be unlawful for any child who is over the age of 12 years and under the age of 18 years, and who has not finished four years of high school work, to neglect or refuse to attend and comply with the rules of some public, private or other school, or receive an education by

other means for the full term the schools of the district are in session. Provided, that this section shall not apply:

(1) If any such child is prevented from attending school by reason of mental or physical disability, to be determined by the board of education of the district upon a certificate of the school physician or public health physician, or, if no such physician is available, a duly licensed and practicing physician;

(2) If any such child is excused from attendance at school, due to an emergency, by the principal teacher of the school in which such child is enrolled, at the request of the parent, guardian, custodian or other person having control of such child;

(3) If any such child who has attained his or her sixteenth birthday is excused from attending school by written, joint agreement between:

a. The school administrator of the school district where the child attends school; and

b. The parent, guardian or custodian of the child. Provided, further, that no child shall be excused from attending school by such joint agreement between a school administrator and the parent, guardian or custodian of the child unless and until it has been determined that such action is for the best interest of the child and/or the community, and that said child shall thereafter be under the supervision of the parent, guardian or custodian until the child has reached the age of 18 years; or

(4) If any such child is excused from attending school for the purpose of observing religious holy days if before the absence, the parent, guardian, or person having custody or control of the student submits a written request for the excused absence.

(c) In the prosecution of a parent, guardian, or other person having custody of a child for violation of any provision of this section, it shall be an affirmative defense that the parent, guardian, or other person having custody of the child has made substantial and reasonable efforts to comply with the compulsory attendance requirements of this section but is unable to cause the child to attend school.

(d) Any parent, guardian, custodian, child or other person violating any of the provisions of this section, upon conviction, shall be guilty of a Class B offense.

Each day the child remains out of school after the oral and documented or written warning has been given to the parent, guardian, custodian, child or other person or the child has been ordered to school by the juvenile court shall constitute a separate offense.

(e) At the trial of any person charged with violating the provisions of this section, the attendance records of the child or ward may be presented in court by any authorized employee of the school district.

(f) The court may order the parent, guardian, or other person having custody of the child to perform community service in lieu of the fine. The court may require that all or part of the community service be performed for a public-school district.

(g) The court may order as a condition of a deferred sentence or as a condition of sentence upon conviction of the parent, guardian, or other person having custody of the child any conditions as the court considers necessary to obtain compliance with school attendance requirements. The conditions may include, but are not limited to, the following:

(1) Verifying attendance of the child with the school;

(2) Attending meetings with school officials;

(3) Taking the child to school;

(4) Taking the child to the bus stop;

(5) Attending school with the child;

(6) Undergoing an evaluation for drug, alcohol, or other substance abuse and following the recommendations of the evaluator; and

(7) Taking the child for drug, alcohol, or other substance abuse evaluation and following the recommendations of the evaluator, unless excused by the court.

(Ord. No. 2775, § 1, 7-20-2009)

Editor's note— Ord. No. 2775, § 1, adopted July 20, 2009, did not specify manner of codification; hence, inclusion as § 20-8 was at the editor's discretion.

Secs. 20-9-20-32. - Reserved.

ARTICLE II. OFFENSES AGAINST THE PERSON

Sec. 20-33. Assault and battery.

(a) *Assault defined.* An assault is the willful and unlawful attempt to offer with force or violence to do corporal hurt to another.

(b) *Battery defined.* A battery is any willful and unlawful use of force or violence upon the person of another.

(c) *Prohibited.* It is unlawful to commit an assault or an assault or battery within the city.

(d) *Punishment.* Any person who is found guilty of violating the provisions of this section shall be guilty of a class A offense.

(Code 1952, title 16, ch. 2, § 15; Code 1967, § 17-2; Ord. No. 2206, 1-23-1979; Ord. No. 2522, 4-17-1990)

State Law reference— Similar provisions, 21 O.S. §§ 641, 642; authority of city to prevent assault and battery, 11 O.S. § 22-110.

Sec. 20-34. Harassment or stalking.

(a) The following words, terms, and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Course of conduct means a pattern of conduct composed of a series of two or more separate acts over a period of time, however short, evidencing a continuity of purpose. The term "course of conduct" shall not apply to any constitutionally protected activity.

Harasses means conduct directed toward a person that includes, but is not limited to, repeated or continuing unconsented contact that would cause a reasonable person to suffer emotional distress and that actually causes substantial distress to the person. The term "harassment" does not include constitutionally protected activity or conduct that serves a legitimate purpose. The term "harassment" shall include, but not be limited to, harassing and obscene telephone calls in violation of 21 O.S. § 1172 and that cause fear of death or bodily injury.

Member of the immediate family means any spouse, parent, child, person related within the third degree of consanguinity or affinity or any other person who regularly resides in the household within the prior six months.

Unconsented contact means any contact with another individual that is initiated or continued without the consent of the individual or in disregard of that individual's expressed desire that the contact be avoided or discontinued. The term "unconsented contact" shall not apply to any constitutionally protected activity. The term "unconsented contact" includes, but is not limited to, any of the following:

(1) Following or appearing within the sight of that individual;

(2) Approaching or confronting that individual in a public place or on private property;

(3) Appearing at the workplace or residence of that individual;

(4) Entering onto or remaining on property owned, leased, or occupied by that individual;

(5) Contacting that individual by telephone;

(6) Sending mail or electronic communications to that individual; and

(7) Placing an object on or delivering an object to property owned, leased, or occupied by that individual.

(b) Any person who willfully, maliciously, and repeatedly follows or harasses another person in a manner that would cause a reasonable person or a member of the immediate family of such person to feel frightened, intimidated, threatened, harassed or molested and who, in doing so, actually causes the person being followed or harassed or the immediate family of such person to feel terrorized, frightened, intimidated, threatened, harassed, or molested shall, upon conviction, be guilty of the crime of stalking.

(c) Violation of any provision of this section shall be a class A offense.

(Ord. No. 2760, 8-6-2007)

State Law reference— Similar provisions, 21 O.S. § 1173.

Sec. 20-35. Disturbance by fighting.

(a) No person shall brawl, assault, fight, challenge or threaten another to fight within the city, where such action disturbs the peace and quiet of any neighborhood, school, assembly, family or person.

(b) Violation of any provision of this section shall be a Class A offense.

(Ord. No. 2787, § 1, 2-23-2010)

Secs. 20-36-20-56. - Reserved.

ARTICLE III. OFFENSES AGAINST PROPERTY RIGHTS

Sec. 20-57. Petty larceny.

(a) *Defined.* Petty larceny is taking of personal property of value not to exceed $500.00 by fraud or stealth, and with intent to deprive another thereof, when the property is not taken from the person of another.

(b) *Prohibited.* It is unlawful to commit petty larceny within the city.

(c) *Penalty.* Any person who violates this section shall upon conviction thereof be deemed guilty of a class A offense.

(Code 1952, title 10, ch. 3, § 24; Code 1967, § 17-34; Ord. No. 2201, 12-26-1978; Ord. No. 2523, 4-17-1990)

State Law reference— Authority of city to prohibit petty larceny, 11 O.S. § 22-110; larceny, 21 O.S. § 1701 et seq.

Sec. 20-58. Larceny of merchandise from retailer or wholesaler; punishment; recidivists.

(a) Larceny of merchandise held for sale in retail or wholesale establishments shall be a class A offense.

(b) Any person concealing unpurchased merchandise of any mercantile establishment, either on the premises or outside the premises of such establishment, shall be presumed to have so concealed such merchandise with the intention of violating subsection (a) of this section.

State Law reference— Similar provisions to subsection (a), 21 O.S. § 1731; similar provisions to subsection (b), 22 O.S. § 1344.

Sec. 20-59. Injuring, defacing, etc., houses, buildings, other structures and trains.

It is unlawful for any person in the city to break, destroy, deface or in any manner to willfully injure a house, building, shop, store or other structure, or any door or window thereof, or break, or sever therefrom any gate, fence or part thereof, or any enclosure or any portion thereof, or the material of which the same is formed, or any car, coach, or any portion of any train.

(Code 1952, title 10, ch. 3, § 25; Code 1967, § 17-22)

State Law reference— Tampering with, destroying, etc., property, 21 O.S. §§ 349, 1751 et seq.

Sec. 20-60. Injuring, defacing city jail.

It shall be unlawful for any person to deface, injure or damage any property in or about the city jail.

(Code 1952, title 10, ch. 9, § 110; Code 1967, § 17-23)

State Law reference— Tampering with, destroying, etc., property, 21 O.S. §§ 349, 1751 et seq.

Sec. 20-61. Injuring, defacing trees, plants, city structures, etc., and fruit thereof.

It is unlawful for any person to willfully cut, mark, tear down, burn, deface or destroy any trees, plants, cut down, root up, sever, injure or destroy any fruit tree, shade or ornamental tree, cultivated root, plant, vine, shrub or bush whatever, which is the property of another, standing on or attached to the land of another, or to pick, destroy or carry away therefrom, or in any way interfere with any part of the fruit thereof, or to trespass on the premises of another, without the consent of the owner or person in charge or any structure belonging to or used by the city of which is located on, above, or under the streets, alleys, parks, public places or buildings.

(Code 1952, title 10, ch. 3, § 30, title 26, ch. 1, § 1; Code 1967, § 17-26)

State Law reference— Tampering with, destroying, etc., property, 21 O.S. §§ 349, 1751 et seq.

Sec. 20-62. Injuring, defacing personal property of another.

It shall be unlawful for any person within the city to willfully deface, injure, damage or destroy any goods, wares or merchandise, or any sign, or any other personal property belonging to another.

(Code 1952, title 10, ch. 3, § 27; Code 1967, § 17-24)

State Law reference— Tampering with, destroying, etc., property, 21 O.S. §§ 349, 1751 et seq.

Sec. 20-63. Injuring, destroying, removing, etc., sidewalks, crossings, bridges, etc.

It is unlawful for any person to loosen or remove any plank, board, block, brick, stone, stringer, support or other part from, or to injure or destroy any sidewalk, crossing, bridge, culvert, viaduct, fence, gate, sign or other property of another, without lawful authority.

(Code 1952, title 10, ch. 3, § 31; Code 1967, § 17-25)

State Law reference— Tampering with, destroying, etc., property, 21 O.S. §§ 349, 1751 et seq.

Sec. 20-64. Permitting animal to destroy or deface trees, plants, etc., and fruit thereof.

It is unlawful for any person to suffer or permit any animal by or under such person's control to mark, tear down or deface or destroy any trees, plants or any structure or objects belonging to

or which shall hereafter belong to or be used by the city and located on, above or under its streets, avenues, alleys or its public places or buildings.

(Code 1952, title 26, ch. 1, § 2; Code 1967, § 22-17)

Sec. 20-65. Advertising matter; restrictions on distribution.

It shall be unlawful for any person to distribute to any person, or to throw upon any street, alley or public place, or upon any private yard, lawn, driveway, sidewalk, porch or steps of any residence or upon any vacant property or in any automobile or other vehicle in said city, any handbill, dodger or other notice of commercial advertising, the size of which exceeds 12 inches in width and 18 inches in length, provided that nothing in this section shall prohibit the distribution and delivery of any newspaper which shall have first been entered as second class matter under the provisions of the United States Post Office Regulations of March 3, 1879, and other United States Statutes.

(Code 1952, title 10, ch. 10, § 137; Code 1967, § 17-2)

Sec. 20-66. Signs, advertisements, etc., unlawful if causing litter.

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, automobile, other vehicle, or telephone, telegraph or electric light pole, or other property of another which causes litter, without the consent of the owner thereof.

(Code 1952, title 10, ch. 3, § 32; Code 1967, § 17-43)

Sec. 20-67. Trespass as to real property prohibited.

(a) It is unlawful for any person to enter upon the property of another, or to enter an area or structure on said property, whether such property, area or structure be public or private, when such entrance is plainly forbidden by signs or otherwise; further, it is unlawful for any person to remain upon the property of another, or to remain in an area or structure on said property, after such person is ordered by the owner or occupant of said property to leave the premises; except, the foregoing shall not apply when such entrance is in the line of duty of a public official, or is with the express or tacit consent of the owner or persons in charge, or provided for otherwise by authority of law or ordinance. It is unlawful for any person to willfully trespass on any structure belonging to or used by the city of which is located on, above, or under the streets, alleys, parks, public places or buildings.

(b) Any person convicted of a violation of this section shall be punishable as a class A offense.

(Code 1952, title 10, ch. 3, § 30, title 26, ch. 1, § 1; Code 1967, §§ 17-26, 17-51; Ord. No. 2217, 3-6-1979; Ord. No. 2599, § 17-51, 3-16-1993)

State Law reference— Trespass, 21 O.S. § 1835.

Sec. 20-68. Tampering with, damaging or larceny of public utilities; Use of Dumpsters Prohibited by Non-Authorized Persons or Entities.

(a) For the purposes of this section, "public utility" shall mean any entity, public or private, which has a lawful right to use of the right-of-way for delivering services. It includes, but it not limited to, provision of gas, water, wastewater, stormwater, electricity, telephone, community antenna television services, Internet and telecommunications service.

(b) It is unlawful for any person to damage, molest, tamper with, or destroy, injure or alter, any distribution structure, transmission system, line, equipment, facility, wire, meter, pipe, pole or other part of public utility located within the corporate limits of the city.

(c) It is unlawful for any person to connect, cause to connect, or permit to connect or attach any kind of pipe, wire or other contrivance to any pipe, wire, line or other conductor carrying services from and owned by a public utility in such a manner as to enable such person to consume or use the services thereof without its passage through a meter or in any ot her way so as to evade payment therefor.

(d) Any person who receives the benefit, directly or indirectly, of services when he knew or should have known the public utility service was connected in violation of this section shall be guilty of an offense.

(e) No person or other entity, whose name does not appear on the Blackwell Utility Billing Records for Solid Waste Collection and Disposal Services shall dump or otherwise dispose of any garbage or other refuse in any dumpster not associated with such person or other entity's Solid Waste Collection and Disposal Service Account, without obtaining the express permission of the customer associated with the dumpster wherein the garbage or other refuse is being deposited.

(f) Any person who violates this section, by act or omission, shall upon conviction thereof be deemed guilty of an offense and shall pay a fine of not to exceed Five Hundred Dollars ($500.00), plus court costs, state assessments and fees, as appropriate. In addition, the court may order restitution to the utility, including payment for services used and actual costs to the utility, including but not limited to, service calls, repair service, disconnection or reconnection.

(g) A charge of violation of this section shall not preclude the public utility from pursuing civil remedies.

(Code 1967, § 24-9; Ord. No. 2120, § 1, 7-27-1976; Ord. No. 2523, 4-17-1990; Ord. No. 2782, § 2, 12-21-2009; Ord. 2018-04, 3-1-2018)

Editor's note— Section 2 of Ord. No. 2782, adopted Dec. 21, 2009, changed the title of § 20-68 from "Tampering with, damaging or larceny of public utilities or community antenna television system signals; penalty" to "Tampering with, damaging or larceny of public utilities."

Sec. 20-69. Connection of wells to municipal water system.

It shall be unlawful for any person to make or permit any water connections with the municipal water system of the city from any well or water supply other than the water supply of the city, and no well or water supply other than that furnished by the city shall be connected with the water mains and lines of the city or the water lines on the premises of the consumer or other persons having control thereof.

(Code 1952, title 21, ch. 2, §§ 15, 16; Code 1967, §§ 24-6, 24-7)

Sec. 20-70. False weights and measures.

It shall be unlawful for any person within the city to give any false weight or measure in the sale of any article or personal property and any person keeping or maintaining any scales used for weighing, or any measure used for measuring purposes which is incorrect or inaccurate, shall upon conviction be deemed guilty of an offense.

(Code 1952, title 10, ch. 10, § 131; Code 1967, § 17-16)

State Law reference— Weighs and measures, 2 O.S. § 14-1 et seq.

Sec. 20-71. Casting substance into or swimming in reservoirs or other water supplies.

It shall be unlawful for any person to cast any substance whatsoever into the reservoirs of the city or any spring or other source of water used for domestic purposes or to bathe or swim therein, or in any manner to pollute the water therein, or to ascend or mount the walls of said reservoir without authority.

(Code 1952, title 10, ch. 3, § 41; Code 1967, § 17-42)

Secs. 20-72-20-104. - Reserved.

ARTICLE IV. OFFENSES AGAINST PUBLIC ORDER

Sec. 20-105. Curfew.

(a) No minor under the age of 16 years shall loiter, idle or congregate in or on any public street, highway, alley, park or place open to the public between the hours of 11:00 p.m. and 6:00 a.m.

(b) No minor over the age of 16 years shall loiter, idle or congregate in or on any public street, highway, alley, park or place open to the public between the hours of 11:00 p.m. and 6:00 a.m. on weekdays or between the hours of 1:00 a.m. and 6:00 a.m. on weekends.

(c) The provisions of subsections (a) or (b) of this section do not apply:

(1) When the minor is accompanied by the minor's parent or guardian;

(2) When the minor is on an errand at the direction of the minor's parent or guardian, without any detour or stop;

(3) When the minor is in a motor vehicle involved in interstate travel;

(4) When the minor is engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;

(5) When the minor is involved in an emergency;

(6) When the minor is on the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor or of the residence that the minor is visiting with the permission of his parent or guardian and the neighbor did not complain to the police department about the minor's presence;

(7) When the minor is attending an official school, religious, or other recreational activity supervised by adults and sponsored by the city, a civic organization, or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by the city a civic organization, or another similar entity that takes responsibility for the minor;

(8) When the minor is exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly; or

(9) When the minor is married or had been married or had disabilities of minority removed in accordance with law.

(d) It shall be unlawful for any parent, guardian or other person having custody of a minor to suffer or permit or by inefficient control to allow such minor to violate this section. It shall be unlawful for any person operating or having charge of any public place to knowingly suffer a permit a minor to violate this section on such public place.

(e) Any police officer upon finding a minor in violation of this section shall ascertain the name and address of such minor and warn the minor that he is in violation of the curfew and shall direct the minor to proceed at once to his home or usual place of abode. The police officer shall report such action to the juvenile officer of the police department, who, in turn, shall notify the parent, guardian or person having control of such minor. If any such minor refuses to heed such warning or direction by the police officer or refuses to give such police officer his correct name and address, or if the minor has been warned on a previous occasion that he is in violation of the curfew, he shall be taken to the police department and the parent, guardian or person having control of such minor shall be noticed to come and take charge of the minor. If the parent, guardian or other adult person above cannot be located or fails to come and take charge of the minor, the minor shall be released to the juvenile authorities.

(f) Any minor violating the provisions of this section shall be dealt with in accordance with the juvenile court laws and procedures. Any parent, guardian or other adult having the care and custody of the minor violating this section shall, after having been previously notified under subsection (e) of this section, and any owner, operator or employee of any public place violating this section shall be guilty of a class C offense.

(Code 1967, § 17-6; Ord. No. 2238, 11-16-1979; Ord. No. 2536, 9-4-1990)

Sec. 20-106. Peaceful demonstrations; interference with use of streets, sidewalks or other public property prohibited.

(a) All persons shall have the right to peacefully demonstrate, strike or otherwise use the public streets, roads, sidewalks or other public property of this city for the purpose of expressing their opinions or viewpoints or imparting information.

(b) No person, acting individually or in conjunction with others, shall threaten, coerce, intimidate or otherwise interfere with any person in the use of any public street, road, sidewalk or other public property.

(c) No person shall threaten, coerce, intimidate or otherwise interfere with any person attempting to travel to or from his employment or attempting to perform and carry on the duties and functions of his employment.

(d) Violation of this section shall be a class A offense.

(Ord. No. 2761, 8-6-2007)

Sec. 20-107. Picketing places of business.

(a) It shall be unlawful for any person to walk back and forth or remain or cause any person to walk back and forth, loiter, or remain upon the streets, alleys or sidewalks in the city, in front of, or near to, any place of business for the purpose of persuading any person by word of mouth from entering said place of business for the purpose of transacting business therein.

(b) It shall be unlawful for any person to walk back and forth, loiter or remain, or cause any person to walk back and forth or remain upon the streets, alleys or sidewalks in the city, in front of, or near to, any place of business for the purpose of persuading any person by any sign or banner carried from entering said place of business for the purpose of transacting business therein.

(c) Neither subsection (a) nor (b) of this section shall apply to the peaceful picketing of a place of business which is engaged in a labor dispute with its employees.

(Code 1952, title 10, ch. 1, §§ 6—8; Code 1967, § 17-28)

Sec. 20-108. Discharge of firearms.

(a) *Generally.* It shall be unlawful, except under the conditions herein provided, for any person to discharge any firearm, gun, shotgun, rifle, pistol, revolver, bow and arrow, crossbow, air gun or other device from which a bullet, shot, ball, slug, pellet, solid projectile or other missile is propelled by means of compressed air or spring tension, including, but not limited to, BB guns or slingshots, within the corporate limits of the city; provided, however, this prohibition shall not extend to:

(1) The discharge thereof by any member of the police department or member of the auxiliary police force of the city, or by any other duly authorized law enforcement officer, while on active duty or when engaged in the inspection and trial of firearms or in course of practice in the use of the same as required by the duties of his office;

(2) The discharge thereof by any person participating in firing exercises at any firing range, or in shooting competition, or at a shooting gallery conducted in connection with a public entertainment enterprise, provided any such firing activity shall have been first sanctioned by the chief or acting chief of the police department;

(3) The discharge thereof by any person of bows and arrows in or upon any public ground or park for the purpose of participating, receiving and giving instruction and training in archery tournaments, target practice, marksmanship and the proper handling, use and care of bows and arrows, provided any such instruction and training shall have been first sanctioned by the chief or acting chief of the police department.

(b) *Archery permit.* Bows or other archery devices capable of discharging projectiles by means of spring tension, except crossbows, may only be discharged upon a permitted target range. Any person desiring to establish a permitted target range must make application to the police chief or his designee for the issuance of such permit. The following provisions shall govern the application for and the granting or denying of the permit provided for in this section:

(1) The applicant for an initial permit shall file an application with the police chief on a form provided by the city clerk and shall provide thereon information describing the target range, target and backstop in such detail as to provide an adequate basis for judging its safety. The application shall be endorsed by the property owner if the owner is other than the applicant. Each application shall be accompanied by the prescribed fee as shall be set by resolution.

(2) Such fee shall be deemed to cover the necessary investigation and shall be retained by the city, whether or not approval is granted.

(3) The police chief shall thereafter approve or deny the application based upon his determination as to whether the safety of the public, nearby property owners and users of such ranges shall be assured. The police chief shall adopt all necessary rules, regulations and guidelines as may seem just and expedient for the implementation of this section.

(4) In the event the application is approved, such approval shall terminate forthwith upon alteration of any of the safety features or conditions described in the application or stipulated in the approval. Upon termination of such approval, all archery activity shall cease in the designated area unless and until a subsequent archery permit is obtained. All applicants under this section have a continuing duty to notify the city engineering department of any alterations of the safety features or conditions described in the application or stipulated in the approval.

(Code 1967, § 17-8; Ord. No. 1788, §§ 1, 4, 7-23-1963; Ord. No. 2538, 10-2-1990; Ord. No. 2541, 11-6-1990; Ord. No. 2559, 8-20-1991)

State Law reference— Weapons, 21 O.S. § 1271.1 et seq.; authority to regulate firearms, 21 O.S. § 22-110.

Sec. 20-109. Lasers.

(a) A violation of this section shall be a class A offense.

(b) Any person who knowingly and maliciously projects a laser, as defined in this section, on or at a law enforcement officer without the consent of the officer, while the officer is acting within the scope of the official duties of the officer, shall be guilty of an offense.

(c) The following words, terms, and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Laser means any device that projects a beam or point of light by means of light amplification by stimulated emission of radiation or a device that emits light which simulates the appearance of a laser.

Law enforcement officer means any police officer, peace officer, sheriff, deputy sheriff, correctional officer, probation or parole officer, emergency management employee, judge, magistrate, or any employee of a governmental agency who is authorized by law to engage in the investigation, arrest, prosecution, or supervision of the incarceration of any person for any violation of law and has statutory powers of arrest.

State Law reference— Similar provisions, 21 O.S. § 1992.

Sec. 20-110. Disturbing the peace.

It shall be unlawful for any person in the city to make any disturbance by which the peace and good order of the neighborhood or any part of said city are disturbed. It shall be unlawful for any person to willfully disturb the peace by loud or unusual noise, or to use any device or means which results in disturbing the peace of the city or any person therein.

(Code 1952, title 10, ch. 1, § 1; Code 1967, § 17-9)

State Law reference— Disturbing the peace, 21 O.S. § 1362.

Sec. 20-111. Disturbing religious services and public assemblies.

It is unlawful for any person to disturb any lawful public gathering or assembly or any congregation or assembly of persons meeting for religious worship by making noise, by rude, indecent or improper behavior, by profane, improper or loud language, or in any other manner, either within the public assembly or place of worship, or within hearing distance thereof.

(Code 1952, title 10, ch. 1, § 4; Code 1967, § 17-10)

State Law reference— Disturbing religious meetings, 21 O.S. §§ 915, 916.

Sec. 20-112. Loud music and noise.

It is unlawful for any person to disturb the peace and quietude of any part of the city by operating, having operated or permitting to be operated any contrivance, whether electric or not, with or without a loudspeaker in such a manner as to emit loud music or noise.

(Code 1952, title 10, ch. 1, § 5; Code 1967, § 17-29)

State Law reference— Disturbing the peace, 21 O.S. § 1362.

Sec. 20-113. Public intoxication.

It shall be unlawful for any person to become or to be found drunk or intoxicated in any public place, or in any passenger coach, on any public or private road, from drinking or consuming intoxicating liquors of any kind, intoxicating substance or intoxicating compound or from inhalation of glue, paint, or other intoxicating substances in public.

(Code 1952, title 10, ch. 5, § 66; Code 1967, § 17-41; Ord. No. 2100, §§ 1, 2, 1-20-1976)

Sec. 20-114. Unlawful assembly.

It shall be unlawful for any person to disturb any lawful assembly of persons, to engage in or participate in any rout or riot, or to be present at or participate in any unlawful assembly.

(Code 1952, title 10, ch. 1, § 2; Code 1967, § 17-46)

State Law reference— Authority of city to prohibit disorderly assemblies, 11 O.S. § 22-110.

Sec. 20-115. Gambling.

(a) It is unlawful for any person or agent or employee thereof to play, to open or cause to be opened, or to operate, carry on, or conduct, whether for hire or not, any game of faro, monte, poker, roulette, craps, any banking percentage or other game played with dice, cards or any device, for money, checks, chips, credit or any other thing of value.

(b) It shall be unlawful for any person in the city to operate, keep for operation, or own for operation, or possess for gambling purposes any gambling device; provided, however, that the provisions of this section shall not apply to merchandise machines.

(c) This section shall not prohibit any gambling otherwise authorized by state or federal law.

(Code 1952, title 10, ch. 6, §§ 81, 82; Code 1967, §§ 17-17, 17-44)

State Law reference— Gambling, 21 O.S. § 941 et seq.

Sec. 20-116. Immoral conduct.

It is unlawful for any person to engage in an act of prostitution or to solicit another to commit an act of prostitution.

(Code 1952, title 10, ch. 4, § 55; Code 1967, § 17-19)

State Law reference— Prostitution, 21 O.S. § 1028 et seq.

Sec. 20-117. Keeping house where controlled substances are used or sold.

It is unlawful for any person or any agent or employee thereof to keep or assist in keeping any house or place in the city where persons meet to use opium or other narcotics, or where such are bartered, sold, given away or otherwise furnished illegally, or to barter, sell, give away or otherwise furnish any controlled substance.

(Code 1952, title 10, ch. 7, § 95; Code 1967, § 17-32)

State Law reference— Keeping a disorderly house, 21 O.S. § 1026.

Sec. 20-118. Urinating and defecating in public.

(a) For purpose of this section, the following definition shall apply:

Public place includes streets and alleys, public highways or public buildings, public meeting halls, schools, playgrounds, parks, restaurants, stores, professional offices (and waiting rooms used in conjunction therewith), filling stations, and public conveyances of all kinds and any other place of like or similar nature which is open to and generally used by the public with the consent, express or implied, of the owner of the place or premises.

(b) A person is guilty of urinating or defecating in public if he/she intentionally urinates or defecates in a public place, other than a washroom or toilet room, under circumstances where such act is or could be observed by any member of the public situated in or near a public place.

(c) Urinating or defecating in a public place is an offense.

(Ord. No. 2766, § 1, 1-19-2009)

Sec. 20-119. Sounds impacting residential life.

(a) It shall be unlawful to carry on the following activities in any residentially zoned area of the city or within 300 feet of any residentially occupied structure in any zone of the city:

(1) The operation of a solid waste collection and disposal truck for refuse collection between the hours of 9:00 p.m. and 6:00 a.m.

(2) The operation of construction machinery between the hours of 9:00 p.m. and 7:00 a.m.

(3) The operation of garage machinery between the hours of 9:00 p.m. and 7:00 a.m.

(4) The operation of lawn mowers and other domestic tool out-of-doors between the hours of 10:00 p.m. and 7:00 a.m.

(b) Any mechanical noise other than that regulated in subsection (a) hereinabove which registers more than 70 db(A) at the nearest complainant's property line is a violation.

(c) This section shall not apply to:

(1) Emergency operations designed to protect the public health and safety; or

(2) Work by city or county crews or city or county contractors or public service companies in a right-of-way or utility easement when the department responsible for the work has determined that it is necessary to undertake the work between the hours of 9:00 p.m. and 7:00 a.m.:

a. In order to avoid unreasonably impacting the flow of traffic;

b. In order to avoid unreasonably disrupting the provision of a utility service; or

c. Due to an Oklahoma Department of Transportation requirement.

(d) No person or other entity shall violate any subsection of this section.

(Ord. No. 2822, § I, 12-17-2015)

Sec. 20-120. Amplified sound.

(a) It shall be unlawful to:

(1) Operate or allow the operation of any sound amplification equipment so as to create sounds registering 55 db(A) between 9:00 p.m. and 8:00 a.m. Sunday through Thursday or between 11:00 p.m. and 8:00 a.m. on Friday or Saturday or 50 db(A) at any other time, as measured anywhere within the boundary line of the nearest residentially occupied property.

(2) As to multifamily structures including apartments, condominiums, or other residential arrangements where boundary lines cannot readily be determined, operate or allow the operation of any sound amplification equipment so as to create sounds registering 55 db(A) between 9:00 p.m. and 8:00 a.m. Sunday through Thursday or between 11:00 p.m. and 8:00 a.m. on Friday or Saturday or 50 db(A) at any other time, as measured from any point within the interior of another residential unit in the same complex or within the boundary line of the nearest residentially occupied property.

(3) Operate or allow the operation of any sound amplification equipment in the public right-of-way, including streets or sidewalks, or in any city park: (i) without having actual on-site possession of a permit issued by the Blackwell Police Department; (ii) so as to produce sounds registering more than 75 db(A) ten feet or more from any electromechanical speaker between the hours of 9:00 p.m. and 8:00 a.m. and Sunday through Thursday or between and 11:00 p.m. and 8:00 a.m. on Friday or Saturday; or (iii) at times other than those specified in (ii). Sound amplification equipment operated pursuant to this subsection may not be located more than ten feet off the ground. In addition to the person operating or allowing the operation of sound amplification equipment in violation of this subsection, the person to whom the permit was issued must be present at the location and during the times permitted and shall be liable for any and all violations.

An application for a permit pursuant to this subsection shall: (i) be submitted to the Blackwell Police Department at least one full business day but no more than seven calendar days before the permit time requested; and (ii) specify the proposed location of the sound amplification equipment and the date and time that the sound amplification will begin and end. Permits shall be issued on a first come, first served basis. A charge of $25.00 shall be charged and paid for each such permit.

(b) The limitations on the operation of sound amplification equipment in section shall not apply to the operation of horns, sirens, or other emergency warning devices actually being used in emergency circumstances, or to the operation of sound amplification equipment regulated pursuant to section 22-121.

(c) No person or other entity shall violate any subsection of this section.

(Ord. No. 2822, § I, 12-17-2015)

Sec. 20-121. Permits for additional amplification.

(a) Sound application. An application for a permit for additional amplification on private property under this section shall be submitted to the Blackwell Police Department at least ten business days in advance of the planned use. The application shall designate and provide contact information for an individual person who shall be in control of the sound amplification equipment and ensure that its use complies with the terms of the permit.

(b) Notice of tentative approval. Upon tentative approval, the applicant for a permit shall be responsible for giving written notice of the name, nature, date, and time period of the event, and the name of and contact information for the permit holder to the occupants of each property within 1,000 feet of the property for which the permit has been granted. The notice shall be hand delivered to each occupant or, if the occupant is unavailable, affixed to the front door of the building or business or residential unit at least 72 hours in advance of the event. The permit shall not be actually granted and issued until the applicant submits an affidavit to the Blackwell Police Department that such notices have actually been so delivered.

(c) Limits on hours. Permits for additional amplification at a property, or adjacent properties under common ownership, shall be limited to 15 hours in a calendar year. Permits issued pursuant to this section may allow additional amplification only between 9:00 p.m. and 8:00 a.m. Sunday through Thursday and between 11:00 p.m. and 8:00 a.m. on Friday or Saturday. A charge of $25.00 shall be charged and paid for each such permit.

(d) Sound limits. In no event shall a permit be granted which allows the creation of sounds registering more than 70 db(A) anywhere within the boundary line of the nearest residentially occupied property.

(e) Denial; issuance of exceptional permit. If an applicant has been denied a permit under this section and believes the denial is illegal by virtue of applicable state or federal law, he shall promptly submit a copy of the denied permit application together with a short statement of the reasons he believes he is entitled to a permit to the city manager or his designee. The city manager or his designee shall have the discretion to grant an exceptional permit waiving locational, time, and/or db(A) requirements, upon his determination that the applicant has

made a substantial showing of legal entitlement. Any such exceptional permit shall be promptly reported to the city council.

(f) It shall be unlawful to violate the restrictions or requirements of this section or the terms of a permit issued pursuant to this section.

(g) No permit for additional amplification shall be required for the Kay County Fair or any sound application equipment or device owned or operates by, or any event sponsored by, the city, county or state.

(h) No person or other entity shall violate any subsection of this section.

(Ord. No. 2822, § I, 12-17-2015)

Secs. 20-122-20-147. - Reserved.

ARTICLE V. RESERVED.

Sec. 20-148. Reserved .

Sec. 20-149. Reserved.

Sec. 20-150. Reserved.

Sec. 20-151. Reserved.

Sec. 20-152. Reserved.

(Article V was marked reserved and Section 20-148 was deleted by the editor because the subject matter is found in Chapter 4; Sections 20-149 through 20-152 were repealed by Ord. No. 2018-14 approved on September 6, 2018 and are currently found in Chapter 4 of this Code).

Secs. 20-153—20-599. Reserved.

ARTICLE VI. ACCESS TO TOBACCO AND VAPOR PRODUCTS AND OTHER TOBACCO RULES

Sec. 20-601. Definitions.

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

Cigarette means any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and costs of or contains:

(1) Any roll of tobacco wrapped in paper or in any substance not containing tobacco;

(2) Tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filter, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette.

The term "cigarette" includes "roll-your-own" (i.e., any tobacco which, because of its appearance, type, packaging, or labeling is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes.) For purposes of this definition of cigarette, nine one-hundredths (0.09) of an ounce of "roll-your-own" tobacco shall constitute one individual "cigarette."

Person means any individual, firm, fiduciary, partnership, corporation, trust, or association, however formed.

Proof of age means a driver license, license for identification only, or other generally accepted means of identification that describes the individual as 18 years of age or older and contains a photograph or other likeness of the individual and appears on its face to be valid.

Sample means a tobacco product or vapor product distributed to members of the public at no cost for the purpose of promoting the product.

Sampling means the distribution of samples to members of the public in a public place.

Tobacco product means any product that contains tobacco and is intended for human consumption excluding drugs or devices approved for cessation by the United States Food and Drug Administration.

Transaction scan means the process by which a seller checks, by means of a transaction scan device, the validity of a driver license or other government-issued photo identification.

Transaction scan device means any commercial device or combination of devices used at a point of sale or entry that is capable of deciphering in an electronically readable format the information encoded on the magnetic strip or bar code of a driver license or other government-issued photo identification.

Vapor product shall mean noncombustible products, that may or may not contain nicotine, that employ a mechanical heating element, battery, electronic circuit, or other mechanism, regardless of shape or size, that can be used to produce a vapor in a solution or other form. "Vapor products" shall include any vapor cartridge or other container with or without nicotine or other form that is intended to be used with an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. "Vapor products" do not include any products regulated by the United States Food and Drug Administration under Chapter V of the Food, Drug, and Cosmetic Act.

(Ord. No. 2838, § I, 10-20-2016)

Sec. 20-602. Furnishing or sale of tobacco products and vapor products to minors.

(a) It is unlawful for any person to sell, give or furnish in any manner any tobacco, tobacco product or vapor product to another person who is under 18 years of age, or to purchase in any manner tobacco, a tobacco products or vapor product on behalf of any such person. It shall not be unlawful for an employee under 18 years of age to handle tobacco, tobacco products or vapor products when required in performance of the employee's duties.

(b) A person engaged in the sale or distribution of tobacco, tobacco products or vapor products shall demand proof of age from a prospective purchaser or recipient if an ordinary person would conclude on the basis of appearance that the prospective purchaser may be less than

18 years of age. If an individual engaged in the sale or distribution of tobacco, tobacco products or vapor products has demanded proof of age from a prospective purchaser or recipient who is not under 18 years of age, the failure to subsequently require proof of age shall not constitute a violation of this subsection.

(c) Any violation of subsection (a) or (b) of this section is an offense against the City of Blackwell; upon conviction of any such offense, the violator shall be punished as follows:

(1) Not more than $100.00 for the first offense;

(2) Not more than $200.00 for the second offense within a two-year period following the first offense;

(3) Not more than $300.00 for the third or subsequent offense within a two-year period following the first offense.

(d) Proof that the defendant demanded, was shown, and reasonably relied upon proof of age shall be a defense to any action brought pursuant to this section. A person cited for violating this section shall be deemed to have reasonably relied upon proof of age, and such person shall not be found guilty of the violation if such person proves that:

(1) The individual who purchased or received the tobacco product or vapor product presented a driver license or other government-issued photo identification purporting to establish that such individual was 18 years of age or older; or

(2) The person cited for the violation confirmed the validity of the driver license or other government-issued photo identification presented by such individual by performing a transaction scan by means of a transaction scan device.

(3) Provided, that this defense shall not relieve from liability any person cited for a violation of this section if the person failed to exercise reasonable diligence to determine whether the physical description and picture appearing on the driver license or other government-issued photo identification was that of the individual who presented it. The availability of the defense described in this subsection does not affect the availability of any other defense under any other provision of law.

(Ord. No. 2838, § I, 10-20-2016)

Sec. 20-603. Receipt of tobacco products and vapor products by minors.

(a) It is unlawful for any person who is under 18 years of age to purchase, receive, or have in his or her possession a tobacco product, or vapor product, or to present or offer to any person any purported proof of age which is false or fraudulent for the purpose of purchasing or receiving any tobacco product or vapor products. It shall not be unlawful for an employee under age 18 years of age to handle tobacco products or vapor products when required in the performance of the employee's duties.

(b) When a person is convicted or enters a plea and receives a continued sentence for a violation of subsection (a) of this section, the total of any fines, fees, or costs shall not exceed the following:

(1) One hundred dollars for a first offense; and

(2) Two hundred dollars for a second or subsequent offense within a one-year period following the first offense.

(Ord. No. 2838, § I, 10-20-2016)

Sec. 20-604. Distribution of tobacco product and vapor product samples.

(a) It shall be unlawful for any person or retailer to distribute tobacco, tobacco products, tobacco or tobacco product samples or vapor products samples to any person under 18 years of age.

(b) No person shall distribute tobacco, tobacco product or vapor product samples in or on any public street, sidewalk, or park that is within 300 feet of any playground, school, or other facility when the facility is being used primarily by persons under 18 years of age.

(c) When a person is convicted or enters a plea and receives a continued sentence for a violation of subsections (a) or (b) of this section, the total of any fines, fees, or costs shall not exceed the following:

(1) One hundred dollars for the first offense;

(2) Two hundred dollars for the second offense; and

(3) Three hundred dollars for the third or subsequent offense.

(Ord. No. 2838, § I, 10-20-2016)

Sec. 20-605. Public access to displayed tobacco products and vapor products.

(a) It is unlawful for any person or retail store to display or offer for sale tobacco products or vapor products in any manner that allows public access to the tobacco product or vapor products without assistance from the person displaying the tobacco product or vapor products or an employee or the owner of the store. The provisions of this subsection shall not apply to retail stores which do not admit into the store persons under 18 years of age.

(b) When a person is convicted or enters a plea and receives a continued sentence for a violation of this section, the total of any fines. fees, or costs shall not exceed $200.00 for each offense.

(Ord. No. 2838, § I, 10-20-2016)

Sec. 20-606. Report of violations and compliance checks.

(a) Any conviction for a violation of this article and any compliance checks conducted by the police department pursuant to subsection (b) of this section shall be reported in writing to the alcoholic beverage laws enforcement (ABLE) commission within 30 days of the conviction or compliance check. Such reports shall be compiled in the manner prescribed by the ABLE commission. Convictions shall be reported by the [court administrator/court clerk] or his designee and compliance checks shall be reported by the chief of police or his designee.

(b) Persons under 18 years of age may be enlisted by the police department to assist in enforcement of this article pursuant to the rules of the ABLE commission.

(Ord. No. 2838, § I, 10-20-2016)

Sec. 20-607. Tobacco-free in city-owned and operated buildings and real properties located within the corporate limits of the City of Blackwell.

Section 20-607 through section 20-611 shall be hereafter known as the Tobacco-Free in City-Owned and Operated Buildings and Real Properties located within the corporate limits of the City of Blackwell Ordinance.

(Ord. No. 2839, § I, 10-20-2016)

Sec. 20-608. Definitions.

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

Indoor area shall mean any indoor city-owned and operated property located within the Blackwell corporate limits. An indoor area includes work areas, employee lounges, restrooms, conference rooms, classrooms, employee cafeterias, hallways, any other spaces used or visited by employees or the public, and all space between a floor and ceiling that is predominantly or totally enclosed by walls or windows, regardless of doors, doorways, open or closed windows, stairways, or the like. The provisions of this section shall apply to such indoor areas at any given time, whether or not work is being performed.

Outdoor area shall mean any covered area, partially covered area or area open to the sky that is on a property owned and operated by the City of Blackwell and located within the Blackwell corporate limits.

Recreational area shall mean any area that is owned and operated by the City of Blackwell located within the Blackwell corporate limits and open to the general public for recreational purposes, regardless of any fee or age requirement, and includes parks, picnic areas, playgrounds, sports fields, walking paths, gardens, hiking trails, bike paths, riding trails, swimming pools, roller skating rinks and skateboard parks.

Tobacco product shall mean any product that contains or is derived from tobacco and is intended for human consumption excluding drugs or devices approved for cessation by the United States Food and Drug Administration. This includes e-cigarettes and vapor products, with or without nicotine.

Tobacco-free shall mean to prohibit the use of any tobacco product by anyone, anywhere, at any time as further defined by this article.

Vapor product shall mean noncombustible products, that may or may not contain nicotine, that employ a mechanical heating element, battery, electronic circuit, or other mechanism, regardless of shape or size, that can be used to produce a vapor in a solution or other form. "Vapor products" shall include any vapor cartridge or other container with or without nicotine or

other form that is intended to be used with an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device.

(Vapor Product definition amended by Ord. 2018-05. 4-5-2018) (Ord. No. 2839, § I, 10-20-2016)

Sec. 20-609. Prohibition of tobacco products and vapor products on city-owned and operated properties within the corporate limits.

(a) The possession of lighted tobacco in any form is a public nuisance and dangerous to public health and is hereby prohibited when such possession is in any indoor or outdoor areas owned and operated by the City of Blackwell located within the Blackwell corporate limits.

(b) All buildings and other properties, including indoor and outdoor areas, owned and operated by the City of Blackwell located within the Blackwell corporate limits, shall be entirely tobacco free to include all forms of tobacco products including vapor products.

(c) All indoor and outdoor recreational areas owned and operated by the City of Blackwell located within the Blackwell corporate limits, shall be entirely tobacco free to include all forms of tobacco products including vapor products.

(Ord. No. 2839, § I, 10-20-2016)

Sec. 20-610 Posting.

(a) The City of Blackwell shall post a sign or decal, at least four inches by two inches in size, at each entrance of city-owned and operated property located within the Blackwell corporate limits indicating the property is tobacco-free.

(b) The posting of signs or decals is the responsibility of the city manager and/or supervisor of the city-owned and operated property located within the Blackwell corporate limits.

(Ord. No. 2839, § I, 10-20-2016)

Section 20-611 Enforcement.

The City of Blackwell shall, at a minimum, do the following in order to prevent tobacco and vapor product use in city owned and operated property located within the Blackwell corporate limits:

A. Post signs at entrances to city owned and operated properties located within the Blackwell corporate limits which clearly state that smoking or tobacco use is prohibited. For indoor areas, the sigh or decal shall be at least 4 inches in size. For outdoor areas, signs shall be weather-resistant, at least 15 inches by 15 inches in size with lettering of at least 1 inch.

B. Ask tobacco users to refrain from using any form of tobacco products, including vapor products upon observation of anyone violating the provisions of Sections 20-161 through Section 20-165.

(Ord. No. 2839, § I, 10-20-2016; Ord. 2018-05, 4-5-2018)

Chapter 21 RESERVED

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Chapter 22 STREETS AND SIDEWALKS

ARTICLE I. IN GENERAL

ARTICLE II. SIDEWALKS, CURBS AND GUTTERS

ARTICLE III. STREET PLAN

ARTICLE IV. EXCAVATING OR CUTTING STREETS, ALLEYS OR ROADWAYS

Chapter 22 STREETS AND SIDEWALKS

State Law reference— General authority of municipalities relative to streets, roads and public ways, 11 O.S. § 36-101.

ARTICLE I. IN GENERAL

Sec. 22-1. Definitions.

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

Streets, alleys, sidewalks, public highways or *other public places* mean and include all streets, alleys, sidewalks, public highways, or other public places in the city, whether the title thereto be vested in the city by fee title, by easement, by dedication or otherwise.

(Code 1952, title 20, ch. 2, § 10; Code 1967, § 22-1)

Sec. 22-2. Water, grease, other substances from gas stations, car washes.

It is unlawful for any owner or operator of a filling station or other place where vehicles are washed and/or greased, or any agent or employee thereof, to cause or allow the water, grease or other refuse used in connection with, or coming from, the washing and/or greasing of cars, trucks and other vehicles, in or about a filling station, or other place where vehicles are washed and/or greased within the city to flow or drain in, over or across any sidewalk, parking, street, alley or other public way.

(Code 1952, title 10, ch. 10, § 130; Code 1967, § 22-3)

Sec. 22-3. Use of streets, sidewalks to carry on business prohibited; exception.

It is unlawful for any person to appropriate or use any part of the parking, sidewalks, streets, alleys or other public ways of the city as a place to carry on a business or trade, or to buy, display, sell, exchange, barter or give away produce, goods, wares, merchandise or other thing. This section shall not apply to licensed hawkers, peddlers, street venders and similar persons licensed to conduct an itinerant business, trade or activity.

(Code 1952, title 10, ch. 10, § 127; Code 1967, § 22-4)

Sec. 22-4. Enclosing sidewalks, streets with fences, etc., prohibited; exception.

It is unlawful for any person to fence or enclose any sidewalk, street, alley or other public way within the city, or to erect or maintain a fence, building, structure or other obstruction on or across the same. This section shall not prohibit the closing of a sidewalk and/or part of a street with the approval of proper authority to protect the public from injury from a building or other thing under construction, alteration or repair.

(Code 1952, title 10, ch. 10, § 125; Code 1967, § 22-5)

Sec. 22-5. Unlawful to deface sidewalks or curbing.

It shall be unlawful for any person to paste bills, write, print or in any manner deface with paint, chalk or any other substance any sidewalk or curbing in the city.

(Code 1952, title 10, ch. 3, § 40; Code 1967, § 22-6)

Sec. 22-6. Unlawful to clog gutters, interfere with drainage.

It shall be unlawful for any person to block or clog the gutter or to interfere with the drainage of a paved street, avenue or alley.

(Code 1952, title 10, ch. 3, § 38; Code 1967, § 22-7)

Sec. 22-7. Receptacles required when using building materials.

It shall be unlawful for any person to deposit, place or store, mix or use any building material such as sand, gravel, chat, stone, dirt, lime or cement or similar material upon any paved street, avenue or alley within the city without first providing a suitable box or receptacle in which to place the material; said receptacles shall be sufficiently tight as to prevent the material from spilling, leaking or washing upon the paved street.

(Code 1952, title 10, ch. 3, § 37; Code 1967, § 22-8)

Sec. 22-8. Vehicles, objects having devices or supports attached capable of injuring streets.

No vehicle shall travel or object be removed on any hard surfaced or paved street, alley or other public way in the city which has any device attached to or made a part of its wheels or the rollers or other supports on which it rests, which will injure the surface of such highways.

(Code 1952, title 10, ch. 3, § 35; Code 1967, § 22-9)

Sec. 22-9. Excavations, building materials and equipment—Barricades, signals required.

It shall be lawful for any person engaged in the construction, alteration or repair of buildings or structures or in the construction of public improvements, such as pavement, sidewalks, sanitary sewers, curbs, gutters, water and light extension and gas mains on any private or public premises situated within the city to make use of not to exceed one-half of the street or alley area abutting and on the same side of the street or alley for the deposit or preparation of building materials and/or for the construction or operation of builder's equipment, provided that any such person shall enclose such material, equipment or excavations within city engineer approved barricades or other structure adequate for the purpose of protection of persons or animals using such street or alley by day or night from direct or indirect injury from such materials, equipment or excavations and shall place and maintain upon such barricades or other structure from dusk to daylight red lamps, flares or such other danger signal as will give notice thereof to persons or animals.

(Code 1952, title 20, ch. 1, § 1; Code 1967, § 22-12)

Sec. 22-10. Same—Unlawful to interfere, remove barricades, signals.

It is unlawful for any person to tamper with, interfere with, or remove, break down, or weaken any signal or barrier provided for in section 22-9.

(Code 1952, title 20, ch. 1, § 2; Code 1967, § 22-13)

Sec. 22-11. Same—Unlawful to drive through or interfere with barricades, signals; exception.

It is unlawful for any person to propel any vehicle or any object whatsoever against any of the barriers or signals provided for in section 22-9 or in any way weaken, tear down or disarrange any signal or barrier, or to go upon, around, or about any improvements mentioned in section 22-9 except to work thereon under the direction of the party having said work in charge. This section shall not apply to officers of the city, the county, the state, or the United States of America in the proper discharge of their duties.

(Code 1952, title 20, ch. 1, § 3; Code 1967, § 22-14)

Sec. 22-12. Construction, installation of pipe lines, poles or wires to conform to state law.

It shall be unlawful and an offense for any person to construct, install, operate or maintain in, under, above, on or across any of the highways, streets, alleys, sidewalks or other public places in the city any pipe lines or poles or wires for conveying, electricity, CATV, telephone or other utility unless the construction, installation, operation or maintenance of any such pipe lines or poles, or wires for the above purposes is authorized under the laws of the state relating thereto, in cities, towns and villages, or by an ordinance of the city.

(Code 1952, title 20, ch. 2, § 9; Code 1967, § 22-15)

Sec. 22-13. Duty of owner or person in lawful possession and control of real property to prune or trim trees and bushes.

It is hereby made the duty of the owner or person in lawful possession or control of any real estate located in the city to keep the trees and bushes growing on the premises or in the parking thereto, trimmed or pruned in the following manner:

(1) Where the limbs or parts of the trees or bushes are overhanging any sidewalk they shall be pruned or trimmed in such manner that no limb or part of the tree or bush shall be lower than eight (8) feet from the sidewalk.

(2) Where limbs or parts of the trees or bushes are overhanging any street or alley or pavement they shall be trimmed or pruned in such manner that no limb or part of the tree or bush shall be lower than twelve (12) feet from the street or alley or paving.

(Code 1952, title 26, ch. 1, § 3; Code 1967, § 22-18; Ord. No. 2017-16, 6-15-2017; Ord. 2018-02, 2-1-2108)

Sec. 22-14. House numbering; requirements generally.

(a) All houses fronting on public streets, avenues and highways in the city shall be numbered in conformity to the following provisions:

(1) Odd numbers shall be given to houses on the west and south sides of streets, avenues and highways, and even numbers on the east and north sides of the same.

(2) On streets, avenues and highways running north and south in the city, numbering shall commence with number 100 at the northeast and southeast corner of each and every street at its intersection with Blackwell Avenue, and shall increase north and south at the rate of 100 numbers for each block or space between two streets.

(3) On streets, avenues and highways running east and west in the city, numbering shall commence with number 100 at the northeast and southwest corner of each and every street at its intersection with Main Street and increase east and west from Main Street at the rate of 100 numbers for each block or space between each street.

(4) All streets running north of Blackwell Avenue shall be designated by the prefix "N" and running south of Blackwell Avenue by the prefix "S," and that all streets and avenues running east of Main Street shall be designated by the prefix "E" and that all streets and avenues running west of Main Street shall be designated by the prefix "W."

(b) Each lot in each block shall constitute the distance for a number, and where a lot has more than one house thereon, then the numbers shall be in halves or quarters as the number of houses on each lot may require.

(Code 1952, title 14, ch. 2, § 20; Code 1967, § 22-19)

Secs. 22-15-22-31. - Reserved.

ARTICLE II. - SIDEWALKS, CURBS AND GUTTERS

Sec. 22-32. Permit required for construction; fee.

Before any sidewalk, curb, gutter or combined curb and gutter or driveway is constructed a permit to construct same must be obtained from the office of the city engineer. A fee as set by resolution shall be paid at the time of the issuance of said permit to the city clerk.

(Code 1952, title 3, ch. 4, § 34; Code 1967, § 22-31)

Sec. 22-33. City engineer to supervise, approve all construction.

All material used and the finished sidewalks, curbs, gutter or combined curb and gutter shall be subject to the supervision and approval of the city engineer.

(Code 1952, title 3, ch. 4, § 44; Code 1967, § 22-32)

Sec. 22-34. Business streets and avenues defined.

For the purpose of this article, all business streets or avenues shall be those as described in the street map on file in the city clerk's office.

(Code 1952, title 3, ch. 4, § 35; Code 1967, § 22-33)

Sec. 22-35. Location of sidewalks.

All sidewalks laid on business streets or avenues as described in the street map on file in the city clerk's office, and on all residence streets or avenues, 50 feet or less in width, the inside edge shall be on the property line; on all other residence streets the inside edge of the sidewalk shall be 18 inches from the property line.

(Code 1952, title 3, ch. 4, § 36; Code 1967, § 22-34)

Sec. 22-36. Width, thickness of concrete sidewalks.

All sidewalks laid on business streets and avenues shall extend from the property line to the curbline; on all other streets and avenues, the sidewalk shall be not less than four feet in width. All concrete sidewalks shall be four inches in thickness except across driveways and alleys crossing where it shall be not less than five inches in thickness.

(Code 1952, title 3, ch. 4, § 37; Code 1967, § 22-35)

Sec. 22-37. Construction of sidewalks on corner lots.

When sidewalks are constructed in front of or on the outer side of corner lots it shall extend continuously to the curbline.

(Code 1952, title 3, ch. 4, § 38; Code 1967, § 22-36)

Sec. 22-38. Sidewalk grades.

All sidewalks constructed in the city shall be constructed in conformity with line and grade as placed by the city engineer.

(Code 1952, title 3, ch. 4, § 39; Code 1967, § 22-37)

Sec. 22-39. Specifications of concrete sidewalks.

(a) All concrete sidewalks shall be constructed of Portland cement, fine aggregate, coarse aggregate and water. The fine aggregate shall be sand composed of clean hard, uncoated grains, free from conglomerate, soft or flaky particles, silt or loam. The coarse aggregate shall be clean, tough and durable particles, of limestone or gravel, free from coatings of any kind, disintegrated or soft pieces, mud balls, sticks or vegetable matter. The water shall be free from oil, silt or vegetable matter and reasonably clear.

(b) All aggregate shall be well graded from the largest to the smallest particles. The maximum percentage of deleterious substance shall not exceed five percent by weight. All aggregate including the cement and water shall be so proportioned that at the end of 28 days the concrete shall have a crushing strength of 3,000 pounds per square inch.

(Code 1952, title 3, ch. 4, § 40; Code 1967, § 22-38)

Sec. 22-40. Location of curbs, gutters.

All curbs, gutters and combined curb and gutter shall be placed in conformity with the line and grade as given by the city engineer.

(Code 1952, title 3, ch. 4, § 41; Code 1967, § 22-39)

Sec. 22-41. Thickness, height of curbs, gutters.

The thickness of all curbs and gutters shall be not less than six inches. The height of all curbs above the flow line shall conform to the height of all curbs on the same street or avenue or as directed by the city engineer.

(Code 1952, title 3, ch. 4, § 42; Code 1967, § 22-40)

Sec. 22-42. Specifications of curbs, gutters.

The curb, gutter or combined curb and gutter shall be composed of materials combined in the same mixture as designated for concrete sidewalks.

(Code 1952, title 3, ch. 4, § 43; Code 1967, § 22-41)

Sec. 22-43. Requirements for cutting curbs, gutters.

All cuttings of curbs and/or gutters for the purpose of making driveway openings shall be by saw-cutting and in the manner and of the dimensions as follows:

(1) All driveway openings shall be 20 feet in width, with a lead-in curve on a five foot radius at either end.

(2) A traverse saw-cut shall be made at either end of the 20-foot opening and a longitudinal saw-cut shall be made one foot from the outside edge of the gutter.

(3) All saw-cuts shall be two inches in depth.

(Code 1967, § 22-42; Ord. No. 1735, § 1, 5-23-1961)

Sec. 22-44. Abutting property owner to keep sidewalks clean or free of snow and ice.

All persons owning or controlling property located adjacent to a sidewalk shall keep such sidewalk free of snow, ice, dirt and litter.

Section 22-45 Sidewalks required for new development and redevelopment; Definitions; Requirements; Sidewalk specifications; Exceptions**.**

A. Definitions: For the purposes of this section, the following definitions shall apply:

NEW DEVELOPMENT: Improving an undeveloped lot or tract of land by subdividing, site planning, construction or building permitting. Redevelopment on a previously developed lot or tract of land where the previous development is removed for the purposes of developing the site shall also be for considered new development.

REDEVELOPMENT: The development of a previously developed lot or tract of land after the structures are removed.

B. Requirement: Developers or owners or persons in custody and control of any real property desiring to construct new development or redevelopment of a residential, commercial or special/public use zoning districts in the City of Blackwell shall construct sidewalks that parallel abutting streets in the public right-of-way of pursuant to the specifications as provided by Subsection C, unless excepted as provided in Subsection D or the developer pays the City a sidewalk development fee as provided in Subsection E. The purpose of this section is to encourage sidewalks that promote active living in the City and to provide monies for the construction of sidewalks by the City for such same purpose when sufficient monies are available for that purpose. The requirements of this section are applicable to site plan review and may be considered and required as a part of site plan review process.

C. Sidewalks Specifications.

1. Sidewalks, including curbs, ramps and other associated facilities and appurtenances (“sidewalks”) shall comply with the most current design, construction and accessibility guidelines provided in the Americans with Disabilities Act, as amended (“Act”). Should a conflict arise between guidelines associated with the Act and the specifications provided in this article, the more restrictive shall apply.

2. Where the specifications contained in this article pertaining to design, construction and accessibility conflict with the guidelines provided in the Act, the guidelines provided in the Act shall supersede those contained in this article.

3. Plans for sidewalks shall be submitted in the form of an application for permit and approved by the City Building Official with respect to location and the requirements of this section prior to construction. A permit will be issued for the construction of such sidewalk at no cost to the applicant.

4. Should a conflict arise between guidelines associated with the Americans with disabilities act and the specifications provided in Subsection 2 hereinabove, the more restrictive shall apply.

D. Exceptions:

1. New development located adjacent to unimproved roads.
2. Placement or construction of an accessory building in a residential zoning district.
3. Upon application made to the Planning Commission and a showing by the applicant that construction of the sidewalks is not necessary to promote the health, safety and welfare of the City of Blackwell. The recommendation of the Planning Commission shall be forwarded to the City Council for a final decision.

Note: Ordinance N0. 2019-18 approved on November 7, 2019.

Secs. 22-46—22-61. Reserved.

ARTICLE III. STREET PLAN

Sec. 22-62. Definitions.

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

Collector street means a street located within a neighborhood or integrated use area which collects traffic from minor streets and which forms the most direct route to a major street or a community facility.

Expressway means an arterial route having an existing or potential traffic demand which requires two or more lanes for moving traffic each direction, where opposing traffic lanes are separated by traffic islands or medians and where access is fully or partially controlled.

Major street means any street classified as an expressway, primary thoroughfare or secondary thoroughfare.

Minor street means any street the primary purpose of which is to provide access to abutting properties and which is designed so that its use by through traffic will be discouraged.

Primary thoroughfares means an arterial route where access is only partially controlled and where traffic loads do not justify the design of an expressway.

Secondary thoroughfares means an arterial route which is similar to the primary thoroughfares but for the limitations of easement width and traffic load.

(Code 1967, § 22-55; Ord. No. 1739, § 3, 7-25-1961)

Sec. 22-63. Purpose.

This article is intended to promote the orderly development and use of land within the existing and future urban area, to eliminate existing traffic congestion and facilitate the rapid, safe and efficient movement of traffic and to make provision for anticipated future traffic needs, and to permit the acquisition of right-of-way for major streets and highways in a way that will effect maximum economy for the city and convenience and utility for the private property owner.

(Code 1967, § 22-53; Ord. No. 1739, § 1, 7-25-1961)

Sec. 22-64. Designation of plan.

This article shall be designated as the major street plan and shall be a part of the general plan.

(Code 1967, § 22-54; Ord. No. 1739, § 2, 7-25-1961)

Sec. 22-65. Major street map adopted.

Major streets and highways shall be those which are designated on the official major street map on file in the city clerks' office. The map and all explanatory material thereon is hereby adopted and incorporated by reference and made a part of this article as if fully set out herein.

(Code 1967, § 22-56; Ord. No. 1739, § 4, 7-25-1961)

Sec. 22-66. Building inspector and city engineer to administer provisions.

The provisions of this article shall be administered by the building inspector with the advice and assistance of the city engineer.

(Code 1967, § 22-57; Ord. No. 1739, § 11, 7-25-1961)

Sec. 22-67. Permit required; application; contents.

(a) *Required.* No building, structure, sign, driveway, roadway or public utility line or structure which is authorized by these regulations to be located within the setback lines herein established shall be erected, moved, improved or located therein until a permit is obtained from the building inspector as provided hereinafter.

(b) *Building inspector to issue.* Whenever any structure, driveway, building, utility or other improvements, or curb cut or structural alteration of a roadway surface is to be made, a permit shall be obtained from the building inspector.

(c) *Application, contents.* The applicant shall furnish the building inspector with the following information at the time a request for a permit is made:

    (1) Detailed plans of the proposed construction or change in roadway surface.

    (2) The approval of the state highway department of plans of all improvements or changes that are to be located in a setback line on a state or federal highway or which connects with or affects a state or federal highway.

(d) *Scope of section.* This section shall not be used to deprive or be construed as depriving any person of the right of ingress and egress, but is to insure that the type of structures and

roadways located within, or connecting with public streets and highways are of such a design that they will not create undue congestion, dangers or traffic hazards on or adjacent to the public streets.

(Code 1967, § 22-58; Ord. No. 1739, § 11, 7-25-1961)

Sec. 22-68. Ingress, egress structural requirements; standards adopted.

(a) Ingress and egress facilities shall be designed in accordance with the current Standard Designs for Driveway Entrances for Oklahoma Highways, as prepared by the state department of highways and adopted by the state highway commission in its rules, regulations and policies, one copy of which Standard Designs for Driveway Entrances for Oklahoma Highways is on file in the office of the city clerk. These standards shall be interpreted and administered by the building inspector with the advice and assistance of the city engineer. Under unusual conditions which are not directly covered by the Standard Designs for Driveway Entrances for Oklahoma Highways, the city engineer is hereby authorized to approve the construction of ingress and egress facilities that meet the special requirements needed to serve adjacent property provided that the conditions of safety and protection of the public roadway as established in the Standard Designs for Driveway Entrances for Oklahoma Highways is maintained.

(b) Off-street parking spaces designed to be used by more than two vehicles shall be arranged so that no vehicle will back directly from a parking stall on to a major or minor street or highway. Divisional islands and curbs shall be constructed where necessary to provide such protection.

(Code 1967, § 22-63; Ord. No. 1739, § 9, 7-25-1961)

State Law reference— Adoption by reference, 11 O.S. § 14-107.

Sec. 22-69. Reserved.

Editor's note— Per the city, § 22-69 was repealed by Ord. No. 2182. The former § 22-69 pertained to authority of board of adjustment to modify, vary setback regulations, and derived from Ord. No. 1739, § 10, adopted July 25, 1961, and the Code of 1967, § 22-64.

Sec. 22-70. Penalty for violation of provisions.

Any person who shall violate any of the provisions of this article or fail to comply therewith or with any of the requirements thereof; or who shall build or alter any building in violation of any detailed statement or plans submitted and approved hereunder shall be deemed guilty of an offense and shall be guilty of a class B offense, including costs. Each day such violation shall be permitted to exist shall constitute a separate offense. The owner of any building or premises or part thereof, where anything in violation of this chapter shall be placed or shall exist, and any architect, builder, contractor, individual, person, or corporation employed in connection therewith, and who may have assisted in the commission of any such violation shall be deemed guilty of a separate offense, and upon conviction shall be fined as herein provided.

(Code 1967, § 22-65; Ord. No. 1739, § 13, 7-25-1961; Ord. No. 1942, § 9, 7-7-1970)

Secs. 22-71-22-79. - Reserved.

ARTICLE IV. EXCAVATING OR CUTTING STREETS, ALLEYS OR ROADWAYS

Sec. 22-80. Application for a city permit.

Prior to commencement of any boring, cutting or excavation under, across or through any street, alley or roadway, the person or entity desiring the same ("permittee") shall apply for a permit on the appropriate city form stating the type, nature, location, manner and necessity for the proposed boring, cutting, trenching or excavation. The appropriate permit fee of $28.50 shall accompany the application. The application shall also state the type of fill materials being used. The application must be approved and a permit issued by the code enforcement officer prior to any such boring, cutting, trenching or excavation.

(Ord. No. 2820, § I, 10-15-2015)

Sec. 22-81. Maintenance and indemnity bond.

Prior to commencement of any boring, cutting, trenching or excavation of any street, alley or roadway, the person or entity performing the same shall post with the city clerk a good and sufficient surety or indemnity bond, payable to the city in the amount of at least $5,000.00, unless they already have a liability bond with city, to protect the city against defective workmanship and material for a period of one year from the date of the closing of the bore, cut, trench or excavation, and otherwise to protect and save the city harmless from any and all damages caused by any such boring, cutting, trenching or excavation.

(Ord. No. 2820, § I, 10-15-2015)

Sec. 22-82. Specifications.

(a) All bores, cuts, trenches or excavations to streets, alleys or roadways shall have the excavated material removed and hauled away by the permittee. If excavated soil is five yards or greater, it must be tested for heavy metals (with such test furnished to the code enforcement officer) and disposed of in accordance with ODEQ guidelines. No excavated soil shall be used as backfill material.

(b) After the installation, replacement or repair of any utility pipeline or other line is accomplished, the permittee shall fill the bore, cut, trench or excavate in the following manner:

  (1) Cover the utility pipeline or other line and connection with approximately one foot of compacted sand;

  (2) Continue backfill with clean fill-sand or gravel compacted not more than every one foot to a 95-percent compaction rate up to within six inches of the finished grade (each lift shall be not more than one foot in thickness and compacted to a minimum of 95 percent density);

(3) The surface shall be replaced with compacted one and one-half inch crusher run gravel, asphalt, or concrete depending on the original surface composition.

(c) The permittee shall be responsible, both under the bond or otherwise, for any required resurfacing needed to the street, alley or roadway surface for one year from the date of closing the bore, cut, trench or excavation.

(d) Throughout the performance of the work and upon completion of all restoration work, the code enforcement officer shall examine the location to determine if work complies with this article. If such restoration does not comply with this article, the city may cause proper and necessary repairs at the sole cost of the permittee.

(e) It is the code enforcement officer's discretion as whether the repair and replacement of streets, alleys and roadways shall be accomplished by trenching or boring.

(f) Any permittee who violates the terms and provisions of this article, either by an act or omission, shall be guilty of a Class B offense as provided by section 1-4(b)(2) of this Code, plus court costs and state assessments if applicable. Each day that the act or omission shall continue shall be considered an additional offense.

(Ord. No. 2820, § I, 10-15-2015)

Sec. 22-83. Permit required for curb cut and/or driveway openings to a street, alley or roadway.

No person, firm or entity shall cut the curb of any street, alley or roadway and/or otherwise provide for a driveway opening to any street, alley or roadway (the "work") without filing an application, paying $28.50 as a permit fee, and obtaining a permit authorizing such work from the Code Enforcement. All such work shall be made in accordance with the relevant section of the Blackwell Subdivision Regulations (the "regulations"), or as such regulations may be subsequently amended, and as filed in the office of the city clerk; provided however, the city engineer (section 22-33) shall have the right and authority to waive and/or alter such regulations and provide for amended or different requirements with respect to any specific work, in the event same is necessary for better traffic control or other engineering purposes and in order to promote the public's health, safety and welfare. No person, firm or entity shall fail to follow this article or as otherwise required and directed by the city engineer.

Chapter 23 RESERVED

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Chapter 24 TAXATION

ARTICLE I. IN GENERAL

Secs. 24-1—24-18. Reserved.

ARTICLE II. USE TAX

ARTICLE III. UTILITY TAX

ARTICLE IV. HOTEL TAX

Chapter 24 TAXATION

Editor's note— Sales taxes are compiled in appendix A to this Code.

State Law reference— Municipal taxation generally, 68 O.S. § 2701 et seq.

ARTICLE I. - IN GENERAL

Secs. 24-1—24-18. - Reserved.

ARTICLE II. - USE TAX

State Law reference— State use tax, 68 O.S. § 1401 et seq.

Sec. 24-19. Excise tax on storage, use or other consumption of tangible personal property levied.

(a) There is hereby levied and shall be paid by every person storing, using or otherwise consuming, within the city, tangible personal property purchased or brought into the city, an excise tax on the storage, use or other consumption within the city of such property at the rate of five percent of the purchase price of such property.

(b) The additional tax levied hereunder shall be paid at the time of importation or storage of the property within the city and shall be assessed to only property purchased outside the state; provided that the tax levied herein shall not be levied against tangible personal property intended solely for use outside the city but which is stored in the city pending shipment to outside the city or which is temporarily retained in the city for the purpose of fabrication, repair, testing, alteration, maintenance or other service.

(c) Any person liable for payment of the tax authorized herein may deduct from such tax any local or municipal sales tax previously paid on such goods or services; provided, however, that the amount deducted shall not exceed the amount that would have been due if the taxes imposed by the city had been levied on the sale of such goods or services.

(Ord. No. 2660, § 1, 10-17-1995; Ord. No. 2703, 9-7-1999; Ord. No. 2832, § I, 7-27-2016)

Sec. 24-20. Exemptions.

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

(1) The use of an article of tangible personal property brought into the city by a nonresident individual visiting the city for his personal use or enjoyment while within the city;

(2) The use of tangible personal property purchased for resale before being used;

(3) The use of any article of tangible personal property on which a tax equal to or in excess of that levied by both 68 O.S. ch. 1, art. 14, the Oklahoma Use Tax Code (68 O.S. § 1401 et seq.) and the provisions of this article has been paid by the person using such tangible personal property in the city, whether such tax was levied under the laws of the state or of some other state or municipality of the United States. If any article of tangible personal property has already been subjected to a tax by the state or by any other state or municipality in respect to its sale or use in an amount less than the tax imposed by both the Oklahoma Use Tax Code and this article, the provisions of this

article shall also apply to it by a rate measured by the difference only between the rate provided by both the Oklahoma Use Tax Code and this article, and the rate by which the previous tax upon the sale or use was computed; provided that no credit shall be given for taxes paid in another state or municipality, if that state or municipality does not grant like credit for taxes paid in the state and the city;

(4) The use of machinery and equipment purchased and used by persons establishing new manufacturing or processing plants in the city, and machinery and equipment purchased and used by persons to the operation of manufacturing plants already established in the city; provided, however, that this exemption shall not apply unless such machinery and equipment is incorporated into, and is directly used in the process of manufacturing property subject to taxation under this article. For the purpose of this subsection, the term "manufacturing plants" shall mean those establishments primarily engaged in manufacturing or processing operations, and generally recognized as such;

(5) The use of tangible personal property now specifically exempted from taxation under the sales tax code of the city;

(6) The use of any article of tangible personal property brought into the city by an individual with intent to become a resident of the city where such personal property is for such individual's personal use or enjoyment;

(7) The use of any article of tangible personal property used or to be used by commercial airlines or railroads; or

(8) Livestock purchased outside of the state and brought into the city for feeding or breeding purposes, and which is later resold.

(Ord. No. 2660, § 2, 10-17-1995)

Sec. 24-21. Time when due; returns; payment.

The tax levied by this article is due in a manner and form prescribed for payment of the state use tax under the state use tax code.

(Ord. No. 2660, § 3, 10-17-1995)

Sec. 24-22. Tax constitutes debt.

Such taxes, penalty and interest due hereunder shall at all times constitute a prior, superior and paramount claim as against the claims of unsecured creditors, and may be collected by suit as any other debt.

(Ord. No. 2660, § 4, 10-17-1995)

Sec. 24-23. Collection of tax by retailer or vendor.

Every retailer or vendor maintaining places of business both within and without the state and making sales of tangible personal property from a place of business outside the state for use in the city shall at the time of making such sales collect the use tax levied by this article from the

purchaser and give to the purchaser a receipt therefor in the manner and form prescribed by the tax commission, if the tax commission shall, by regulation, require such receipt. Each retailer or vendor shall list with the tax commission the name and address of all his agents operating in the city and location of any and all distribution or sales houses or offices or other places of business in this city.

(Ord. No. 2660, § 5, 10-17-1995)

Sec. 24-24. Collection of tax by retailer or vendor not maintaining place of business within state or both within and without state; permits.

The tax commission may, in its discretion and upon application, authorize the collection of the tax herein levied by any retailer or vendor not maintaining a place of business within the state but who makes sales of tangible personal property for use in the city and by the out-of-state place of business of any retailer or vendor maintaining places of business both within and without the state and making sales of tangible personal property at such out-of-state place of business for use in the city. Such retailer or vendor may be issued, without charge, a permit to collect such taxes, by the tax commission in such manner and subject to such regulations and agreements as it shall prescribe. When so authorized, it shall be the duty of such retailer or vendor to collect the tax upon all tangible personal property sold to his knowledge for use within the city. Such authority and permit may be canceled when, at any time, the tax commission considers that such tax can more effectively be collected from the person using such property in the city; provided, however, that in all instances where such sales are made or completed by delivery to the purchaser within the city by the retailer or vendor in such retailer's or vendor's vehicle, whether owned or leased (not by common carrier), such sales or transactions shall continue to be subject to applicable city sales tax at the point of delivery, and the tax shall be collected and reported under taxpayer's sales tax permit number accordingly.

(Ord. No. 2660, § 6, 10-17-1995)

Sec. 24-25. Revoking permits.

Whenever any retailer or vendor not maintaining a place of business in the state, or both within and without the state, and authorized to collect the tax herein levied falls to comply with any of the provisions of this article, the state use tax code, or any order, rules or regulations of the tax commission, the tax commission may, upon notice and hearing as provided in 68 O.S. § 1408, by order, revoke the use tax permit, if any, issued to such retailer or vendor, and if any such retailer or vendor is a corporation authorized to do business in the state, may, after notice and hearing as provided herein, cancel said corporation's license to do business in the state, and shall issue a new license only when such corporation has complied with the obligations under this article, the state use tax code, or any order, rules or regulations of the tax commission.

(Ord. No. 2660, § 7, 10-17-1995)

Sec. 24-26. Remunerative deductions allowed vendors or retailers of other states.

Returns and remittances of the tax herein levied and collected shall be made to the tax commission at the time and in the manner, form and amount as prescribed for returns and remittances required by the state use tax code, and remittances of tax collected hereunder shall be subject to the same discount as may be allowed by the state use tax code for the collection of state use taxes.

(Ord. No. 2660, § 8, 10-17-1995)

Sec. 24-27. Interest and penalties; delinquency.

The provisions of 68 O.S. § 217 are hereby adopted and made a part of this article, and interest and penalties at the rates and in the amounts as therein specified are hereby levied and shall be applicable in cases of delinquency in reporting and paying the tax levied by this article; provided that the failure or refusal of any retailer or vendor to make and transmit the reports and remittances of tax in the time and manner required by this article shall cause such tax to be delinquent. In addition, if such delinquency continues for a period of five days, the retailer or vendor shall forfeit his claim to any discount allowed under this article.

(Ord. No. 2660, § 9, 10-17-1995)

Sec. 24-28. Waiver of interest and penalties.

The interest or penalty or any portion thereof accruing by reason of a retailer's or vendor's failure to pay the city tax herein levied may be waived or remitted in the same manner as provided for said waiver or remittance as applied in administration of the state use tax provided in 68 O.S. § 220, the applicable provisions of which are hereby adopted by reference and made a part of this article in order to accomplish the purposes of this section.

(Ord. No. 2660, § 10, 10-17-1995)

Sec. 24-29. Erroneous payments; claim for refund.

Refund of erroneous payment of the city use tax herein levied may be made to any taxpayer making such erroneous payment in the same manner and procedure, and under the same limitations of time, as provided for administration of the state use tax as set forth in 68 O.S. § 227, the applicable provisions of which are hereby adopted by reference and made a part of this article in order to accomplish the purpose of this section.

(Ord. No. 2660, § 11, 10-17-1995)

Sec. 24-30. Fraudulent returns.

In addition to all civil penalties provided by this article, the willful failure or refusal of any taxpayer to make reports and remittances herein required, or the making of any false and fraudulent report for the purpose of avoiding or escaping payment of any tax or portion thereof rightfully due under this article, shall be an offense.

(Ord. No. 2660, § 12, 10-17-1995)

Sec. 24-31. Records confidential.

The confidential and privileged nature of the records and files concerning the administration of the city use tax is legislatively recognized and declared, and to protect the same, the provisions of 68 O.S. § 205 and each subsection thereof, is hereby adopted by reference and made fully effective and applicable to administration of the city use tax as is herein set forth in full.

(Ord. No. 2660, § 13, 10-17-1995)

Sec. 24-32. Provisions cumulative.

The provisions hereof shall be cumulative, and in addition to any and all other taxing provisions of the city ordinances.

(Ord. No. 2660, § 14, 10-17-1995)

Sec. 24-33. Definitions.

The definitions of words, terms and phrases contained in 68 O.S. ch. 1, art. 14, the Oklahoma Use Tax Code (68 O.S. § 1401 et seq.) are hereby adopted by reference and made a part of this article. In addition thereto, the following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section:

Tax collector means the department of city government or the official agency of the state duly designated, according to law or contract authorized by law, to administer the collection of the tax herein levied.

Transaction means a sale.

(Ord. No. 2660, §§ 16, 17, 10-17-1995)

Sec. 24-34. Classification of taxpayers.

For the purpose of this article, the classification of taxpayers hereunder shall be as prescribed by state law for purposes of the Oklahoma Use Tax Code (68 O.S. § 1401 et seq.).

(Ord. No. 2660, § 18, 10-17-1995)

Sec. 24-35. Subsisting state permits.

All valid and subsisting permits to do business issued by the tax commission pursuant to the Oklahoma Use Tax Code (68 O.S. § 1401 et seq.) are, for the purpose of this article, hereby ratified, confirmed and adopted in lieu of any requirement for an additional city permit for the same purpose.

(Ord. No. 2660, § 19, 10-17-1995)

Sec. 24-36. Purposes of revenues.

It is hereby declared to be the purpose of this article to provide revenues for the support of the functions of the municipal government of the city, and any and all revenues derived hereunder may be expended by the city council for any purpose for which funds may be lawfully expended as authorized.

(Ord. No. 2660, § 20, 10-17-1995)

Secs. 24-37-24-60. - Reserved.

ARTICLE III. - UTILITY TAX

Sec. 24-61. Levied.

There is hereby levied and assessed an annual tax of two percent upon the gross receipts from residential and commercial sales of power, light, heat, gas, electricity or water within the city, and such tax shall be in lieu of any other franchise, license, occupation or excise tax levied by the city, in accordance with the provisions of 68 O.S. §§ 2601—2605 and other applicable provisions of state law.

(Ord. No. 2635, § 1, 8-15-1994)

Sec. 24-62. Applicability.

The tax levied under this article shall, when levied, apply to every person engaged in the business of furnishing power, light, heat, gas, electricity or water within the city limits, except the city municipal authority; provided that it shall not apply to any person operating under a valid franchise from the city granted pursuant to OK Const. Art. 18 § 5(a), nor shall it apply to those entities exempt from such taxation under any applicable provision of state law.

(Ord. No. 2635, § 2, 8-15-1994)

Sec. 24-63. Payment.

The tax levied under this article shall be payable monthly on or prior to the tenth day of the month for the preceding month's receipts, and the proceeds thereof shall be placed in the general revenue fund of the city.

(Ord. No. 2635, § 3, 8-15-1994)

Sec. 24-64. Failure to pay.

Any person failing or refusing to pay such tax, when levied, shall be regarded as a trespasser and may be ousted from such city and, in addition thereto, an action may be maintained against

such person for the amount of the tax, and all expenses of collecting same, including reasonable attorney's fees.

(Ord. No. 2635, § 4, 8-15-1994)

Sec. 24-65. Tax constitutes lien.

The tax so imposed shall constitute a first and prior lien on all the assets located within the city of any person engaged in the business of selling utility services within the city.

(Ord. No. 2635, § 5, 8-15-1994)

Sec. 24-66. Record of sales.

It shall be the duty of any person subject to the tax levied hereunder to keep and maintain records as to the amount of gross receipts of sales of power, light, heat, gas, electricity or water within the city, and such records shall be subject to review and audit by the city upon reasonable request. In addition, a summary of such sales for the preceding calendar month, including the number of customers served, the number of customers exempt from taxation under applicable state sales tax laws, the number of units of gas, electricity or water (cubic feet, kilowatt hours, or gallons, respectively) sold to exempt and nonexempt customers, the gross receipts from sales to exempt and nonexempt customers, and the amount of the gross receipt tax levied herein based on such sales, shall be provided unto the city at the time of payment of the tax pursuant to section 24-63.

(Ord. No. 2635, § 6, 8-15-1994)

Secs. 24-67-24-90. - Reserved.

ARTICLE IV. HOTEL TAX

Sec. 24-91. Definitions.

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

Hotel means any building, structure, trailer or other facility in which the public may, for consideration, obtain sleeping accommodations and in which five or more rooms are used for the accommodation of transient guests, whether such rooms are in one or several structures. The term "hotel" includes hotels, apartment hotels, motels, tourist homes, houses or courts, lodging houses, inns, bed and breakfast inns, rooming houses, trailer houses, trailer motels, apartments and sleeping rooms not occupied by permanent residents, and all other facilities where rooms or sleeping accommodations or space are furnished for a consideration. The term "hotel" does not include hospitals, sanitariums, nursing homes, or dormitories at educational or charitable institutions.

Occupancy means the use or possession or the right to use or possession of any room in a hotel or the right to the use or possession of the furnishings or to the services and accommodations accompanying the use and possession of such room.

Occupant means a person who, for a consideration, uses, possesses, or has the right to the use or possession of any room in a hotel under any lease, concession, permit, right of access, license to use, or other agreement.

Operator means any person operating a hotel in this city, including, but not limited to, the owner, proprietor, lessee, sublessee, mortgagee in possession, licensee, or any other person otherwise operating such hotel.

Permanent resident means any occupant who has or shall have the right of occupancy of any room or rooms in a hotel for at least 30 consecutive days during the current calendar year or preceding year.

Rent means the consideration received for occupancy valued in money, whether received in money or otherwise, including all receipts, cash, credits, and property or services of any kind or nature, and also any amount for which credit is allowed by the operator to the occupant, without any deduction therefrom whatsoever.

Return means any return filed or required to be filed as herein provided.

Room means any room of any kind in any part or portion of a hotel which is available for or let out for use or possessed for any purpose, other than a place of assembly. For the purpose of this definition, the term "place of assembly" means a room or space which is not capable of being occupied for lodging purposes and which is used for educational, recreational or amusement purposes, including dance halls, cabarets, night clubs, restaurants, any room or space for public or private banquet, feasts, socials, card parties or weddings, lodge and meeting halls or rooms, skating rinks, gymnasiums, swimming pools, billiards, bowling, and table tennis rooms, halls or rooms used for public or private catering purposes, funeral parlors, markets, recreational rooms, concert halls, broadcasting studios, and all other places of similar type of occupancy.

Tax means the tax levied pursuant to this article.

(Ord. No. 2584, § 2(2-30), 8-18-1992)

Sec. 24-92. Use of funds.

(a) Funds collected pursuant to the provisions of this article, minus reasonable costs of administration, shall be set aside and used exclusively for the purpose of encouraging, promoting and fostering conventions, conferences and tourism development in the city. The tax revenue collected may also be pledged and used for public capital improvements related to the aforementioned purposes and used to pay the debt service and costs of issuance on any notes, bonds, obligations or evidences of indebtedness issued by the Blackwell Municipal Authority to finance such public capital improvements related to such purposes.

(b) The city council shall have the general oversight and responsibility for the expenditure of the funds collected pursuant to the provisions of this article, and the city council is hereby specifically authorized to contract with the city chamber of commerce or other nonprofit entity to implement the purpose set out herein.

(Ord. No. 2584, § 2(2-31), 8-18-1992)

Sec. 24-93. Tax levied.

Beginning on July 1, 2019, and continuing thereafter until the lawful repeal of this ordinance (providing however, the tax levied pursuant hereto may not be repealed by the City Council of the City or by initiative or referendum procedures by the registered voters of the City in the event that the proceeds of the referenced tax are being used or have been pledged by the Blackwell Municipal Authority pursuant to the purpose of the tax. There is hereby levied an excise tax of eight percent (8%) upon the gross proceeds or gross receipts derived from all rent for every occupancy of a room or rooms in a hotel in this city, provided that such tax shall not be assessed where the rent is less than $5.00 per day.

(Ord. No. 2019-02, Approved on 1-28-2019)

Sec. 24-94. Exemptions.

The following shall be exempt from the tax levied by this article:

(1) Permanent residents;

(2) Officers, agents, representatives or employees of the United States government or any agency or division thereof whose occupancy of the room is required in connection with the official business or affairs of said government or agency or division thereof;

(3) Officers, agents, representatives or employees of the state or any political subdivision thereof whose occupancy of the room is required in connection with the official business or affairs of the state or any political subdivision thereof;

(4) Officers, agents, representatives or employees of any organization, corporation or association organized and operated exclusively for religious, charitable, philanthropic or educational purposes, provided that its primary purpose is not the carrying on of a trade or business for profit or savings.

(Ord. No. 2584, § 2(2-33), 8-18-1992)

Sec. 24-95. Certificate of exemption required.

Any person claiming to be exempt, pursuant to section 24-94(4), from the tax levied under this article shall obtain a certificate from the manager certifying that the organization, association or corporation with which he is affiliated is exempt from the tax. Prior to issuing such a certificate, the organization, association or corporation shall certify to the city manager in writing that the occupant is its officer, agent, representative or employee and that his occupancy of the room is required in connection with the business or affairs of the organization, association or corporation.

(Ord. No. 2584, § 2(2-34), 8-18-1992)

Sec. 24-96. Tax to be designated.

The operator shall separately designate, charge, and show all taxes on all bills, statements, receipts or any other evidence of charges or payment of rent for occupancy issued or delivered by the operator.

(Ord. No. 2584, § 2(2-35), 8-18-1992)

Sec. 24-97. Operator responsible for collection.

The operator shall be responsible for the collection of the tax from the occupant and shall be liable to the city for the tax.

(Ord. No. 2584, § 2(2-36), 8-18-1992)

Sec. 24-98. Discount.

In order to remunerate an operator for keeping tax records, filing reports, and remitting the tax when due, a discount equal to that allowed by the state tax commission for the collection of sales tax shall be allowed upon all taxes paid prior to the time they become delinquent.

(Ord. No. 2584, § 2(2-37), 8-18-1992)

Sec. 24-99. Records.

It shall be the duty of every operator required to make a return and pay any tax under this article to keep and preserve suitable records of the gross daily rentals together with other pertinent records and documents which may be necessary to determine the amount of tax due hereunder and such other records as will substantiate and prove the accuracy of such returns. All such records shall remain in the city and be preserved for a period of three years, unless the manager, in writing, has authorized their destruction or disposal at an earlier date, and shall be open to examination at any time by the manager or by any of his duly authorized agents. The burden of proving that a sale was not a taxable sale shall be upon the operator who made the sale.

(Ord. No. 2584, § 2(2-38), 8-18-1992)

Sec. 24-100. Returns.

(a) The tax levied hereunder shall be due and payable to the city on the first day of each month, except as herein provided, by any person liable for the payment of any tax due under this article. For the purpose of ascertaining the amount of the tax payable under this article, it shall be the duty of all operators, on or before the 15th day of each month, to deliver to the manager, upon forms prescribed and furnished by him, returns, under oath, showing the gross receipts or gross proceeds arising from rents received from occupancy of hotel rooms during the preceding calendar month. Such returns shall show such further information as the manager may require to correctly compute and collect the tax herein levied. In addition to the information required on returns, the manager may request and the operator shall

furnish any information deemed necessary for a correct computation of the tax levied herein. Such operator shall compute and remit to the city the required tax due for the preceding calendar month. The remittance of the tax shall accompany the returns herein required. If not paid on or before the 15th of such month, the tax shall be delinquent after such date; provided, however, that no interest or penalty shall be charged on such return if filed on or before the 20th day of such month.

(b) The manager may permit or require returns to be made by shorter or longer periods and upon such dates as he may specify. The form of return shall be prescribed by the manager and shall contain such information as he may deem necessary for the proper administration of this article. The manager may require amended returns to be filed within 20 days after notice, and such amended return shall contain the information specified in the notice.

(Ord. No. 2584, § 2(2-39), 8-18-1992)

Sec. 24-101. Payment of tax.

At the time of filing a return of occupancy and of rents, each operator shall pay to the manager the tax imposed by this article upon the rents included in such return, as well as all other monies collected by the operator acting or purporting to act under the provisions of this article.

(Ord. No. 2584, § 2(2-40), 8-18-1992)

Sec. 24-102. Bond required.

Where the manager believes that any operator is about to cease business, leave the state, or remove or dissipate assets, or for any other similar reason he deems it necessary in order to protect revenues under this article, he may require such operator to file with the city a bond issued by a surety company authorized to transact business in the state in such amount as the manager may fix to secure the payment of any tax or penalties and interest due, or which may become due, from such operator. In the event that the manager determines that an operator is to file such bond, he shall give notice to such operator specifying the amount of bond required, which shall in no event exceed twice the amount of the sum in controversy. The operator shall file such bond within five days after receiving such notice unless, within such five days, the operator shall request in writing a hearing before the city council at which time the necessity and amount of the bond shall be determined by the city council. Such determination shall be final and shall be complied with within 15 days thereafter. In lieu of such bond, securities approved by the manager or cash in such amount as he may prescribe may be deposited with the manager, who may at any time after five days notice to the depositor apply them to any tax and/or any penalties due, and for that purpose the securities may be sold at private or public sale.

(Ord. No. 2584, § 2(2-41), 8-18-1992)

Sec. 24-103. Assessment and determination of tax.

If a return required by this article is not filed, or if a return, when filed, is incorrect or insufficient, the amount of tax due shall be assessed by the manager from such information as may be obtainable and, if necessary, the tax may be estimated on the basis of external indices, such as number of rooms, location, scale of rents, comparable rents, types of accommodations and services, number of employees, or other factors. Written notice of such assessments shall be given to the person liable for the collection and payment of the tax. Such assessment shall finally and irrevocably fix and determine the tax unless the person against whom it is assessed, within 90 days after the giving of notice of such assessment, applies in writing to the city council for a hearing or unless the manager, upon his own initiative, reassesses the same. After such hearing, the city council shall give written notice of its determination to the person against whom the tax is assessed, and such determination shall be final.

(Ord. No. 2584, § 2(2-42), 8-18-1992)

Sec. 24-104. Refunds.

(a) *Procedure.* The manager shall refund or credit any tax erroneously, illegally, or unconstitutionally collected if written application to the manager for such refund shall be made within 90 days from the date of payment thereof. For like causes and in the same period, a refund may be made upon the initiative and the order of the manager. Whenever a refund is made, the reasons therefor shall be stated in writing. Such application may be made by the person on whom such tax was imposed and who has actually paid the tax. Such application may also be made by the person who has collected and paid such tax to the manager, provided that the application is made within 90 days of the payment by the occupant to the operator, but no refund of money shall be made to the operator until he has repaid to the occupant the amount for which the application for refund is made. The manager, in lieu of any refund required to be made, may allow credit therefor on payments due from the applicant.

(b) *Determination and hearing.* Upon application for a refund the manager may receive evidence with respect thereto, and make such investigation as he deems necessary. After making a determination as to the refund, the manager shall give notice thereof to the applicant. Such determination shall be final unless the applicant, within 90 days after such notice, shall apply in writing to the city council for a hearing. After such hearing, the city council shall given written notice of its decision to the applicant.

(Ord. No. 2584, § 2(2-43), 8-18-1992)

Sec. 24-105. Notices.

Any notice provided for under this article shall be deemed to have been given when such notice has been delivered personally to the operator or deposited in the United States Mail addressed to the last known address of the operator.

(Ord. No. 2584, § 2(2-44), 8-18-1992)

Sec. 24-106. Remedies exclusive.

The remedies provided in this article shall be the exclusive remedies available to any person for the review of tax liability imposed by this article.

(Ord. No. 2584, § 2(2-45), 8-18-1992)

Sec. 24-107. Powers of city manager.

In addition to all other powers granted to him, the city manager is hereby authorized and empowered to:

(1) Make, adopt, and amend rules and regulations appropriate to the collection of taxes pursuant to this article;

(2) Extend, for cause shown, the time for filing any return for a period not exceeding 60 days, and waive, remit, or reduce, for cause shown, any penalty;

(3) Delegate his functions hereunder to an assistant or other employee of the city;

(4) Assess, reassess, determine, revise and readjust the taxes imposed by this article; and

(5) Prescribe methods for determining the taxable and nontaxable rents.

(Ord. No. 2584, § 2(2-46), 8-18-1992)

Sec. 24-108. Registration certificates; certificates of authority.

Every operator shall file with the city manager a registration certificate in a form prescribed by the city manager within ten days after the effective date of the ordinance from which this article is derived, or, in the case of operators commencing business or opening new hotels after such effective date, within three days after such commencement or opening. The city manager shall, within five days after the filing of such certificate, issue, without charge to each operator, a certificate of authority empowering such operator to collect the tax from the occupant and duplicates thereof for each additional hotel. Each certificate or duplicate shall state the hotel to which it is applicable. Such certificate of authority shall be permanently displayed by the operator in such manner that it may be seen and come to the notice of all occupants and persons seeking occupancy. Such certificates shall be non-assignable and nontransferable and shall be surrendered immediately to the city manager upon the cessation of business of the hotel, or upon its sale or transfer.

(Ord. No. 2584, § 2(2-47), 8-18-1992)

Sec. 24-109. Interest.

If any tax levied by this article becomes delinquent, the person responsible and liable for such tax shall pay interest on such unpaid tax at the rate of 1½ percent per month on the unpaid balance from the date of delinquency until said unpaid balance is paid in full.

(Ord. No. 2584, § 2(2-48), 8-18-1992)

Sec. 24-110. Records confidential.

The confidential and privileged nature of the records and files concerning the administration of the tax is legislatively recognized and declared, and to protect the same, the provisions of 68 O.S. § 205, and each subsection thereof are hereby adopted by reference and made fully effective and applicable to the administration of this article as if herein set forth.

(Ord. No. 2584, § 2(2-49), 8-18-1992)

Sec. 24-111. Fraudulent returns.

The willful failure or refusal of any operator to make reports and remittances herein required, or the making of any false or 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.

(Ord. No. 2584, § 2(2-50), 8-18-1992)

Sec. 24-112. Provisions cumulative.

The provisions hereof shall be cumulative and in addition to any and all other taxing provisions of city ordinances.

(Ord. No. 2584, § 2(2-52), 8-18-1992)

Chapter 25 RESERVED

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Chapter 26 TRAFFIC

ARTICLE I. IN GENERAL

Chapter 26 - TRAFFIC

Editor's note— Section 1 of Ord. No. 2774, adopted July 20, 2009, repealed ch. 26 in its entirety. Section 2 provided that "There is hereby adopted by the City of Blackwell, Oklahoma, the following chapters of Title 47, Oklahoma Statutes, 2009 Supp.; entitled "Motor vehicles." Subsequently, Ord. No. 2776, §§ 1—59, adopted Sept. 8, 2009, added provisions as herein set out. At the discretion of the editor, the provisions have been numbered sequentially; however, the user's attention is directed to the former section numbers that were in effect prior to the codification of Ord. No. 2776, which are located in each history note. Provisions codified in this chapter regulate traffic in those matters which are not addressed by the statutes of the State of Oklahoma as previously adopted by reference.

ARTICLE I. - IN GENERAL

Editor's note— Ord. No. 2776, §§ 1—54, adopted Sept. 8, 2009, set out provisions relating to traffic. For purposes of classification, and at the editor's discretion, these provisions have been designated as art. I, §§ 26-1—26-54.

Sec. 26-1. Definitions.

In addition to the words and phrases defined in chapter 1 of the Uniform Vehicle Code (47 O.S. § 1-101 et seq.), the following words, terms and phrases when used in this chapter shall have the meanings ascribed to them in this section:

Alley means any passageway between two parallel streets, or any street as herein defined having no legal or official name other than alley.

Business district means that area included in the following described streets is deemed to be part of the business district:

(1) A Street from Frisco Avenue to Lincoln Avenue.

(2) Blackwell Avenue from 4th Street to B Street.

(3) First Street from Frisco Avenue to College Avenue.

(4) Main Street from Frisco Avenue to Adams Avenue.

Curb loading zone means a space adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers or materials.

Park means the standing of a vehicle, whether occupied or not, otherwise than temporarily, for the purpose of, and while actually engaged in, loading or unloading.

Police officer means every officer of the police department of the city or any officer authorized to direct or regulate traffic, or to make arrests for violation of traffic regulations.

Railroad means a carrier of persons and property upon cars operated upon stationary rails.

Railroad train means a steam engine, electric or other motor, with or without cars coupled thereto, operated upon rails.

Sidewalk means that portion of a street between the curblines, or the lateral lines of a roadway, and the adjacent property lines intended for the use of pedestrians.

Stop means, when required, the complete cessation of movement.

Stop, stopping, or standing means, when prohibited, any stopping or standing of a vehicle whether occupied or not, except when necessary to avoid conflict with other traffic, or in compliance with the directions of a police officer or traffic-control sign or signal.

(Ord. No. 2776, § 2(26-1), 9-8-2009)

Sec. 26-2. Tampering with, disturbing, etc., vehicle without owner's permission.

(a) A person who, with intent and without right to do so, injures or tampers in a manner that interferes with the safe operation of any vehicle or implement of husbandry or in any other manner damages any part or portion of said vehicle or implement of husbandry or any accessories, appurtenance or attachments thereto is guilty of an offense.

(b) A person who, without right to do so and with intent to commit a crime, climbs into or upon a vehicle or implement of husbandry whether it is in motion or at rest, attempts to manipulate any of the levers, starting mechanism, brakes or other mechanism or device of a vehicle or implement of husbandry while the same is at rest and unattended, or sets in motion any vehicle or implement of husbandry while the same is at rest and unattended is guilty of an offense.

(Ord. No. 2776, § 3(26-2), 9-8-2009)

Sec. 26-3 UTV and Golf Cart Regulations; Special Exceptions for ATVs and Mini-Bikes.

1. Definitions.

The following words shall have the following meaning in this section:

“ATV” or “All-terrain vehicle” shall mean a vehicle manufactured and used exclusively for off-highway use traveling on four or more non-highway tires and being fifty (50) inches or less in width, or as such definition may be hereinafter amended by Tit. 47, Section 1102 of the Oklahoma Statutes.
“Golf Cart” shall mean a vehicle specifically designed and intended for the purpose of transporting one or more persons and their golf clubs or maintenance equipment while engaged in the playing of golf, supervising the play of golf, or maintaining the condition of the grounds on a public or private golf course.

“UTV” or “utility vehicle” shall mean a vehicle powered by an internal combustion engine, manufactured and used exclusively for off-highway use, equipped with seating for two or more people, and a steering wheel, traveling on four or more wheels, or as such definition may be hereinafter amended by Tit. 47, Section 1102 of the Oklahoma Statutes.

2. Policy Statement:

This section is adopted in the interest of public safety. Golf Carts and/or UTVs are not designed or manufactured to be used on public streets and roads, and the City of Blackwell in no way

advocates or endorses the operation of Golf Carts and/or UTVs on streets or roadways. The City of Blackwell, by regulating such operation, is merely addressing safety issues. This section is not to be relied upon as a determination that operation on streets is safe or advisable even if done in accordance with this section. All persons operating Golf Carts and/or UTVs must be observant of and attentive to the safety of themselves and others, including their passengers, other motorists, bicyclists, and other pedestrians. All persons who operate or ride Golf Carts and/or UTVs on streets inside the corporate City limits of the City of Blackwell do so at their own risk and peril. The City of Blackwell has no liability under any theory of liability for permitting Golf Carts and/or UTVs to be operated on the streets of the City of Blackwell, Oklahoma.

3. Rules and Regulations. Golf Carts and/or UTVs may only be operated on streets within the City of Blackwell in accordance with the following rules and regulations:

a. Any person who operates a Golf Cart and/or UTV in the City of Blackwell takes full responsibility for all liability associated with operating such vehicle. Any and all Golf Carts or UTVs operated upon the streets must be insured by a currently effective liability insurance policy in the same minimum amount as is required for motor vehicles which operate upon the street by the laws of the State of Oklahoma and their drivers shall further possess on their person, while operating such Golf Cart and/or UTV, proof of such liability insurance.

b. No person shall operate a Golf Cart and/or UTV on any street without having in his/her possession at all times, an unrevoked and unsuspended operator's or chauffeur's license as required by the laws of the state to operate motor vehicles and further with such person being at least sixteen (16) years of age.

c. No person shall operate, and no owner of any Golf Cart and/or UTV shall permit another person to operate a Golf Cart and/or UTV upon any City of Blackwell street unless such operator is in full compliance with this section.

d. Golf Carts and/or UTVs may not operate at any time upon U.S. Highway 177 (Main Street) and/or State Highway 11 (Doolin Avenue), except when making a perpendicular crossing of U.S. Highway 177 (Main Street) and/or State Highway 11 (Doolin Avenue), at approximately ninety (90) degrees and then only in locations where the posted speed limit on U.S. Highway 177 (Main Street) and/or State Highway 11 (Doolin Avenue) is 35 mph or less.

e. Golf Carts and/or UTVs operating upon the streets in locations may not be equipped with enhanced muffler systems which when operated are unreasonably louder than stock systems and no person shall operate any Golf Cart and/or UTV that unreasonably disturbs the peace and quiet of any person or neighborhood.

f. Application of Traffic Laws to Golf Carts and/or UTVs. Every person operating a Golf Cart and/ or UTV upon the streets shall be granted all rights and shall be subject to all the duties applicable to the driver of a motor vehicle by the laws of this state and the traffic provisions of this code applicable to the driver of a motor vehicle.

g. Obedience to Traffic Control Devices. Any person operating a Golf Cart and/or UTV

upon the streets shall obey the instructions of official traffic control signals, signs and other traffic control devices applicable to vehicles, unless otherwise directed by a police officer.

h. It shall be an offense for any person to operate a Golf Cart and/or UTV at any location not specifically provided for hereinabove or in violation of any of the provisions of this section.

i. Golf Carts and/or UTVs operating upon the streets must be equipped with headlights, running lights (front and rear), tail lights and brake lights of a type, kind and nature equal to or better than such similar equipment required on motorcycles authorized to travel on state highways, with such headlights and running lights illuminated at all times the Golf Cart and/or UTV is being operated.

j. Golf Cart and/or UTV may not be operated on the sidewalk.

k. Golf Cart and/or UTV drivers must always yield the right-of-way to overtaking vehicles.

l. Any person who operates a Golf Cart and/or UTV on the streets of the City of Blackwell must adhere to all applicable state laws concerning the possession and use of alcoholic beverages and all illegal drugs, as well as all other state traffic laws.

m. The maximum occupancy of Golf Cart and/or UTV traveling on City of Blackwell streets shall be equal to the amount of safety belts or passenger restraints in the Golf Cart and/or UTV, if originally equipped.

n. Golf Carts and/or UTVs are only allowed to park in handicapped parking spaces if the driver or at least one passenger has a valid handicapped parking sticker.

o. The operator of a Golf Cart and/or UTV shall obey all ordinances of the City of Blackwell and all provisions of the Oklahoma Motor Vehicle Code, as amended from time to time, and which ordinances are incorporated herein as if set out in full.

p. Miscellaneous Rules:

1. No person operating a Golf Cart and/or UTV shall ride other than upon the permanent and regular seat affixed thereto.

2. Every person operating a Golf Cart and/or UTV upon the streets shall ride as near to the right-hand side of the street as practicable and shall not pass any vehicle being operated in the same direction of travel.

3. Every person driving a Golf Cart and/or UTV upon any street shall ride only one (1) abreast.

4. The operator of a Golf Cart and/or UTV shall yield the right-of-way to all pedestrians and vehicles approaching or traveling along on any city street or other authorized location.

5. Required Equipment:

A Golf Cart and/or UTV operated on a City of Blackwell street shall always have the following equipment in good working condition:

- Brakes
- Steering apparatus
- Tires
- Rearview mirror
- Headlights that emit white light visible from at least 500 feet to the front
- Taillights that emit red light visible from at least 100 feet from the rear
- Brake lights on the rear

6. Permits:

a. No person shall operate a Golf Cart and/or UTV upon the streets without obtaining a permit from the City of Blackwell as provided in this section.

b. The Permit shall cover the assigned Golf Cart and/or UTV for as long as the Applicant owns such vehicle.

c. There shall be no cost for the Permit. Insurance coverage shall be verified as effective when issuing a permit.

d. After completion of the application, the applicant shall present the Golf Cart and/or UTV to the Chief of Police, or his designee, for an inspection to determine whether the Golf Cart and/or UTV may be operated on the streets. If the applicant and Golf Cart and/or UTV are qualified under the terms and conditions of this section, a permit shall be issued to the applicant which must always be kept on the vehicle. The Police Department shall issue a sticker as visible proof of compliance, which shall be valid for the duration of the ownership of the vehicle by the applicant. The permit should always be displayed on the rear bumper or other location of the Golf Cart and/or UTV as designated by the Police Chief or his designee.

e. Golf Cart and/or UTV owners must complete the permit application form on file in the Office of the City Clerk. The completed forms will be maintained by the City of Blackwell Police Department.

4. Enforcement:

a. Except as otherwise provided, the City of Blackwell may prosecute violators for any act constituting a violation of this section. Any person who violates any provisions of this section shall be guilty of an offense and shall be punished by a fine of not more than One Hundred and Twenty-Five Dollars ($125.00), plus court costs, fees and state assessments, if applicable, unless a different fine is otherwise specified elsewhere in this municipal code.

b. The permit for a Golf Cart and/or UTV issued pursuant to this section may be suspended by the Chief of Police, or his designee, if (1) there is any material misrepresentation made by the applicant on the application or (2) the required liability insurance is no longer in full force and effect or (3) there is evidence that the permit holder can no longer safely operate the Golf Cart and/or UTV or (4) for any reason that such Police Chief reasonably believes is appropriate to insure the safety and well-being of the citizens of the City of Blackwell.

c. The Chief of Police, or his designee, shall issue a notice of suspension of a permit in writing and either hand deliver the notice to the permit holder or send the notice by U.S. mail, with receipt of service, to the permit holder at the address on the application. The suspension of the permit shall be effective immediately after personal service, or on the third day after the mailing of the written notice.

d. Repeat offenders may have the privileges granted by this section revoked by the Police Chief. Appeals to the decision of the Chief of Police may be appealed to the City Council, if a written appeal is filed with the City Clerk within ten (10) of the date of the written notice revoking the permit.

5. ATVs, Minibikes and other rules and exceptions.

a. The self-propelled or motor-driven and operated vehicles described in this section shall be prohibited from operating or shall be limited in operation on the streets and highways, except as specifically provided by and in strict conformance with this section.

b. Self-propelled or motor-driven cycles, known and commonly referred to as "minibikes" and other similar trade names, shall be prohibited from operating on the streets and highways of, except:

1. When used in a parade; or
2. When registered, as required by 47 O.S. § 1151(E), and operated by food vendor services upon streets having a speed limit of 30 miles per hour or less.

c. All minibikes offered for sale shall bear the following notice to the customer: "This machine is not manufactured or sold for operation on the public streets or highways. Since it is not provided with equipment required by law for street or highway use, all persons are cautioned that any operation of this vehicle upon a public street or highway will be in violation of the motor vehicle laws of this state and will subject the violator to arrest."

d. Golf carts shall not be operated on the streets, except as specifically provided by and in strict conformance with this section.

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e. ATVs shall not be operated on the streets and highways of this state, except on public streets and highways if:

1. The vehicle needs to make a direct crossing of the street or highway while the vehicle is traveling upon a regularly traveled trail and needs to continue travel from one area of the trail to another and if the vehicle comes to a complete stop, yields the right-of-way to all oncoming traffic that constitutes an immediate hazard, and crosses the street or highway at an angle of

approximately 90 degrees to the direction of the street or highway. This exception shall not apply to divided highways, streets, or highways with a posted speed limit of more than 35 miles per hour in the area of the crossing;

2. The vehicle needs to travel on a public street or highway in order to cross a railroad track. In that event, the ATV may travel for not more than 300 feet on a public street or highway to cross a railroad track;

3. The operator of the ATV making the crossing at a street or highway has a valid driver license; and

4. The operator of the vehicle makes a crossing on a street or highway during daylight hours only.

5. Special Rules with Special Fine and Costs.

(a) It shall be unlawful for a person less than eighteen (18) years of age to operate or to be carried as a passenger upon an ATV unless the person wears a crash helmet of a type which complies with standards established by 49 C.F.R., Section 571.218.

(b) It shall be unlawful for the operator of an ATV to carry a passenger unless that ATV has been specifically designed by the manufacturer to carry passengers in addition to the operator.

(c) Any parent, legal guardian or person having actual responsibility for a person under eighteen (18) years of age, or who is the owner of the ATV operated by a person under eighteen (18) years of age, who knows, or should have known, that the person operating the ATV is not in compliance with the provisions of this subsection, shall be punishable according to the provisions of subsection (3) of this subsection.

(d) Fine and court costs for violating the provisions of this subsection shall not exceed Twenty-five Dollars ($25.00).

(e) The provisions of this subsection shall not apply to persons operating an ATVs on public lands or privately-owned property.

(Ordinance No. 2019-21 on 11/7/2019)

Sec. 26-4. Low-speed electrical vehicles.

No person shall operate any low-speed electrical vehicle on any street or highway.

(Ord. No. 2776, § 5(26-6), 9-8-2009)

Sec. 26-5. Obstructing traffic; permit required.

It is unlawful for any person, except officers and agents of a unit of government in the exercise of their official duties and powers, to close or obstruct traffic on any sidewalk, street,

avenue, alley or other public way within the city unless specifically authorized by ordinance in particular circumstances, or unless such officer or agent shall have first secured a permit from the chief of police therefor, and it is unlawful for such person having secured such permit to violate the terms of the permit.

(Ord. No. 2776, § 6(26-9), 9-8-2009)

Sec. 26-6. Obstruction of traffic by vehicles, merchandise, signs, other objects; removal by police department.

(a) *Prohibited.* No person shall place or allow to remain any vehicles, merchandise, signs or any other objects upon any street, sidewalk, parking or parkway, or other public grounds, which obstructs traffic or constitutes a hazard to traffic.

(b) *Removal.* Any police officer of the city may remove such obstructions or order the same to be removed.

(Ord. No. 2776, § 7(26-10), 9-8-2009)

Sec. 26-7. Weight limitations on streets.

(a) *Authority of city council to designate streets for use of trucks.* The city council may, by motion or resolution, designate streets throughout the city which shall be allowed for the use of trucks in general or trucks of particular kinds and other vehicles which are not ordinarily private passenger vehicles.

(b) *Weight, size, and load.* No vehicle shall be moved or driven on any streets within the corporate limits of the city which is in violation of 47 O.S. § 14-101 et seq. ("Motor vehicles—Weight, size, and load"), which is specifically incorporated by reference herein as if set forth at length in this section.

(c) *Five-ton limit for certain streets; exceptions.* For all city streets, other than those designated for the use of trucks:

(1) It shall be unlawful for any person to operate any vehicle with which its load exceeds five tons.

(2) This limitation shall not apply to school buses and other vehicles performing public works or public service functions.

(3) All other vehicles in excess of the five-ton limit may travel over such streets only for the purpose of delivery or pickup of materials and then only by entering such street at the intersection nearest the destination of the vehicle and proceeding thereon no further than the nearest intersection thereafter.

(d) *Permit required for house moving; other objects.* A written permit may be granted for the moving of houses and other objects which will not injure said public way and under such rules as may be prescribed by the city council.

(e) *Vehicles injurious to streets prohibited.* No vehicle or object which injures or is likely to injure the surface of a street shall be driven or moved on any street.

(Ord. No. 2776, § 8(26-14), 9-8-2009)

Sec. 26-7.1 Truck Route

1. Findings. The City adopts the above recitals as findings in support of the regulations imposed under this section and further makes the following additional findings:

a. The City's local and collector streets are not designed or constructed to sustain consistent traffic by motor trucks and other large, heavy vehicles, and are susceptible to damage from excessive use thereby.

b. The City's local and collector streets are typically narrow, and their width is often further constrained by the presence of on-street parking areas.

c. The City's local and collector streets typically contain relatively small corner and centerline radiuses, impeding the turning ability of larger vehicles.

d. The City's truck routes designed and constructed to higher load-bearing standards than the City's local and collector roads.

e. The widespread operation of motor trucks and other large, heavy vehicles upon the City's residential streets would likely cause extensive damage to the street surfaces and require costly, repeated repairs at the City's expense, and would jeopardize pedestrian and vehicular safety.

f. Limiting motor truck traffic to the truck routes established by this section will provide an adequate opportunity for motor truck circulation while simultaneously protecting local streets.

g. The regulations contained in this section are a lawful and appropriate exercise of the City's police power and will serve the public health, safety and welfare.

2. Purpose.

The purpose of this section is to regulate and restrict by classification vehicular traffic upon certain City streets in order to prevent infrastructure damage, promote safe and efficient traffic flows, and preserve the integrity and safety of the City's residential neighborhoods.

3. Operation of certain vehicles limited to designated truck routes.

Except as otherwise provided by this section, the operation of the following vehicles shall only occur upon and within the designated truck routes established pursuant to this section, and the State highway system within which such operation is unrestricted:

a. Any motor vehicle, truck, truck tractor, motor truck and trailer combination, or truck tractor and semitrailer combination, *which exceeds 10,000 pounds gross vehicle weight (GVW)*, including load.

b. Any vehicle transporting radioactive material; or

c. Any vehicle transporting hazardous cargo.

4. Designated truck routes.

Except as otherwise provided by this section, the operation within the City limits of any vehicle listed in subsection 3 hereinabove shall be restricted to the confines of (1) the OK state highway system, and (2) the following designated truck routes:

Route 1. Doolin Street from 44th Street East to City Limits
Route 2. Main Street from Perry Street South to City Limits
Route 3. Blackwell Avenue from Main West to 4th Street
Route 4. 29th Street from Ferguson to Highway 11
Route 5. 20th Street from Blackwell Avenue to Highway 11
Route 6. 25th Street from Dewey Street to Highway 11
Route 7. Dewey Street from 29th Street East to Railroad Tracks
Route 8. 5th Street North of Highway 11
Route 9. Drive next to North End of Morgan Field

5. Truck route map.

A map of the City's designated truck routes is attached to this section as Exhibit A and is hereby incorporated herein by this reference as if set forth in full.

6. Exceptions.

The prohibitions set forth in this section shall not apply to the following:

a. For the purpose of travel on streets not within the designated truck route for the sole purpose of delivery or pick up of materials or items, including but not limited to the delivery of materials necessary to construct or remodel any building or structure or necessary for the moving of furniture and/or other belongings or items to or from any residence or business or the delivery of mail, packages or other consumer products to any residence or business.

b. The lawful off-street parking or storage of a motor home, recreational vehicle, camping trailer or other trailer at a residence or business located off of a designated truck route as otherwise permitted by this code.

c. Emergency vehicles.

d. Road construction and maintenance vehicles, while such vehicles are being used for road construction and maintenance purposes.

e. Utility service vehicles, while such vehicles are being used for utility service purposes.

f. When required for the moving of a house or other object, provided a permit is applied for and granted by the city pursuant to this code and such action will not injure the streets and under such other rules and conditions as required by the city manager.

7. Miscellaneous Provisions.

No person, firm or other entity shall cause injury or damage to the streets or operate upon or move any object that which will cause injury or damage to the streets in any manner.

8. Enforcement; Penalty.

Any person, firm, corporation or other entity who shall, by act or omission, violate any provision of this section shall be guilty of an offense and if convicted shall be subject to a maximum fine of two hundred dollars ($200.00) plus costs for a first offense, a maximum fine of three hundred and fifty dollars ($350.00) plus costs for a second offense and a maximum fine of five hundred dollars ($500.00) plus costs for a third and subsequent offense.

9. Signage. Pursuant to the section, the City Manager is hereby authorized and directed to ensure that appropriate signage is posted and maintained advising the public of the regulations imposed by this section. The regulations set forth shall neither take effect nor be enforced unless and until such signage has been posted.

(Ord. 2018-03, 2-1-2018)

Sec. 26-8. Enforcement of provisions of chapter; duty of police and fire departments.

(a) It shall be the duty of the officers of the police department or such officers as are assigned by the chief of police, to enforce all street traffic laws of this city and all of the state vehicle laws applicable to street traffic in this city.

(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.

(Ord. No. 2776, § 9(26-34), 9-8-2009)

Sec. 26-9. Quiet zones; designation and use of horns in quiet zones.

(a) Whenever authorized signs are erected indicating a zone of quiet, no person operating a motor vehicle within any such zone shall sound the horn or other warning device of said vehicle, except in an emergency.

(b) All the territory within 200 feet of the premises of any hospital in the city is hereby created and established as a zone of quiet, and the chief of police is hereby authorized to place appropriate signs in said zones which indicate said zone to be a quiet zone.

(Ord. No. 2776, § 10(26-35), 9-8-2009)

Sec. 26-10. Designation of stop signs and traffic-control devices.

The city council does hereby empower the chief of police of the city with the advice and consent of the city council, to designate and establish stop signs and traffic-control devices at specified entrances to any street, alley, avenue or highway within the city limits of the city.

(Ord. No. 2776, § 11(26-61), 9-8-2009)

Sec. 26-11. Failure of violators to answer summons or notice.

If the violator of the restrictions under the provisions of this article does not appear in response to a notice affixed to a motor vehicle, or to a summons duly issued, at the time and place designated on such notice or summons, a warrant of arrest will be issued for such offender, or the owner of the offending automobile.

(Ord. No. 2776, § 12(26-61), 9-8-2009)

Sec. 26-12. Attempting to elude a police officer forbidden; penalty.

(a) No person shall willfully fail or refuse to comply with any lawful order or direction of a police officer or fire department official.

(b) Any operator of a motor vehicle who has received a visual and audible signal, a red light and a siren from a police officer driving a motor vehicle showing the same to be an official police car directing the operator to bring his vehicle to a stop and who willfully increases his speed or extinguishes his lights in an attempt to elude such police officer, or who willfully attempts in any other manner to elude the police officer, or who does elude such police officer, is guilty of a class A offense.

(Ord. No. 2776, § 13(26-62), 9-8-2009)

Sec. 26-13. Application of provisions to government vehicles.

The provisions of this article shall apply to the driver of any vehicle owned by or used in the service of the United States Government, the state, the county or the city, and it shall be unlawful for any such driver to violate any of the provisions of this article except as otherwise permitted in this article or by state statute.

(Ord. No. 2776, § 14(26-64), 9-8-2009)

Sec. 26-14. Obstructing intersection or crosswalk.

No driver shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic-control signal indication to proceed.

(Ord. No. 2776, § 15(26-69), 9-8-2009)

Sec. 26-15. Ratification.

The location and existence of all traffic-control signs, signals, devices and markings in place on the adoption date of this Code are hereby ratified and confirmed.

(Ord. No. 2776, § 16(26-97), 9-8-2009)

Sec. 26-16. Crossing roadways within business district; restrictions.

Every pedestrian shall be prohibited from crossing a roadway between adjacent intersections within the business district as herein defined.

(Ord. No. 2776, § 17(26-201), 9-8-2009)

Sec. 26-17. Blind pedestrians; use of cane; right-of-way.

Any driver of a vehicle who knowingly approaches within 15 feet of a person who is in the roadway or at an intersection and who is wholly or partially blind and who is carrying a cane or walking stick white in color, or white tipped with red, or who is using a dog guide wearing a specialized harness, or who is wholly or partially deaf and is using a signal dog wearing an orange identifying collar, or who is physically handicapped and is using a service dog, shall immediately come to a full stop and take such precautions before proceeding as may be necessary to avoid accident or injury to the person wholly or partially blind, deaf or physically handicapped. For purposes of this section, the term "dog guide" means any dog that is specially trained to guide a blind person.

(Ord. No. 2776, § 18(26-202), 9-8-2009)

Sec. 26-18. Obedience to turn markers.

Whenever authorized signs are erected indicating no right or left or U-turn is permitted, no driver of a vehicle shall disobey the directions of any such sign.

(Ord. No. 2776, § 19(26-234), 9-8-2009)

Sec. 26-19. Stopping in traffic prohibited.

It is hereby made unlawful to stop a vehicle in line of traffic on the streets of the city except where stop signs have been erected, and except where necessary to avoid collision or accident.

(Ord. No. 2776, § 20(26-268), 9-8-2009)

Sec. 26-20. Speed limits—City streets, generally.

Where no special hazard exists, it shall be unlawful for any person to operate a vehicle at a rate of speed in excess of 25 miles per hour unless posted otherwise.

(Ord. No. 2776, § 21(26-301), 9-8-2009)

Sec. 26-21. Same—School zones; authority of chief of police to place signs.

(a) *Speed limits prescribed.* No person shall drive a vehicle at a speed greater than 20 miles per hour within the limits of any such "school traffic zone;" provided, however, that the provision of this subsection with respect to such speed limits shall not be in force and effect in a particular school traffic zone on those days when no school within such zone is in session.

(b) *Placement of signs.* The chief of police is authorized to designate, with the approval of the city council of the city, such portions of the streets of the city as carry high-rate student pedestrian traffic in or across them as "school traffic zones," and to mark the limits of such zones by appropriate signs or other devices.

(Ord. No. 2776, § 22(26-302), 9-8-2009)

Sec. 26-22. Same—Alleys.

No person shall drive a vehicle at a speed greater than 15 miles per hour in any alley in the city.

(Ord. No. 2776, § 23(26-303), 9-8-2009)

Sec. 26-23. Reserved.

(Section 26-23 was repealed by Ord. No. 2018-14 approved on September 6, 2018 and are currently found in Chapter 4 of this Code).

Sec. 26-24. Regulations not applicable on Sundays and holidays.

Parking limits are to have no force and effect on Sundays and holidays.

(Ord. No. 2776, § 25(26-368), 9-8-2009)

Sec. 26-25. Notice of violation by motor vehicles.

Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by ordinances of the city or by state law, the officer finding such vehicle shall take its registration number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a notice in

writing, on a form provided by the city, stating when the driver must answer the charges and at a specified place. The officer shall keep one copy of said notice to be filed with the police department.

(Ord. No. 2776, § 26(26-369), 9-8-2009)

Sec. 26-26. Impoundment of vehicle left unattended for more than 24 hours.

Any vehicle left parked continuously upon any street within the city for 24 hours or more, is hereby declared to be a nuisance. It shall be the duty of the chief of police to cause such vehicle to be removed and impounded. Thereafter, such vehicle shall be surrendered to the duly identified owner thereof only upon the payment of fee established by resolution, together with any additional storage charge or towing-in fee which is necessarily incurred by the chief of police. Said sums so collected shall be paid over to the city clerk to be turned over to the general fund of the city.

(Ord. No. 2776, § 27(26-370), 9-8-2009)

Sec. 26-27. Two-hour parking zones designated.

From the hours of 9:00 a.m. until 5:00 p.m. of each day, except Sunday, it shall be unlawful for automobiles, trucks and other motor vehicles to remain parked for a longer period than two hours on the following streets:

(1) On Main Street from Dewey Avenue to Padon Avenue;

(2) The 100 and 200 blocks West Blackwell;

(3) The 100 block East Blackwell;

(4) The 100 block East and West Bridge;

(5) The 100 block East and West Oklahoma;

(6) The 100 block North First;

(7) The 100 block South First.

(Ord. No. 2776, § 28(26-373), 9-8-2009)

Sec. 26-28. Parking in alleys.

(a) No vehicle shall be parked in any alley in the city, except that trucks may park for the purpose of and only while engaged in the expeditious loading or unloading of merchandise.

(b) No vehicle shall be parked opposite a parked vehicle or in such a manner as to block the alley to traffic.

(Ord. No. 2776, § 29(26-375), 9-8-2009)

Sec. 26-29. Trucks; Defined; Parking of Trucks Prohibited In Certain Locations; Exceptions; Signage; Penalty:

a. Definition. For purpose of this section, the term "Truck or Trucks" shall mean any motor vehicle, truck, truck tractor, motor truck and trailer combination, or truck tractor and semitrailer combination, *which exceeds 10,000 pounds gross vehicle weight (GVW)*, including load.

b. Parking of Trucks prohibited in certain locations.

1. Trucks shall be prohibited from parking on Blackwell Avenue from A to Second Streets, and on Main Street between Padon and Dewey Avenues except as hereinafter provided. If sufficient space is not available in alleys for trucks to load or unload merchandise, then trucks shall be permitted to park on these streets and avenues for a period of time necessary to load or unload, provided, however, that traffic is not to be obstructed.
2. No person shall park any truck upon the real properties constituting the Blackwell Fairground, Morgan Field or the B Street ball fields.

c. Exceptions: Exempted from compliance with this section are the following:

1. Any truck making deliveries or picking up goods to such real properties but only for that time reasonably necessary to make such delivery or pickup.

2. Any truck specifically exempted from compliance with this section by the City Manager or designee.

d. Signage. Appropriate signage providing notice of this section shall be posted at the street entrances to the real properties at Main Street, B Street and Lawrence Avenue.

e. Penalty. Any person who shall violate the terms and conditions of this section by act or omission shall be guilty of an offense and if convicted shall be subject to a fine of not to exceed Two Hundred Dollars ($200.00), and without the payment of court costs.

(Note: Section 26-29 was approved on June 6, 2019).

Sec. 26-29. Trucks—Parking regulations generally.

(a) Trucks shall be prohibited from parking on Blackwell Avenue from A to Second Streets, and on Main Street between Padon and Dewey Avenues except as hereinafter provided.

(b) If sufficient space is not available in alleys for trucks to load or unload merchandise, then trucks shall be permitted to park on these streets and avenues for a period of time necessary to load or unload, provided, however, that traffic is not to be obstructed.

(Ord. No. 2776, § 30(26-376), 9-8-2009)

Sec. 26-30. Same—Carriers of gasoline, other inflammable materials; restrictions.

(a) The parking of gasoline tank trucks and transport trucks, butane tank trucks and transport trucks, propane tank trucks and transport trucks, nitroglycerine trucks and all trucks transporting other similar inflammable or explosive materials, on the streets, avenues, alleys, or in any municipal parking lot within the city, or on any place or premises within the boundaries of districts R-1, R-2, R-3, C-1, C-2, as defined by the official zoning map of the city, is hereby prohibited.

(b) Nothing in this section shall prohibit the temporary parking of any gasoline tank trucks while unloading at service stations, or any truck stopping in case of an emergency for replacing damaged tires or making other emergency repairs.

(Ord. No. 2776, § 31(26-377), 9-8-2009)

Sec. 26-31. Designation and marking of no parking zones; authority of chief of police.

The city council does hereby empower the chief of police, with the advice and consent of the city council, to establish "no parking" zones within the city by the use of appropriate signs designating said zones to be "no parking" zones, or by painting said zones with yellow paint.

(Ord. No. 2776, § 32(26-378), 9-8-2009)

Sec. 26-32. Parking on portion of West Doolin Avenue prohibited; parking of vehicles defined.

(a) *Prohibited.* All parking of vehicles upon the right-of-way of that part of West Doolin Avenue within the city from the intersection of said avenue with North Main Street of the city, to the intersection of said avenue with North Thirteenth Street of the city is at all times prohibited.

(b) *Parking of vehicles defined.* The term "parking of vehicles," as used herein, means the act of the owner or person in charge of the operation of movement of any wheeled vehicle or other type of conveyance or any movable thing capable of obstructing the free travel of vehicular travel along said avenue between its course as specified in subsection (a) of this section, of causing said vehicle, conveyance or thing, to be and remain stationary on said right-of-way for longer than necessary to effect with reasonable diligence the discharge of passengers or removal of personal property from such vehicle, conveyance or thing carried in or upon the same, or for the entry of such passengers into or loading of such personal property to be carried away therein.

(Ord. No. 2776, § 33(26-379), 9-8-2009)

Sec. 26-33. Use of parking spaces for display of automobiles for sale prohibited.

It is hereby made unlawful for any person to use the parking spaces in the city for the purpose of storing or exhibiting motor vehicles for sale.

(Ord. No. 2776, § 34(26-380), 9-8-2009)

Sec. 26-34. Driving on fresh pavement.

No person shall drive any vehicle over or across any newly made pavement or newly marked pavement in any public street across or around which there is a barrier or at or near which there is a person or sign warning persons not to drive over or across such pavement or a sign stating that the street is closed.

(Ord. No. 2776, § 35(26-415), 9-8-2009)

Sec. 26-35. Unlawful to drive vehicle over or against curbing or guttering.

It is unlawful for any person within the city to cause any wagon, vehicle, automobile, truck, tractor, bus, dray or any other manner of conveyance whatsoever, to be on or to back against, upon, over or across any curbing or guttering in the city.

(Ord. No. 2776, § 36(26-420), 9-8-2009)

Sec. 26-36. Unlawful to drive animal or vehicle on sidewalk.

It is unlawful for any person to ride, drive or lead any horse or other dumb animal on, over, across, or upon any sidewalk or to cause any vehicle, bus, dray or any manner of conveyance to be upon, over or across any such sidewalk in the city.

(Ord. No. 2776, § 37(26-421), 9-8-2009)

Sec. 26-37. Use of coasters, roller skates, similar devices on roadways; restrictions.

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; provided, however, that all persons on roller skates, prior to crossing a street on a crosswalk at any intersection, shall first remove at least one skate. Further, all persons on skates must remove at least one skate while in the business district.

(Ord. No. 2776, § 38(26-442), 9-8-2009)

Sec. 26-38. Parking regulations; impoundment of improperly parked bicycles.

It shall be unlawful for any person to park or leave unattended any bicycle at any place or space where parking is prohibited to motor vehicle, except such places or spaces as may be provided for the parking of bicycles. All parked bicycles shall be stood upright and it shall be unlawful to lay any bicycle down on the side thereof upon any street or sidewalk within the city. Any bicycle lying upon its side upon any street or sidewalk is hereby declared to be a public nuisance, and police officers are hereby authorized and directed to immediately abate such nuisance by taking possession of such bicycle and impounding the same until it shall be ordered released by proper authority.

(Ord. No. 2776, § 39(26-451), 9-8-2009)

Sec. 26-39. Definitions.

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

Business district means that area within the following boundaries:

A Street from Frisco Avenue to Lincoln Avenue.

Blackwell Avenue from 4th Street to B Street.

First Street from Frisco Avenue to College Avenue.

Main Street from Frisco Avenue to Adams Avenue.

Doolin Street from Main Street to 13th Street.

Skateboard means a device with wheels for riding upon, usually standing including, but not limited to, skateboards of all types.

Toy vehicle means any coaster, scooter, roller skates, or any other nonmotorized device with wheels or rollers upon which a person may ride. The term "toy vehicle" shall not apply, so long as they are used for the purposes for which they are intended, to wagons, wheelchairs and strollers or other devices designed and used for the purpose of transporting children, infants, physically challenged or incapacitated persons, to bicycles, or to carts or other devices intended and used for transporting merchandise or materials.

(Ord. No. 2776, § 40(26-475), 9-8-2009)

Sec. 26-40. Skateboarding on streets.

No person shall operate a skateboard or toy vehicle on a public street if there is a sidewalk adjacent to such street. If no sidewalk exists, skateboards may be ridden on the street, provided that street riding shall be done as far to the right side of the road as possible, in the same direction as traffic and observing all traffic laws.

(Ord. No. 2776, § 41(26-476), 9-8-2009)

Sec. 26-41. Clinging to vehicles.

No person operating a skateboard or other nonmotorized device shall attach himself to any vehicle upon a roadway.

(Ord. No. 2776, § 42(26-477), 9-8-2009)

Sec. 26-42. Yield right-of-way.

Any person operating a skateboard or other toy vehicle must yield the right-of-way to any pedestrian, motor vehicle or bicycle.

(Ord. No. 2776, § 43(26-478), 9-8-2009)

Sec. 26-43. Skateboarding on private property.

(a) No person shall operate a skateboard or toy vehicle on the premises of any business, residence, or other private property in violation of a sign complying with this section.

(b) Areas in which skateboarding or operation of a toy vehicle is prohibited must be indicated by one or more signs which are positioned to provide notice and which contain the words "no skateboarding" or any other word or combination of words indicating that skateboarding or operation of a toy vehicle is prohibited. Letters on the sign must be clearly legible.

(Ord. No. 2776, § 44(26-479), 9-8-2009)

Sec. 26-44. Skateboarding on public property.

No person shall operate a skateboard or toy vehicle in, upon, or on the grounds of:

(1) The following parks:
   a. Trapp Park;
   b. Dewey Park;
   c. Legion Park;
   d. Bagby Park;
   e. Memorial Park and Youth Center (except designated skate area);
   f. Riverside Park;
   g. Zack Harris Park;
   h. Beatty Rogers Park;
   i. The municipal golf course;
   j. McClung Park; or
   k. Stricklin Park.

(2) The following city property:
   a. Kay County Fairgrounds;
   b. Street warehouse and water plant;
   c. City warehouse;
   d. Blackwell-Tonkawa Airport;
   e. The city library;

f. Top of Oklahoma Museum;

g. Blackwell Retirement Center;

h. Nutrition Center;

i. City hall; or

j. Police and fire station.

(3) The following parking lots:

a. Police and fire station;

b. North A Street; or

c. City hall parking lot.

(4) The following public ball fields:

a. Dewey Avenue;

b. Twenty-first Street Sports Complex;

c. Morgan Field; or

d. B Street Ball Fields.

(5) The following tennis courts:

a. Legion Park; or

b. Memorial Park and Beatty-Rogers Park Tennis Courts.

(6) The following swimming pools:

a. Legion Park Wading Pool;

b. Memorial Swimming Pool; or

c. Riverside Park Wading Pool.

(Ord. No. 2776, § 45(26-480), 9-8-2009)

Sec. 26-45. Skateboarding in business district.

No person shall operate a skateboard or toy vehicle within the city business district.

(Ord. No. 2776, § 46(26-481), 9-8-2009)

Sec. 26-46. Damaging city property.

No person shall operate a skateboard or toy vehicle on or against any city-owned table, bench, structure, tennis court, parking stop, retaining wall, fountain, statue, or other improvement which may suffer damage by such use.

(Ord. No. 2776, § 47(26-482), 9-8-2009)

Sec. 26-47. Skateboard ramps.

No person shall use or place a ramp, jump, or any other device used to force a skateboard or toy vehicle off the pavement on the grounds of any city-owned parking lot, park, or sidewalk.

(Ord. No. 2776, § 48(26-483), 9-8-2009)

Sec. 26-48. Agreement for impoundment.

In place of any other penalty provided by law, any person violating this subdivision may, for a first time offense, agrees to have the skateboard or toy vehicle impounded by the police department for one week.

(Ord. No. 2776, § 49(26-484), 9-8-2009)

Sec. 26-49. Bicycles not included.

The provisions of this subdivision[article] do not apply to bicycles.

(Ord. No. 2776, § 50(26-485), 9-8-2009)

Sec. 26-50. Violation; penalty.

Violation of this subdivision [article] shall be a Class C offense.

(Ord. No. 2776, § 51(26-486), 9-8-2009)

Sec. 26-51. Definitions.

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

Parade means any parade, march, ceremony, show, exhibition, pageant, footrace, or procession of any kind, or any similar display, in or upon any street, park or other public place in the city.

(Ord. No. 2776, § 52(26-533), 9-8-2009)

Sec. 26-52. Funerals; other processions—Driving through.

No driver of a vehicle shall drive between, alongside of, or pass the vehicles comprising a funeral while it is in motion, when such vehicles are conspicuously designated as required in this article. This provision shall not apply to intersections where traffic is controlled by traffic-control signals or police officers.

(Ord. No. 2776, § 53(26-534), 9-8-2009)

Sec. 26-53. Required.

No person shall engage in, participate in, aid, form or start any parade, unless permission has been obtained from the chief of police and city manager.

(Ord. No. 2776, § 54(26-564), 9-8-2009)

Sec. 26-54 Speed Never to Exceed that which is Reasonable or Prudent for Existing Conditions.

A. Any person driving a vehicle on a street, road or alley shall drive the same at a careful and prudent speed not greater than nor less than is reasonable and proper, taking into consideration among other things, the condition of the vehicle, the traffic, roadway surface or width, the amount of light or darkness, the presence of pedestrians in or near the roadways, obstruction of views and any other condition then existing, and no person shall drive any vehicle upon a highway at a speed greater than will permit him to bring it to a stop within the assured clear distance ahead.

B. The driver of every vehicle shall, consistent with the requirements of subsection A1 of this section, drive at an appropriate reduced speed when approaching and crossing an intersection or railway grade crossing, when approaching and going around a curve, when approaching a hill crest, when driving upon any narrow or winding roadway, and when special hazard exists with respect to pedestrians or other traffic, or by reason of weather or highway conditions.

C. Any person who shall violate Subsection A or B hereinabove, by act or omission, shall be guilty of any offense.

(Ord. No. 2784, § 1, 3-1-2010; Ord. No. 2018-13, 8-6-2018)

Secs. 26-55—26-79. - Reserved.

ARTICLE II. VEHICLE LICENSE PLATES; REGISTRATION, ETC.

Editor's note— Ord. No. 2776, §§ 55—59, adopted Sept. 8. 2009, set out provisions pertaining to vehicle license plates and registration. For purposes of classification, and at the editor's discretion, these provisions have been designated as art. II, §§ 26-80—26-84.

Sec. 26-80. Registrant display.

(a) Every commercial motor vehicle, whether private, contract or for hire, of 26,000 pounds or greater weight shall display the name of the vehicle registrant on each side of the vehicle in two-inch letters or greater which shall be legible from a distance of 50 feet. The city or town serving as the registrant's principal place of business or postal address shall be displayed in two-inch letters or greater on each side of the vehicle adjacent to the registrant's name. Provided however, in the instance of an interstate motor carrier the address need not be displayed if the interstate commerce commission number is displayed on the vehicle.

(b) Those not complying with the provisions of this section shall be assessed a fine of not less than $100.00.

(c) After a fine has been assessed pursuant to the provisions of subsection (b), the offender shall have ten days to display the name of the registrant on the vehicle as provided in subsection (a).

(d) Out-of-state vehicles which have a base license plate from a state other than Oklahoma shall be exempt from this section unless such vehicle is being utilized in intrastate commerce.

(e) The name on the side of the vehicle may differ from the name on the vehicle registration only if a bona fide legal lease is in the vehicle.

(Ord. No. 2776, § 55, 9-8-2009)

Sec. 26-81. Temporary plates.

The purchaser of every used motor vehicle, travel trailer or commercial trailer, except as otherwise provided by law, shall obtain registration and title for the vehicle or trailer within 30 days from the date of purchase of same. It shall be the responsibility of the selling dealer to place a temporary license plate, in size similar to the permanent Oklahoma license plate but of a weatherproof plastic-impregnated substance approved by the used motor vehicle and parts commission, upon a used motor vehicle, travel trailer or commercial trailer when a transaction is completed for the sale of said vehicle. The temporary license plate under this subsection shall be placed at the location provided for the permanent motor vehicle license plate. The temporary license plate shall show the license number which is issued to the dealer each year by the Oklahoma Tax Commission or the used motor vehicle and parts commission, the date the used motor vehicle, travel trailer or commercial trailer was purchased and the company name of the selling dealer. Such temporary license plate shall be valid for a period of 30 days from the date of purchase. Purchasers of a commercial trailer shall affix the temporary license plate to the rear of the commercial trailer. The purchaser shall display the temporary license plate for a period not to exceed 30 days or until registration and title are obtained as provided in this section.

The provisions of this subsection [section] on temporary licenses shall apply to nonresidents who purchase a used motor vehicle, travel trailer or commercial trailer within this state that is to be licensed in another state. The nonresident purchaser shall be allowed to operate the vehicle or trailer within the state with a temporary license plate for a period not to exceed 30 days from date of purchase. Any nonresident purchaser found to be operating a used motor vehicle, travel trailer or commercial trailer within this state after 30 days shall be subject to the registration fees of this state upon the same terms and conditions applying to residents of this state.

(Ord. No. 2776, § 56, 9-8-2009)

Sec. 26-82. Unlawful acts.

(a) It shall be unlawful for any person to commit any of the following acts:

(1) To lend or to sell to, or knowingly permit the use of by, one not entitled thereto any certificate of title, license plate or decal issued to or in the custody of the person so lending or permitting the use thereof;

(2) To alter or in any manner change a certificate of title, registration certificate, license plate or decal issued under the laws of this or any other state;

(3) To procure from another state or country, or display upon any vehicle owned by such person within this state, except as otherwise provided in the Oklahoma Vehicle License and Registration Act, any license plate issued by any state or country other than this state, unless there shall be displayed upon such vehicle at all times the current license plate and decal assigned to it by the Oklahoma Tax Commission or the corporation commission, or the vehicle shall display evidence that the vehicle is registered as a nonresident vehicle pursuant to rules promulgated by the tax commission, with the concurrence of the Department of Public Safety. A violation of the provisions of this paragraph shall be presumed to have occurred if a person who is the holder of an Oklahoma driver license operates a vehicle owned by such person on the public roads or highways of this state and there is not displayed on the vehicle a current Oklahoma license plate and decal, unless the vehicle is owned by a member of the Armed Forces of the United States assigned to duty in this state in compliance with official military or naval orders or the spouse of such a member of the Armed Forces;

(4) To drive, operate or move, or for the owner to cause or permit to be driven or moved, upon the roads, streets or highways of this state, any vehicle loaded in excess of its registered laden weight, or which is licensed for a capacity less than the manufacturer's rated capacity as provided for in the Oklahoma Vehicle License and Registration Act;

(5) To operate a vehicle without proper license plate or decal or on which all taxes due the state have not been paid;

(6) To buy, sell or dispose of, or possess for sale, use or storage, any secondhand or used vehicle on which the registration or license fee has not been paid, as required by law, and on which vehicle the person neglects, fails or refuses to display at all times the license plate or decal assigned to it;

(7) To give a fictitious name or fictitious address or make any misstatement of facts in application for certificate of title and registration of a vehicle;

(8) To purchase a license plate on an assigned certificate of title. This particular paragraph shall be applicable to all persons except a bona fide registered dealer in used cars who are holders of a current and valid used car dealer license;

(9) To operate a vehicle upon the highways of this state after the registration deadline for that vehicle without a proper license plate, as prescribed by the Oklahoma Vehicle License and Registration Act, for the current year;

(10) For any owner of a vehicle registered on the basis of laden weight to fail or refuse to weigh or reweigh it when requested to do so by any enforcement officer charged with the duty of enforcing this law;

(11) To operate or possess any vehicle which bears a motor number or serial number other than the original number placed thereon by the factory except a number duly assigned and authorized by the state;

(12) For any motor license agent to release a license plate, a manufactured home registration receipt, decal or excise tax receipt to any unauthorized person or source, including any dealer in new or used motor vehicles;

(13) To operate any vehicle registered as a commercial vehicle without the lettering requirements of Section 1102 of this title; or

(14) To operate any vehicle in violation of the provisions of the financial responsibility laws of the state of Oklahoma while displaying a yearly decal issued to the owner who has filed an affidavit that such vehicle will not be operated on the public streets and highways.

(b) The following self-propelled or motor-driven and operated vehicles shall not be registered under the provisions of the Oklahoma Vehicle License and Registration Act or to be operated on the streets or highways of this city unless otherwise authorized by law:

(1) Vehicles known and commonly referred to as "minibikes" and other similar trade names; provided, minibikes may be registered and operated in this state by food vendor services upon streets having a speed limit of 30 miles per hour or less;

(2) Golf carts;

(3) Go-carts; and

(4) Other motor vehicles, except motorcycles, which are manufactured principally for use off the streets and highways.

(Ord. No. 2776, § 57, 9-8-2009)

Sec. 26-83. License plate display.

License plate shall be securely attached to the rear of vehicles, except truck-tractor plates which shall be attached to the front of the vehicle unless the Oklahoma Tax Commission and Oklahoma Department of Public Safety, by joint rule, change and direct the manner, place and location of display of any vehicle license plate when such action is deemed in the public interest. The license plate, decal and all letters and numbers shall be clearly visible at all times. The operation of a vehicle in this state, regardless of where such vehicle is registered, upon which the license plate is covered, overlaid or otherwise screened with any material, whether such material be clear, translucent, tinted or opaque, shall be a violation of this paragraph [section].

(Ord. No. 2776, § 58, 9-8-2009)

Sec. 26-84. Violations.

Violation of any of the provisions of this article shall be a Class A offense, unless otherwise stated.

(Ord. No. 2776, § 59, 9-8-2009)

Chapter 27 RESERVED

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Chapter 28 - UTILITIES

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DIVISION 1. GENERALLY

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Chapter 28 UTILITIES

State Law reference— General authority of city relative to utilities, 11 O.S. § 22-104.

ARTICLE I. - IN GENERAL

Sec. 28-1. Blackwell Municipal Authority.

The utilities of the city, including the water, sewer and electric systems, are leased to the Blackwell Municipal Authority, which has the responsibility for operating the systems and promulgating rules and regulations pertaining thereto, including rates and charges.

Sec. 28-2. Utility billing and collection fee.

Effective January 17, 2017, and continuing monthly thereafter, regardless of the period of service, an utility billing and collection fee of $13.00 for residential accounts and an utility billing and collection fee of $18.00 for all other accounts shall be charged to and collected from each customer receiving utility service(s), with such monies collected dedicated to utility billing and collection operations.

(Ord. No. 2817, § I, 6-15-2015; Ord. No. 2017-17, 6-15-2017)

Secs. 28-3—28-20. - Reserved.

ARTICLE II. SEWERS AND SEWAGE DISPOSAL

State Law reference— Sewers generally, 11 O.S. § 37-101 et seq.

Sec. 28-21 Preamble; Declaration of Public Utility.

This Article sets forth uniform requirements for users of the wastewater collection and publicly owned treatment works (POTW) for the City of Blackwell, Oklahoma (hereinafter "City")and enable the City to comply with all applicable state and federal laws including the clean water act (33 USC 1251 et seq.), and the general pretreatment regulations (40 CFR part 403). The objectives of this article are:

A. To prevent the introduction of pollutants into the POTW that will interfere with the operation of the POTW.

B. To prevent the introduction of pollutants into the POTW which will pass through the POTW, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the POTW.

C. To ensure that the quality of the wastewater treatment plant sludge is maintained at a level which allows its use and disposal in compliance with applicable statutes and regulations.

D. To protect POTW personnel who may be affected by wastewater and sludge in the course of their employment and to protect the general public.

E. To improve the opportunity to recycle and reclaim wastewater and sludge from the POTW.

F. To enable the City to comply with its NPDES permit conditions, sludge use and disposal requirements and any other federal or state laws to which the POTW is subject; and

G. To provide for equitable distribution of the cost of operation, maintenance, and improvement of the POTW.

The sanitary sewerage system of the city is hereby declared to be a public utility and a proper source of revenue for the upkeep and maintenance of the system and for other purposes.

Sec. 28-22 Definitions.

Terms and words not specifically defined but used herein shall have their usual and ordinary meanings unless otherwise specifically defined in ordinances of the City. As used in this chapter, unless the context specifically indicates otherwise, the following terms and phrases shall have the meanings hereinafter designated:

ACCESS: Entry into or upon any real estate or structure, including any part thereof.

ACT OR THE ACT: The federal water pollution control act, also known as the clean water act, as amended, 33 USC 1251 et seq.

APPROVAL AUTHORITY: The director in an NPDES state with an approved state pretreatment program.

AUTHORIZED REPRESENTATIVE OF INDUSTRIAL USER: An authorized representative of an industrial user may be: a) a principal executive officer of at least the level of vice president, if the industrial user is a corporation; b) a general partner or proprietor if the industrial user is a partnership or proprietorship, respectively; c) a duly authorized representative of the individual designated above if such representative is responsible for the overall operation of the facilities from which the indirect discharge originates.

BOD_5 (DENOTING BIOCHEMICAL OXYGEN DEMAND): The quantity of oxygen utilized in the biochemical oxidations of organic matter under standard laboratory procedure in five (5) days at twenty degrees (20°) Celsius, expressed in milligrams per liter.

BUILDING DRAIN: That part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet (5') (1.5 m) outside the inner face of the building wall.

BUILDING SEWER: A sewer conveying wastewater from the premises of a user to the public sewer.

BYPASS: The intentional diversion of waste streams from any portion of any industrial user's treatment facility.

CATEGORICAL STANDARDS: Federal categorical pretreatment standards or pretreatment standards.

CITY: The administrative head of the City ("City Manager")and/or his/her delegated representative or the City Council.

CITY'S ENGINEER: The City Engineer or his duly authorized representative designated by the City Manager to administer, implement, and enforce the provisions of this Article.

COMBINED SEWER: A sewer receiving both surface runoff and sewage.

COMPOSITE SAMPLE: The sample resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow or time.

CONTROL AUTHORITY: Shall refer to the "approval authority", defined hereinabove; or the director if the City has an approved pretreatment program under the provisions of 40 CFR 403.11.

COOLING WATER: The water discharged from any use such as air conditioning, cooling, or refrigeration.

DIRECT DISCHARGE: The discharge of treated or untreated wastewater directly to the waters of the state.

DIRECTOR OF ENGINEERING SERVICES: The City Engineer or his duly authorized representative.

ENVIRONMENTAL ENFORCEMENT BOARD: The five (5) member board that hears appeals from the decisions made at administrative hearings.

ENVIRONMENTAL PROTECTION AGENCY, OR EPA: The U.S. environmental protection agency or, where appropriate, the term may also be used as a designation for the administrator or other duly authorized official.

EXISTING SOURCE: Any source of discharge, the construction or operation of which commenced prior to the publication of proposed categorical pretreatment standards which will be applicable to such source if the standard is thereafter promulgated in accordance with section 307 of the act.

FEDERAL CATEGORICAL PRETREATMENT STANDARDS OR PRETREATMENT STANDARDS: A regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the act (33 USC 1347) which applies to a specific category of industrial users. This term includes prohibited discharge limits established pursuant to section 403.5 of title 40 CFR.

GRAB SAMPLE: An individual sample which is taken from a waste stream on a one time basis with no regard to the flow in the waste stream and collected over a period of time, not to exceed fifteen (15) minutes in duration.

HOLDING TANK WASTE: Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum pump tank trucks.

INDIRECT DISCHARGE: The discharge or the introduction of nondomestic pollutants from any source regulated under section 307(b), (c) or (d) of the act (33 USC 1317), into the POTW (including holding tank waste discharged into the system).

INDUSTRIAL USER: A source of indirect discharge.

INFILTRATION: "Water", as herein defined, entering the sanitary sewer system, including private sewer service connections, from the ground, through such means as, but not limited to, defective pipes, pipe joints, connections, perimeter drains, or manhole walls. "Infiltration" does not include, and is distinguished from, "inflow".

INFILTRATION/INFLOW: A combination of infiltration and inflow waters entering the sanitary sewer lines, with no way of distinguishing the basic source, and which tends to cause an overloading of the capacities of the sanitary sewer system.

INFLOW: Water discharged into the sanitary sewer system, including service connection from means such as, but not limited to, roof downspout or leaders, cellar, yard, driveway and area drains, sump pumps, open foundations and/or perimeter drains, drains from springs and swampy areas, manhole covers, cross connections from storm sewers, surface runoff, street wastewater, or drainage. "Inflow" does not include, and is distinguished from, "infiltration".

INSTANTANEOUS MAXIMUM ALLOWABLE DISCHARGE LIMIT: The maximum concentration (or loading) of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected independent of the industrial flow rate and the duration of the sampling event.

INTERFERENCE: A discharge which alone or in conjunction with a discharge or discharges from other sources: a) inhibits or disrupts the POTW treatment processes or operations or its sludge processes, use or disposal; and b) therefore, contributes to a violation of any requirement of the City's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal by the POTW in accordance with any of the following statutory/regulatory provisions or permits issued thereunder (or more stringent state or local regulations): section 405 of the clean water act (33 USC 1345); or any

criteria, guidelines, or regulations developed pursuant to the solid waste disposal act (SWDA), including title II commonly referred to as the resource conservation and recovery act (RCRA); or more stringent state criteria contained in any sludge management plan prepared pursuant to subtitle D, of the SWDA; the clean air act; the toxic substance control act; and the marine protection, research and sanctuaries act.

MEDICAL WASTE: Isolation wastes, infectious agents, human blood and blood byproducts, pathological wastes, sharps, body parts, fomites, etiologic agents, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes and dialysis wastes.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM OR NPDES PERMIT: A permit issued pursuant to section 402 of the act (33 USC 1342).

NATIONAL PRETREATMENT STANDARD, PRETREATMENT STANDARD, OR STANDARD: Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with sections 307(b) and (c) of the act, which applies to industrial users. This term includes prohibitive discharge limits established pursuant to 40 CFR Section 403.5.

NATURAL OUTLET: Any outlet into a watercourse, pond, ditch, lake, or other body of surface water or ground water.

NEW SOURCE: A. Any source from which there is or may be a discharge of pollutants, the construction of which is commenced after the publication of proposed pretreatment standards of the act which will be applicable to such source, if such standard is thereafter promulgated in accordance with that section; provided, that: 1) construction is at a site where no other source is located; 2) process or production equipment causing discharge is totally replaced due to construction; or 3) the production of the waste stream of the facility is substantially independent of existing sources at the same site. B. Construction of a new source has commenced, if the owner or operator has: 1) begun installation/assembly of facilities or equipment; 2) begun significant site preparation for installation/assembly; or 3) entered into binding nonstructural obligation for the purchase of facility equipment which is intended to be used in the operation within a reasonable time.

NONCONTACT COOLING WATER: Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product and to which the only pollutant added is heat.

NOTICE: If the structure and/or real property to be inspected is occupied, the representative shall first present proper credentials and request entry. If the structure and/or real property is unoccupied, he shall first make a reasonable effort to locate the owner or other person(s) having charge or control of the structure and/or real property and request entry.

OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY OR ODEQ: The approval authority agency for the State of Oklahoma.

pH: The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution and measured in standard units (su).

POTW TREATMENT PLANT: This portion of the POTW which is designed to provide treatment (including recycling and reclamation) of municipal sewage and industrial waste.

PASS THROUGH: A discharge which exits the POTW into the waters of the U.S. in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation).

PERSON: Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents, heirs, successors or assigns. This definition includes all federal, state, or local governmental entities.

POLLUTANT: Any dredge spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.

POLLUTION: The manmade or man induced alteration of the chemical, physical, biological, and radiological integrity of water.

PRETREATMENT OR TREATMENT: The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration may be obtained by physical, chemical, or biological processes, process changes or by other means, except as prohibited by section 403.6(d) of title 40 CFR. Appropriate pretreatment technology includes control equipment, such as equalization tanks or facilities, for protection against surges or slug loadings that might interfere with or otherwise be incompatible with the POTW. However, where wastewater from a regulated process is mixed in an equalization facility with unregulated wastewater or with wastewater from another regulated process, the effluent from the equalization facility must meet an adjusted pretreatment limit calculated in accordance with subsection 403.6(e) of title 40 CFR.

PRETREATMENT REQUIREMENTS: Any substantive or procedural requirement related to pretreatment, other than a national pretreatment standard imposed on an industrial user.

PUBLIC SEWER: A sewer in which all owners of abutting properties have equal rights and is controlled, operated, and maintained by the City ; the same being an integral part of the POTW.

PUBLIC UTILITIES DIRECTOR: The public utilities director is the Water/Wastewater Superintendent or his duly authorized representative who is charged with certain duties and responsibilities by the provisions of this article.

PUBLICLY OWNED TREATMENT WORKS (POTW): A treatment works as defined by section 212 of the act, which is owned by a state or municipality (as defined by section 502(4) of the act). This definition includes any devices and systems used in the collection, pumping, storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipe, and other conveyances only if they convey wastewater to a POTW treatment plant. The term also means the "municipality" as defined in section 502(4) of the act, which has jurisdiction over the indirect discharges to and the discharges from such a treatment works.

SANITARY SEWAGE: The liquid waste which may or may not contain solids, originating in the sanitary conveniences for personnel of a dwelling, business building, factory, industrial facility, institution, or other place.

SANITARY SEWER: A sewer, which carries wastewater and to which storm, surface and ground waters are not intentionally admitted.

SEARCH WARRANTS: If, after proper request, entry or access is refused, or otherwise permission to inspect the property is not granted, the representative shall make application to a court of competent jurisdiction for a search warrant to permit such inspection.

SERVICE LINE OR HOUSE SERVICE LINE: That portion of a sewer, located on the premises of the user, extending from the building drain to the public sewer, and the operation and maintenance of such portion of the sewer shall be the responsibility of the user; further, the terms "service line" or "house service line" shall be synonymous with the term "building sewer" hereinabove set forth.

SEVERE PROPERTY DAMAGE: Substantial physical damage to property, damage to the treatment facilities which causes the facilities to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass.

SEWER: A pipe or conduit for carrying wastewater or storm water.

SHALL/MAY: "Shall" is mandatory; "may" is permissive or discretionary.

SIGNIFICANT INDUSTRIAL USER (SIU): Any industrial user of the City's wastewater disposal system who: a) is subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR chapter I, subchapter N; b) any other non-categorical industrial user that: 1) has a discharge flow of twenty five thousand (25,000) gallons or more per average work day of process wastewater ("process wastewater" excludes sanitary, noncontact cooling, and boiler blow down wastewaters); 2) has a process waste stream which makes up five percent (5%) or more of the average dry weather hydraulic or organic (BOD_5, TSS, etc.) capacity of the POTW treatment plant; 3) the wastewater toxic pollutants as defined pursuant to section 307, of the act or state statutes or rules; or 4) is found by the City, the state or the U.S. environmental protection agency (EPA) to have a reasonable potential for adversely affecting the POTW treatment plant

(inhibition, pass through of pollutants, sludge contamination, endangerment of POTW workers, or air emissions generated by the system), or for violating any pretreatment standard or requirement, either singly or in combination with other contributing industries.

SLUG: Any discharge of a non-routine episodic nature, including, but not limited to, an accidental spill or a non-customary batch discharge.

STANDARD INDUSTRIAL CLASSIFICATION (SIC): A classification pursuant to the standard industrial classification manual issued by the executive office of the president, office of management and budget, 1987.

STORM SEWER OR STORM DRAIN: A sewer pipe or manmade watercourse, which carries storm water and surface water and drainage, but excludes wastewater.

STORM WATER: Any flow occurring during or following any form of natural precipitation, and resulting therefrom, including snowmelt.

SUPERINTENDENT: The superintendent or supervisor of the water pollution control plant, or the individual designated by the City Manager to fill the position or assume the duties of the superintendent or supervisor of the water pollution control plant who is charged by the City Manager to implement the provisions of the NPDES permit.

SUSPENDED SOLIDS: Matter that either floats on the surface of, or is suspended in, water, wastewater, sewage, or other liquids, and which are removable by laboratory filtering.

TOXIC POLLUTANT: Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the administrator of the environmental protection agency under the provision of CWA section 307(a) or other acts.

TREATMENT PLANT EFFLUENT: Any discharge from the POTW into waters of the state.

UPSET: An exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the industrial user. An "upset" does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operations.

USE OR USER OF THE SANITARY SEWER: Any person who contributes, causes or permits the contribution of wastewater into the City's POTW; and further the terms "user" or "user of the sanitary sewage system" shall also mean any person receiving City water service and who has a connection with the City's sewage system, or, in the case where a private water supply is used, the proprietor of the location having the sewer connection.

WASTEWATER: The liquid and water carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, together with any ground

water, surface water, and storm water that may be present, whether treated or untreated, which is contributed into or permitted to enter the POTW for treatment and disposal. "Sewage" may include chemicals, household waste, laundry waste, human excrement, animal or vegetable matter in suspension or solution, and other solids in suspension or solution.

WATERCOURSE: A channel in which a flow of water occurs, either continuously or intermittently.

WATERS OF THE STATE: All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.

Sec. 28-23 Abbreviations.

The following abbreviations shall have the designated meanings:

BOD_5 Biochemical oxygen demand

CFR Code of federal regulations

COD Chemical oxygen demand

EPA Environmental protection agency

l Liter

mg Milligrams

mg/l Milligrams per liter

NPDES National pollutant discharge elimination system

POTW Publicly owned treatment works

SIC Standard industrial classification

SWDA Solid waste disposal act, 42 USC 6901 et seq.

TSS Total suspended solids

USC United States Code

Sec. 28-24 Charges and Fees

After the effective date of this Article, the City Council, for the purpose of defraying cost of implementing and operating the City's pretreatment program, shall have the power and authority, by the adoption of a duly enacted ordinance, to require the payment of the following:

A. Fees for reimbursement of costs of setting up and operating the City's pretreatment program.

B. Fees for monitoring, inspections[2] and surveillance procedures;

C. Fees for reviewing accidental discharge procedures and construction.

D. Fees for consistent removal by the City of pollutants otherwise subject to federal pretreatment standards.

E. Fees for surcharges; and

F. Any other fees as the City may deem necessary to carry out the requirements contained herein.

Sec. 28-25 Sewer Connection Required.

(a) The connection of any building service connection into the public sanitary sewer shall conform to the requirements of the International Plumbing Code and other applicable rules and regulations of the city.

(b) All new sanitary sewage works shall be designed and constructed in accordance with the requirements of the state department of health regulations.

(c) When a public sanitary sewer becomes available within 300 feet, the building sewer shall be connected to said sewer within 60 days.

(d) Any new connection from an inflow source to the sanitary sewer system shall be prohibited.

(e) Deposits of Garbage, Objectionable Wastes: No person shall place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the City, or in any area under the jurisdiction of the City, any human or animal excrement, garbage, or other objectionable waste.

(f) Compliance Required: No person who owns, rents or is in control of a building or structure, which is required to be connected to a sanitary sewer, shall fail to connect to such sanitary sewer.

Sec. 28-26 Sanitary Sewers, Alternate Disposal.

A. Except as hereinafter provided in this Section, it shall be unlawful for any person to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended to be used for the disposal of sewage within the corporate limits of the City.

B. Where a connection to a public sanitary sewer line is not required under the provisions of 28-25, a private septic tank or cesspool facility for sewage disposal may be constructed and maintained, provided it is constructed and maintained under the rules and regulations of the Health Officer and in compliance with the recommendations and requirements of the Oklahoma State Department of Health. No septic tank or cesspool shall be permitted to discharge to any public sewer or natural outlet.

C. In the event geographical, topical, or other terrain features prevent direct connecting into the public sewage disposal system, no private sewage disposal system will be authorized when a lift station will suffice.

D. Construction of a private sewage disposal system is prohibited unless and until authorization is granted by the Authority or until he proposed construction has been approved by the Oklahoma State Department of Health.

E. The owner of private septic tanks or cesspools shall operate and maintain the same in a sanitary manner at all times, at no expense to the City, Authority, and no statement contained in this Article shall be construed to interfere with any additional requirements that may be imposed by the State Health Officer.

F. At such times as a public sewer becomes available to a property served by a septic tank or cesspool, a direct connection shall be made to such public sewer in compliance with Section 28-25, and the septic tank or cesspool shall immediately be abandoned and filled with suitable material.

Sec. 28-27 Discharge of Sewage and Polluted Water to Natural Outlet.

No person shall discharge to any natural outlet, or waters of the state within the City, or in any area under the jurisdiction of the City, any wastewater, except where suitable treatment has been provided in accordance with the provisions of this article.

Sec. 28-28 Discharge of Storm Water and Ground Water.

A. Discharge to Sanitary Sewer Prohibited: No person shall discharge or cause to be discharged any storm water, surface water, ground water, roof runoff or subsurface drainage to any sanitary sewer.

B. Discharge to Storm Sewers: Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet. Noncontact cooling water or unpolluted process waters may be discharged, on approval of the state, to a storm sewer or natural outlet.

Sec. 28-29 Discharge of Certain Waters or Wastes to Sanitary Sewer.

A. General Prohibitions: No user shall contribute or cause to be contributed, directly or indirectly, into the POTW any pollutant or wastewater which will interfere with the operation

or performance of or pass through the POTW. These general prohibitions apply to all such users of the POTW whether or not the user is subject to categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements. Furthermore, no user may contribute the following substances to the POTW:

1. Any liquids, solids, or gases which by reason of their nature or quantity are, or may be, sufficient either alone or in interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. Pollutants which cause a fire or explosion hazard to the POTW, including, but not limited to, waste streams with a closed cup flashpoint of less than one hundred forty degrees Fahrenheit (140°F) or sixty degrees centigrade (60°C) using the test methods specified in 40 CFR 261.21. At no time shall two (2) successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than five percent (5%) nor any single reading over ten percent (10%) of the lower explosive limit (LEL) of the meter. Prohibited materials include, but are not limited to: gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides and any other substances which the City, the state or EPA has notified the user is a fire hazard or a hazard to the system or as determined by the City Engineer.

2. Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of or pass through the wastewater treatment facilities such as, but not limited to: grease, garbage with particles greater than one-half inch ($^1/_2$") in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastic, gas, tar, asphalt residues, residues from refining, or processing of fuel or lubricating oil, petroleum oil, non-biodegradable cutting oil, or products of mineral oil origins, mud, or glass grindings or polishing wastes.

3. Any wastewater having a pH less than 5.5, or having a pH greater than 11.0, or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the POTW.

4. Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW, or to exceed the limitations set forth in a categorical pretreatment standard. A toxic pollutant shall include, but not be limited to, any pollutant identified pursuant to section 307(a) of the act.

5. Any noxious, or malodorous or toxic liquids, gases, vapors, fumes, or solids which either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or are sufficient enough that may cause acute worker health and safety problems at the POTW or may prevent entry into the sewer system for maintenance and repair.

6. Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation process. In no case shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal criteria, guidelines or regulations developed under section 405 of the act; any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the solid waste disposal act, the clean air act, the toxic substance control act, or state criteria applicable to the sludge management method being used.

7. Any substance which will cause the POTW to violate its NPDES permit or the state water quality standards.

8. Any wastewater with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions.

9. Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference; but in no case shall wastewater effluent be discharged from any users into the sewer system at temperatures which exceed one hundred fifty degrees Fahrenheit (150°F) (65 degrees centigrade) or in no case shall heat be discharged from any user in such quantities that the influent temperature at the City's POTW will exceed one hundred four degrees Fahrenheit (104°F) (40 degrees centigrade).

10. Any pollutants, including oxygen-demanding pollutants (BOD_5, etc.) released in a discharge rate and/or pollutant concentration which will cause interference to the POTW.

11. Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the City’s Engineer in compliance with applicable state and federal regulation.

12. Any wastewater which causes a hazard to human life or creates a public nuisance.

13. Any trucked or hauled waste unless authorized pursuant to this article.

B. Rulings of City’s Engineer: When the City’s Engineer determines that a user is contributing to the POTW, any of the above enumerated substances in such amounts as to interfere with the operation of the POTW, the City’s Engineer shall:

1. Advise the user of the impact of the contribution of the POTW.

2. Require pretreatment to an acceptable condition for discharge to the sanitary sewer.

3. Develop effluent limitations for such user to correct the interference with the POTW.

4. Reject the waste; or

5. Require control over the quantities and rates of discharge.

C. Pretreatment Plans and Equipment: If the City permits the pretreatment or equalization of waste flows, the design and installation of the plans and equipment shall be subject to the review and approval of the City, and subject to the requirements of all applicable rules, ordinances, and laws.

D. City Right to Establish Stringent Limitations: The City reserves the right to establish by ordinance more stringent limitations or requirements on discharges to the POTW system if deemed necessary to comply with the objectives of suitable treatment as defined in this article.

Sec. 28-30 Grease, Oil and Sand Traps and Interceptors

Grease, oil and sand interceptors shall be provided when, in the opinion of the City, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, sand or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the City and shall be located as to be readily and easily accessible for cleaning and inspection. The frequency of cleaning required will be dependent upon loading, capacity of interceptors, and flow obstruction problems experienced at each facility historically. Therefore, the City shall have the authority to establish a minimum grease interceptor cleaning frequency as needed for each user. Materials removed from these interceptors shall be disposed of at designated approved locations.

A. Traps and Interceptors Required: Traps and interceptors for oil, grease, sand, and other substances harmful to the building drainage system, the public sewer or sewage treatment plant, or processes shall be provided as required in this section. Where food waste grinders connect to grease interceptors, the grease interceptor shall be sized and rated for the discharge of the food waste grinder.

B. Traps Not Required: A trap shall not be required for individual dwelling units or any private living quarters.

C. Size, Type and Location Approved: The size, type and location of each trap or interceptor shall be of a type and capacity as defined in the international plumbing code and shall be approved by the City. All interceptors shall be located so as to be readily and easily accessible for cleaning and inspection. Such interceptors shall be thoroughly inspected following construction by the City and shall be maintained by the owner, at his expense, in continuously efficient operation at all times.

D. Grease Traps: Grease traps shall conform to the plumbing and drainage institute (PDI) G101 requirements and shall be installed in accordance with manufacturer's instructions. Refer to the international plumbing code; table 1003.3.4.1 "Capacity of Grease Traps".

E. Grease Interceptors: A grease interceptor shall be installed in the waste line leading from sinks, drains or other fixtures in the following establishments: restaurants, hotel kitchens, hospitals, school kitchens, factory kitchens, clubs, cafeterias, drive ins, food processing establishments, and in any bar, lounge, private club or fountain where food in prepared or served, or where dishes, glasses, pots, pans or other kitchen wares are washed, or any other establishment where grease can be introduced into the drainage system in quantities that can effect line stoppage or hinder sewage disposal. The City's Engineer shall have the authority to require installation of a trap or interceptor in any establishment when, in his opinion, one is required based on evidence that the establishment is contributing grease into the City's sewer mains in quantities that could affect line stoppage or hinder sewage disposal.

F. Oil Separators: An oil separator shall be installed in the drainage system of any establishment where, in the judgment of the City's Engineer, oils and other flammables can be introduced or admitted into the public sewer by accident or otherwise.

G. Separators Required: At repair garages; gasoline stations with grease racks, grease pits or work racks; and at factories where oily liquid wastes are produced, separators shall be installed into which all oil bearing or grease bearing wastes shall be discharged before emptying in the building drainage system or other point of disposal.

H. Separation of Liquids: A mixture of treated or untreated light and heavy liquids with various specific gravities shall be separated in an approved receptacle.

I. Garages and Service Stations: Where automobiles are serviced, greased, repaired, or washed or where gasoline is dispensed, separators shall be required. Parking garages in which servicing, repairing, or washing is not conducted, and in which gasoline is not dispensed, shall not require a separator. Areas of commercial garages utilized only for storage of automobiles are not required to be drained through a separator.

J. Sand Interceptors in Commercial Establishments: Sand and similar interceptors for heavy solids shall be designed and located so as to be provided with ready access for cleaning.

K. Laundries: Commercial laundries shall be equipped with an interceptor with a wire basket or similar device, removable for cleaning that prevents passage into the drainage system of solids one-half inch ($^1/_2$") (12.7 mm) or larger in size, string, rags, buttons, or other materials detrimental to the public sewerage system.

L. Bottling Establishments: Bottling plants shall discharge process wastes into an interceptor that will provide for the separation of broken glass or other solids before discharging into the drainage system.

M. Slaughterhouses: Slaughtering room and dressing room drains shall be equipped with approved separators. The separator shall prevent the discharge into the drainage system of feathers, entrails and other materials that cause clogging.

N. Right of Entry: The City and its agents shall have the right of entry, during usual business hours, to conduct a random inspection of traps, interceptor, or separator.

O. Grease Traps for Businesses, Approval: Any grease traps or interceptors for new or remodeled businesses shall be approved by the City's engineer prior to construction.

P. Violation Suspected; Notice; Hearing:

1. When the City determines that there may be potential violation, a site visit will be conducted. Any user found to be in violation of this section should be served by the City with written notice stating the violation and providing five (5) days to respond to the violation. The offender shall, within the period of time stated in such notice, permanently cease all violations.

2. After the violator's response has been received, a follow up site visit will be conducted to determine if the violation has been corrected.

3. If the user fails to respond to the violation letter, an administrative hearing will be held, and the user will be subject to administrative penalties at that time.

4. In the event an establishment is cited with a second violation within six (6) months of the first, an administrative hearing will be held, and the user will be subject to administrative penalties at that time.

5. A third citation within six (6) months from the first violation will cause the City to immediately discontinue water service to the establishment for a period of not less than ten (10) days, during which time the offender shall correct the violation.

Q. Civil or Criminal Litigation: Any person who shall continue any violation beyond the time limit provided for in subsection P of this section shall be subject to specified civil or criminal litigation. Each day in which any such violation shall continue shall be deemed a separate offense.

Sec. 28-31 Control Manholes and Meters.

When required by the City, the owner of any property serviced by a building sewer carrying wastewater shall install a suitable control manhole together with such necessary meters and other appurtenances in the building to facilitate observation, sampling, and flow measurement. Such manholes, when required, shall be accessible and safely located and shall be constructed in accordance with plans approved by the City. The manhole shall be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible at all times.

Sec. 28-32 Accidental Discharges, Slug Load or Upset.

A. Procedure for Providing Protection: Each user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this article. Procedures to prevent adverse impact from accidental discharges include: inspection and maintenance of storage areas, handling and transferring of materials, loading and unloading

operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic solvents, and/or measures and equipment for emergency response.

1. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner or user's own cost and expense.

2. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the City for review and shall be approved by the City before construction of the facility.

3. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall ensure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure.

4. No user who contributes to the POTW shall be permitted to introduce pollutants into the system until accidental discharge procedures have been approved by the City. Review and approval of such plans and operating procedures shall not relieve the industrial user from the responsibility to modify the user's facility as necessary to meet the requirements of this article.

B. Notify POTW of Incident; Reports: In the case of an accidental discharge or slug load or upset, it is the responsibility of the user to immediately telephone and notify the POTW of the incident including any discharge that violates a prohibited substance of the permit. The notification shall include location of the discharge, date and time thereof, the time within which compliance is expected to reoccur, type of pollutant, concentration and volume, and corrective actions to reduce, eliminate or prevent reoccurrence within twenty four (24) hours of being aware of the upset.

1. Within five (5) days following an accidental discharge, the user shall submit to the City’s engineer a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this article or other applicable law.

2. The City shall evaluate, at least once every two (2) years, whether each significant industrial user (SIU) needs a plan to control slug discharges. The evaluations will be documented in the SIU's file. If the City decides that a slug control plan is needed, the plan shall contain, at a minimum, the following elements:

a. Description of discharge practices, including non-routine batch discharges; and
b. Description of stored chemicals.

c. Procedures for immediately notifying the POTW of any accidental or slug discharge. Such notification must also be given for any discharge which would violate any of the prohibited discharges in this article.

d. Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.

Sec. 28-33 Trucked or Hauled Wastewater.

Trucked or hauled waste, including septic tank and industrial sewage are not accepted unless the City Manager determines that the waste does not violate any requirements established or adopted by the City (e.g., local limits, etc.).

Sec. 28-34 Specific Local Limits.

(a) The following pollutant limits are established to protect against pass through and interference at the POTW. In addition to all the aforementioned limitations contained in this article, all indirect discharges to the POTW shall not exceed the following limits at any time. These limits, unlike categorical limits, which apply at the end of the process stream, apply at the discharge point to the sewer. The limits represent total concentrations for all applicable pollutants.

	Average for 30 Consecutive Days (mg/l)	Maximum for Any One Day (mg/l)
Antimony	0.001	
Boron	1.0	
Cadmium	0.05	1.0
Chromium, hexavalent	1.0	
Chromium, total	5.0	
Copper	1.0	
Cyanide	1.0	

Lead	0.4	0.8
Mercury	0.002	
Silver	0.03	1.0
Vanadium	10.0	
Zinc	5.0	
Phenols	0.1	
Fluoride	1.5	
Nickel	1.8	3.6
Arsenic	0.1	

(b) Limitations on elements or compounds not listed will be established, and/or limitations for elements or compounds listed will be lowered if necessary to ensure that the effluent of the wastewater treatment plant is in full compliance with legal requirements of county, state or federal regulatory agencies.

Sec. 28-35 State Requirements; City Right to Revise.

A. Application of State Requirements: State requirements and limitations on discharges shall apply in any case where they are more stringent than federal requirements and limitations or those in this article.

B. City Right to Increase Restrictions: The City reserves the right to increase the restrictions on compounds covered by the federal categorical pretreatment standards, and to adopt more stringent limitations or requirements on discharges to the wastewater system, if the same are deemed necessary to comply with the objectives of suitable treatment as defined and set forth in this article.

Sec. 28-36 Pretreatment Standards Adopted Solely by City: Hearing.

The City is hereby granted the authority to establish pretreatment and effluent discharge standards on its own initiative. In the event new discharge standards, solely initiated and adopted by the City, or revisions to existing City standards are considered, a public hearing shall be held before the City Council prior to the adoption thereof. Notice of such hearing shall be published at least fifteen (15) days prior to the hearing, in a legal publication of general circulation within the

City. In addition, all known users and other interested parties affected by the proposed standards shall be mailed written notice of the public hearing. Comments and suggestions received at the public hearing shall be considered during the preparation of the City's final effluent discharge standards.

Sec. 28-37 Excessive Discharge.

No user shall attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the local limits or federal categorical pretreatment standards.

Sec. 28-38 Maintenance of Pretreatment Facilities.

A. Owner Responsibility: Where pretreatment or flow equalizing facilities are provided for any wastewater, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

B. Bypass of Treatment Facilities:

1. Bypass is prohibited unless it is unavoidable to prevent loss of life, personal injury or severe property damage, or no feasible alternatives exist.

2. The user may allow a bypass to occur which does not cause effluent limitations to be exceeded, but only if it is also for essential maintenance to ensure efficient operation.

3. Notification of Bypass:

a. Anticipated Bypass: If the user knows in advance of the need for a bypass, it shall submit prior written notice, if possible, at least ten (10) days before the date of the bypass, to the City.

b. Unanticipated Bypass: The user shall submit oral notice to the City within twenty-four (24) hours and submit a written notice within five (5) days. This report shall specify:

(1) A description of the bypass and its cause, including its duration, exact time, and date; and

(2) Whether the bypass has been corrected; and if the bypass is not corrected, the anticipated time it is expected to continue; and

(3) The steps being taken or to be taken to reduce, eliminate and prevent a recurrence of the bypass.

Sec. 28-39 Monitoring Facilities.

A. Placement of Facilities: The City shall require to be provided and operated at the user's own expense, monitoring facilities to allow inspection, sampling, and flow measurements of the building sewer and/or internal drainage system. The monitoring facility should normally be situated in the user's premises, but the City may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles. The user shall be responsible for relocation of the facility, if necessary, for street improvements or public utility construction, maintenance, or repairs. The monitoring facility designed by the industrial user as the proper sampling site for regulated categorical or industrial processes will be approved by the City prior to the use of such facility.

B. Sampling Manhole: There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility sampling and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.

C. Compliance with City Standards: Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the City's requirements and all applicable local construction standards and specifications. Construction shall be completed within ninety (90) days following written notification by the City.

D. Excessive Pollutants Detected: In the event an excessive or shock load of pollutants are detected anywhere in the POTW or received at the POTW treatment plant, the City may require demand monitoring procedures in order to discover the source of such discharge into the POTW. "Demand monitoring" means the use of all necessary measures and equipment for the purpose of determining the users who have created, or contributed to, the harmful discharge of problem pollutants. When the user or users have been identified, the City shall have the authority to assess the cost of demand monitoring against the offending user.

Sec. 28-40 Penalties.

A. It shall be unlawful for any person to break maliciously, willfully, or negligently, damage, destroy, uncover, deface, or tamper with any structure, appurtenances, or equipment which is a part of the sewage works. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

B. Any person found to be violating any provision of this Article shall be served by the owner with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

C. Any person who shall continue any violation beyond the time limit provided for in this section shall be deemed guilty of a violation thereof, and upon conviction thereof shall be punished by a fine of not to exceed Five Hundred Dollars ($500.00), plus court costs, fees and state assessments. Each day in which any such violation shall continue shall be deemed a separate offense.

D. Failure to pay monthly bills for water or sanitary sewer service when due or repeated discharge of prohibited waste to the sanitary sewer shall result in disconnection of any and all services to the water or sanitary sewer lines of the owner.

Note: Article replaced by Ordinance No. 2020-18, 8-6-2020)

Sec. 28-41. Sewer rates.

Effective July 1, 2019, and continuing monthly thereafter, regardless of the period of service, the following rates and charges shall be charged and collected for sewer services:

(1) All resident users of the municipally owned wastewater treatment system shall be charged a minimum of $21.27 per month inside city limits, plus a charge of $0.00595 per cubic feet (or a charge of $0.000793 per gallon) of the quantity of water metered to the user.

(2) All nonresident users of the municipally owned wastewater treatment system having connections outside the corporate limits of the city shall be charged one and one-half times the established resident rates.

(3) The monthly volume of sewage discharged by each user shall be assumed to be equal to the quantity of water metered to the user but, in the cases where the volume cannot be reasonably determined from the water so metered, the amount of sewage discharged into the wastewater system shall be determined as follows:

a. Residential user: The maximum amount to be charged for new service and transfer service is $21.85 until the next average rate is established.

b. Commercial user: The maximum amount to be charged for new service and transfer service is $73.52 until the next average rate is established.

c. Non-metered user: In the case of users not on a metered basis, the city manager shall establish estimated water consumption based on a comparison of non-metered user with a metered user of similar class.

(4) The average monthly water usage for the months of November through February shall be used to determine a monthly rate per residential customer.

(6) See exhibit "A," user charge schedule, for calculations associated with the establishment of these sewer use charges. Exhibit "A" has not been included herein, but is on file for inspection by the public in the office of the city clerk.

(Ord. No. 2817, § II, 6-15-2015; Ord. No. 2821, § I, 10-15-2015; Ord. No. 2828, § I, 6-16-2016; Ord. No. 2017-20, 6-15-2017; Ord. 2018-07, 6-21-2018; Ord. 2019-14, 7-2-2019)

Secs. 28-42-28-55. - Reserved.

ARTICLE III. SOLID WASTE COLLECTION AND DISPOSAL; LITTER CONTROL

State Law reference— Hazardous Waste Management Act, 27A O.S. § 2-7-101 et seq.; Oklahoma Solid Waste Management Act, 27A O.S. § 2-10-101 et seq.; municipal solid waste management systems, 27A O.S. § 2-10-901.

DIVISION 1. GENERALLY

Secs. 28-56—28-83. Reserved.

DIVISION 2. COLLECTION AND DISPOSAL

Sec. 28-84. Definitions.

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

City health officer means the health officer of the city or his authorized agent.

Garbage means all putrescible wastes, except sewage and body wastes, large dead animals, carrion, slaughter wastes and other highly putrescible wastes such as canning wastes. Garbage shall include all meat, vegetable, and fruit wastes and carcasses of small animals and fowl normally disposed of by residential owners and commercial establishments.

Refuse means solid waste comprised primarily of garbage and rubbish.

Rubbish means tin cans, bottles, papers, tree limbs (which shall be cut into lengths not exceeding four feet), leaves, etc.

Rubble means brushwood, cardboard boxes and other bulky earthen, wooden or metal refuse-like materials, longer, larger and/or heavier than refuse.

Solid waste means all putrescible and non-putrescible refuse in solid or semisolid form, including, but not limited to, garbage, rubbish, ashes or incinerator residue, street refuse, dead animals, demolition wastes, construction wastes, solid or semisolid commercial and industrial wastes and hazardous wastes, including explosives, pathological wastes, chemical wastes, herbicide and pesticide wastes. The term "solid waste" shall not include:

(1) Scrap materials which are source separated for collection and processing as industrial raw materials, except when contained in the waste collected by or in behalf of a solid waste management system, or

(2) Used motor oil, which shall not be considered to be a solid waste, but shall be considered a deleterious substance, if the used motor oil is recycled for energy reclamation and is ultimately destroyed when recycled.

(Code 1967, § 11-1; Ord. No. 2096, § 1, 12-16-1975)

Sec. 28-85. Accumulations of solid wastes.

(a) It shall be the duty of every person owning, managing, operating, leasing or renting any premises or any place where solid waste accumulates, to provide, at all times to maintain in good order and repair, on any said premises a portable container for refuse which shall be made of galvanized metal or equivalent not easily corrodible, rodentproof and flyproof, with

a tightfitting lid which shall not be removed except when depositing or removing the contents of the receptacle, and with handles on the sides, and of sufficient capacity and in sufficient numbers to accommodate and securely keep all of the refuse that may accumulate between collections; provided that all containers shall be kept clean and free from the accumulation of any substance remaining attached to the inside of the container which would attract flies, mosquitoes or any other insects.

(b) Where garbage and rubbish have to be separated, an approved container must be provided for each type of solid waste with specifications as stipulated in subsection (a) of this section.

(c) All ordinary accumulations of rubbish such as tree limbs, paper boxes, scrap lumber which cannot be conveniently placed in the containers required under this division shall be gathered together and baled, tied or sacked in compact bundles not longer than four feet and weighing no more than 50 pounds or neatly stacked and placed in a location easily accessible to the collector.

(Code 1967, § 11-2; Ord. No. 2096, § 2, 12-16-1975)

Sec. 28-86. Collection of solid wastes.

(a) It shall be unlawful for any person to engage in the business of solid waste collection for disposal for compensation in the city except for that person who holds a contract with the city for such purpose.

(b) Carcasses of animals such as cows, horses and mules shall be removed and disposed of at the expense of the owner or person having same in charge and by the method directed by the county health officer.

(c) Heavy accumulations such as brush, broken concrete, ashes, sand or gravel, automobiles or parts thereof, dead trees, and other bulky heavy materials classified as rubble shall be disposed of at the expense of the owner or person controlling same under the direction of the county health officer and shall not be collected by the city.

(d) Manure from cow lots, horse stables, poultry yards, pigeon lofts, and other animal or fowl pens, and waste oils from garages or filling stations or materials considered hazardous and/or dangerous, shall be removed and disposed of at the expense of the person controlling same in the manner and by the method directed by the county health officer.

(e) The placing of garbage or rubbish or any refuse material in any street or alley within the city limits or the disposal of such refuse at any place within the city limits, except in the approved containers specified in this division or at the city disposal site, transfer station or at such other place as may be directed by the county health officer is prohibited.

(f) The meddling with refuse containers or in any way pilfering, scattering contents or junking in any alley or street within the city limits is prohibited.

(Code 1967, § 11-3; Ord. No. 2096, § 3, 12-16-19750

Sec. 28-87 Solid Waste Collection and Disposal Rates

Effective July 1, 2019, and continuing monthly thereafter, regardless of the period of service, the following rates and charges shall be charged and collected for solid waste collection and disposal services:

Charges are based on one weekly pickup

Service	Monthly Rate
Residential pickup (includes apartment units)	$18.57
Commercial pickup - with additional charge based on size and number of customer, owned containers used	$27.27
Charges are based on number of dumpsters and number of pickups each week	
Share dumpster (limited availability – depending on business location)	$31.10
One (1) dumpster - one (1) weekly pickup	$62.20
One (1) dumpster - two (2) weekly pickups	$90.52
One (1) dumpster - three (3) weekly pickups	$114.53
One (1) dumpster - four (4) weekly pickups	$136.24
One (1) dumpster - five (5) weekly pickups	$158.10
One (1) dumpster - six (6) weekly pickups	$184.37

(Code 1967, § 11-6; Ord. No. 2096, § 6, 12-16-1975; Ord. No. 2225, 5-29-1979; Ord. No. 2292, 6-9-1981; Ord. No. 2311, 12-29-1981; Ord. No. 2409, 5-21-1985; Ord. No. 2530, 6-5-1990; Ord. No. 2639, 9-6-1994; Ord. No. 2817, § III, 6-15-2015; Ord. No. 2829, § I, 6-16-2016); (Ord. No. 2017-21, 6-15-2017); (2019-13, 7-2-2019) (Shared dumpster amended Ordinance No. 2019-19, 10-17-2019).

Editor's note— Section III of Ord. No. 2817, adopted June 15, 2015, changed the title of § 28-87 from "Service charges" to read as herein set out.

Sec. 28-88. Duty to request sanitation service.

To assist in maintaining the general sanitation of the city, it shall be the duty of every person occupying or having control of the occupancy of any premises located on a regularly established sanitation route to notify the city at the beginning of such occupancy and request, accept and use the sanitation pickup and collection service; provided, however, that failure of any owner, rental agent or occupant of such premises to make such request shall not prevent or in any way impair or impede the city from adding the address of such premises to the proper sanitation collection

route records and providing such service and otherwise enforcing by appropriate action the regulatory measures herein prescribed and causing the fees or charges therefor to be paid.

(Code 1967, § 11-7; Ord. No. 2096, § 7, 12-16-1975)

Sec. 28-89. Penalties.

Any person who shall violate any provision of this division shall, upon conviction, be guilty of a class B offense.

(Code 1967, § 11-9; Ord. No. 2096, § 10, 12-16-1975; Ord. No. 2263, 6-17-1980; Ord. No. 2736, § 2, 11-16-2004)

Secs. 28-90-28-106. - Reserved.

DIVISION 3. - LITTER CONTROL

State Law reference— Dumping, etc., of trash on public or private property, 21 O.S. § 1761.1; placing litter on public property, 21 O.S. § 1753.3.

Sec. 28-107. Definitions.

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

Litter means garbage, refuse, rubbish, dirt, trash, and all like material.

Refuse means all putrescible and non-putrescible solid wastes, including ashes, dead animals, solid market and industrial wastes and other similar materials.

Rubbish means non-putrescible solid wastes consisting of both combustible and noncombustible wastes, in solid or semisolid form, including, but not limited to, ashes or incinerator residue, street wastes, demolition wastes, industrial wastes, tin cans, wood, leaves, glass, pieces of iron and other metals and other similar materials.

Trash means any refuse, litter, ashes, leaves, debris, paper, combustible materials, rubbish, offal, waste, or matter of any kind or form which is uncared for, discarded or abandoned.

Vehicle means every device in, upon, or by which any person or property is or may be transported or drawn.

Sec. 28-108. Prohibited generally.

No person shall throw or abandon litter upon any public property or private property except as specifically provided for in this division.

Sec. 28-109. Littering from vehicles prohibited.

(a) No driver or operator of a vehicle shall throw, permit to be thrown or abandon any litter upon public or private property.

(b) No vehicle shall be driven or moved on any roadway unless such vehicle is so constructed or loaded as to prevent any of its load from dropping, shifting, leaking, blowing or otherwise escaping therefrom, except that sand may be dropped for the purpose of securing traction, or water or other substances may be sprinkled on a roadway in cleaning or maintaining such roadway.

(c) No person shall operate on any roadway any vehicle with any load unless said load and any covering thereon is securely fastened so as to prevent said covering or load from becoming loose, detached, or in any manner a hazard to other users of the roadway. Any vehicle loaded with sand, cinders or other loose material susceptible to blowing or escaping by reason of wind shall have such load covered or dampened so as to prevent the blowing or escaping of said load from the vehicle.

(d) No person shall operate, or cause to be operated, a vehicle, any part of which is covered or laden with dirt, mud, clay or other material from any construction, excavation, parking or other site, in such a manner or condition that the material will become tracked or shall fall upon the roadway; provided, however, that the provisions of this section shall not apply to persons who must enter upon improved or paved roadways from unimproved or nonpaved roadways or residential driveways.

(e) There shall be prima facie presumption that the registered owner of a vehicle committed a violation. In any prosecution charging a violation of this section, proof that the particular vehicle described in the complaint was used for the purpose of unlawfully throwing or abandoning litter as prohibited therein together with proof that the individual named in the complaint was at the time of the violation the registered owner of said vehicle shall constitute in evidence a prima facie presumption that the registered owner of said vehicle was the person who committed the violation.

State Law reference— Similar provisions, 21 O.S. § 1753.3.

Sec. 28-110. Deposit of refuse, rubbish or dirt on public or private property.

(a) No person shall place or cause to be placed in or upon any public or private ground any refuse or rubbish unless it is in suitable receptacles and disposed of in a regular and proper manner by the city.

(b) No person doing work or making excavations in any parking area shall place or cause to be placed any dirt or refuse therefrom onto any paved street or sidewalk.

Sec. 28-111. Allowing dirt or rubbish to wash or blow onto public property.

No owner, occupant or agent of any land abutting upon any public property shall allow the earth or any rubbish from the land to fall or wash upon any part of the public property.

Sec. 28-112. Depositing materials which are likely to blow around.

No person shall sweep, throw, or abandon in any manner, or cause to be swept, thrown, or abandoned, into or upon any lot or piece of ground, whether the lot or ground shall belong to himself or another, any litter of any kind whatever, which can be or is likely to be blown by the wind along the streets or walks.

Sec. 28-113. Businesses to provide facilities for disposal of materials.

Business establishments which deliver their products to customers for consumption or use on or off the premises are to provide suitable containers adequate in number and location for the disposal of any wrappings of the products abandoned on said premises; and are to, further, maintain the outside premises housing such business establishment clear of abandoned wrappings or other items of litter associated with the conduct of said business.

Sec. 28-114. Removal of spilled materials.

(a) All material or dirt deposited or spilled on public property shall be immediately removed by either the driver or the person by whom he is employed. The failure to immediately remove all of the material or earth so deposited or spilled shall render both the driver and the person by whom he is employed subject to a fine.

(b) Each day that such material or dirt so wasted or spilled remains on the public property shall constitute a separate and distinct offense.

Sec. 28-115. Prohibited hauling or depositing of refuse.

(a) Unless expressly permitted by other law or by permission of an agency of the state, no person shall dump or deposit any litter, refuse, rubbish or trash, including without limitation toxic substances, garbage, manure, offal matter, debris, junk or household waste, hereinafter defined in this section as "prohibited materials," on any public or private property, or dump or deposit any prohibited materials within the city, for any purpose whatsoever. No person shall engage in the business of hauling or carrying or disposing of prohibited materials without first securing an applicable written permit from the state. Nothing in this subsection shall prohibit the otherwise lawful hauling and dumping of dirt, sand, rock and gravel for landfill purposes.

(b) No person shall permit, assist or allow another person to dump or deposit prohibited materials in violation of subsection (a) of this section.

(c) No registered owner of a vehicle shall allow or permit another person to use the vehicle in any manner that violates subsection (a) of this section.

(d) The provisions of this section do not prohibit composting or the depositing of manure fertilizer in a manner so as not to constitute a nuisance.

Sec. 28-116. Allowing refuse to be deposited or to remain on premises.

No owner or occupant of lands or lots shall knowingly permit the throwing or dumping upon his premises of any manure, garbage, offal matter, rubbish, debris, trash, junk or similar material, or permit such materials to remain on his premises after being notified to remove them by the city, whether he shall have known of or permitted the throwing or depositing or not.

Sec. 28-117. Duty of maintenance of private property.

No person owning, leasing, occupying or having charge of any premises shall maintain or keep any junk, trash, or similar material thereon; nor shall such person allow the accumulation of

said material, regardless of whether such person did not permit said accumulation; nor shall any such person keep or maintain such premises in a manner causing substantial diminution in the value of the other property in the neighborhood in which such premises are located.

Sec. 28-118. - Reserved.

ARTICLE IV. WATER UTILITY

Editor's note— Section IV of Ord. No. 2817, adopted June 15, 2015, changed the title of art. IV from "Water Shortages and Emergencies" to read as herein set out.

Sec. 28-119. Water rates.

Effective July 1, 2019, and continuing monthly thereafter, regardless of the period of service, the following rates and charges shall be charged to and collected from the users and consumers of water, whether supplied within or without the corporate limits of the city.

(1) *Inside corporate city limits:*

Minimum 5/8 -inch and ¾-inch meters:

0—250 cu. ft. (or 0—1,870 gallons)	$25.10 per customer per month
All other meters: 0—250 cu. ft. (or 0—1,870 gallons)	$34.95 per customer per month

All meters:

251—750 cu. ft. (or 1,871—3,740 gallons)	$0.0291 per cu. ft. (or $0.00388 per gallon)
In excess of 750 cu. ft. (or 5,610 gallons)	$0.0303 per cu. ft. (or $0.00405 per gallon)

(2) *Outside corporate city limits:* The water rate for consumers located outside the corporate limits of the city will be one and thirty-five hundredths (1.35) times the inside corporate city limits rate.

(3) *Industrial water rate:* The water rate for industrial consumers will be the same as the inside corporate city limits rate. An industrial consumer is defined as a consumer purchasing water to be consumed or used outside the corporate limits of the city in

excess of 250,000 cubic feet (or 1,870,000 gallons) per month and purchasing said water for the sole use of the consumer and not for resale and/or redistribution.

(4) *Capital improvement surcharge rate:* The water rates for all customers shall be increased by an amount sufficient to fund the current budget year requirement for capital improvements to water and sewer lines. The amount included shall remain effective until modified by commission action.

Capital improvement surcharge:

All usage	$0.00118 per cu. ft. (or $0.000157 per gallon)

(Ord. No. 2817, § IV, 6-15-2015; Ord. No. 2821, § II, 10-15-2015; Ord. No. 2827, § I, 6-16-2016; Ord. No. 2017-19, 6-15-2017; Ord. No. 2018-06, 6-21-2018; Ord. 2019-16, 7-2-2019)

Sec. 28-120. Water shortages and emergencies.

Whenever an emergency exists by reason of a shortage of water due to inadequate supply, limited treatment or distribution capability, or failure of equipment or material, the city is hereby authorized to restrict or prohibit the use of water from the city's water system.

(1) An emergency exists whenever the city reasonably determines that the city's water system is unable or will, within 60 days, become unable to supply the full commercial and domestic needs of the users thereof, including adequate fire protection.

(2) Upon determining that such an emergency exists, the mayor, after approval by the city council, may issue a proclamation declaring the emergency and setting out, with particularity, an order restricting use of water from the city's system. The order may: 1) restrict water usage during certain periods of the day or week or according to any orderly and non-discriminatory scheme; or 2) prohibit usages not essential to public health and safety. The order may be revised from time to time as the city deems necessary.

(3) A duly proclaimed emergency shall continue, and the terms of the proclamation shall be enforced, for 30 days or until such time as the city shall cause to be published a proclamation that the emergency has ended, whichever is shorter, unless the city council or the trustees of the Blackwell Municipal Authority, by resolution approved by a majority of all of its members, vote to determine the emergency and proclamation upon a different date.

(4) The proclamation required by the preceding section shall be published in a newspaper of general circulation in the city, or if there is no such newspaper in which the proclamation may be published within 24 hours after the emergency arises, publication shall be by posting a copy of the proclamation in ten prominent places in the city. The emergency shall be in full force and effect upon publication. Substantial compliance with this section is sufficient to effect the emergency.

(5) Whenever a sudden or unexpected event so reduces the availability of water or water pressure as to create an immediate threat to public health and safety, the notice of the proclamation may be given by any reasonable means, including electronic means. The emergency shall be in full force and effect upon such notice. However, if any means other than that required in subsection (4) of this section is used, the proclamation shall be re-published in accordance with subsection (4) of this section as soon as reasonably possible.

(6) Any person feeling aggrieved by a proclamation of the city shall have the right to present the matter at the next regular or special meeting of the city council or the Blackwell Municipal Authority or any emergency session called to discuss the water emergency. The council may exempt such aggrieved persons, wholly or in part, from compliance with the proclamation order upon a showing that compliance creates an immediate threat to the persons' health or safety or to a company's ability to fulfill a health and safety function. The ruling of the council or the trustees by a majority of all of its members shall be final and binding as to the continuation of any terms of the proclamation. Until and unless the action of the city is modified or revoked by action of the council or trustees, all water users shall be bound by the proclamation.

(7) Any person who, in any manner, directly or indirectly, violates or permits others under his supervision, custody or control to violate any term of the duly published proclamation shall be guilty of a class A offense. Any violation of the provisions of the city's proclamation or order of the council shall be punishable as a class A offense.

(Ord. No. 2791, § 1, 7-12-2011)

Secs. 28-121—28-129. Reserved.

ARTICLE V. - ELECTRIC POLICIES AND RATES

Sec. 28-130. Terms of service and definitions.

(a) *Definitions.*

(1) Commercial and industrial service is the furnishing of electric energy for the exclusive use of the individual consumers of industrial customers. Any establishment engaged in the operation of a business, whether for profit or not, shall be considered as a commercial or industrial enterprise.

Such enterprises will include, but not be limited to, clubs, lodges, hotels, motels, apartment and rooming houses, mobile home parks, campgrounds, multifamily dwellings where more than one living unit is served through one meter, schools, business buildings, churches, eleemosynary institutions, greenhouses, dairies, manufacturing, agricultural. livestock production, oil and gas extraction, construction, communication, transportation, etc.

(2) Certain types of dwellings may be served on residential service rates and be classified residential service, as specifically set forth in the residential rate and terms and conditions of service.

Any portion of service to residential-type dwellings that does not qualify for residential service under the residential rate and/or terms and conditions of service shall be separately metered and served under commercial or industrial service rates.

(b) *Service conditions.*

(1) *General.* Commercial or industrial service to be supplied will be under appropriate rates and rules and regulations dependent upon whether the load requirements are single-phase or three-phase and whether deliveries are needed at primary or secondary voltage levels. Service to be supplied is dependent on the BMA's available facilities and voltages and is also subject to requirements and conditions of the BMA's electric distribution line extension policy.

Commercial or industrial service may, with the BMA approval, be supplied at transmission voltage in situations involving large loads and where transmission line service is feasible in accordance with good engineering practices. Such transmission service will require customer construction payment for all transmission facility construction costs, connection costs and other associated costs.

(2) *Load balance.* Where three-phase service is supplied, the customer will connect his equipment in such a manner that the load on any one phase, at the point of delivery, will not exceed the load on any other phase by more than ten percent.

(3) *Instantaneous demand.* The BMA reserves the right to restrict and/or limit the size of motor loads for across-the-line start if the starting current exceeds that listed in terms and conditions of service.

(4) *Protection of customer's equipment.* The BMA's recommendations for protection of customer's equipment against low voltage, phase reversal, and single-phase operation are set forth in the BMA's terms and conditions of service and the National Electric Code.

(5) *Power factor*. Customer, at all times, will maintain at the BMA's point of delivery a power factor of 95 percent or better.

In the event of low voltage or any condition due to a lagging power factor to a degree insufficient to impair the BMA's service, customer will install suitable capacitors or other equipment necessary to raise the power factor at the point of delivery to a satisfactory value. Where such power factor equipment is used, customer will install and maintain a relay, switch or other control equipment for disconnecting and/or controlling the power factor correction equipment in order to prevent excessive voltage variations on the BMA's system.

(c) *Transformer and protective equipment.*

(1) *BMA owned.* Necessary step-down transformers, together with necessary protective equipment, will be installed and maintained by the BMA in accordance with the provisions under rates, terms and conditions of service and/or other BMA policies. The BMA will not install excess transformer capacity for customer's normal load requirements as stated in the application for service. If transformer's power requirements, after the original installation or after any changed installation of transformer, prove to be less than set forth in the application for service, the BMA may

make such reduction in installed transformer capacity as it deems advisable and the customer will pay to the BMA the cost of making such change.

(2) *Customer-owned transformer or rental.* Necessary step-down transformer and protective equipment will be furnished, installed, operated and maintained by customer. (Customer to receive a five percent discount on bill; fuel adjustment is excluded from discount.) In unusual cases, at customer's request, the BMA may rent a transformer to the customer, if the BMA has the transformer available. However, the BMA reserves the right to refuse to rent the transformer to any customer. If the transformer and/or other allied equipment are rented to customer, the following provisions will apply:

a. Customer will pay to the BMA annually, in equal monthly installments, a transformer rental of 25.9 percent BMA's estimated cost of all equipment rented to the customer.

b. Customer will be charged cost of hauling and installing transformers where a new installation is required, whether such new installation replaces a transformer installation previously installed for secondary service and changed because of customer's load or is required because no previous service had been used. If transformers are rented for a period of less than six months, customer will also be charged the cost of removal.

c. Determination of billing demands. Billing demands will be determined as set forth in the applicable rate, subject to the following:

d. If the load is of intermittent or fluctuating character or requires frequent starting with high starting current, the BMA may take as the billing demand the maximum amount of power used at any one time, or may add to the measured demand 50 percent of the maximum requirements of the intermittent or fluctuating load, or may make other suitable corrections, provided that the billing demand will not be taken as less than 30 percent of the maximum instantaneous load.

(Ord. No. 2817, § V, 6-15-2015)

Sec. 28-131. Power cost adjustments.

Power cost adjustment. The foregoing charges shall be increased by the amount in cents or fraction thereof by which the average cost of power per kWh purchased was paid to suppliers of power during the previous month exceeds 54.00 mills per kWh.

Formula (2)	P.A. = (Ax 1)
	1-B

Where:

P.A. = Power cost adjustment to be made per kWh billed.

A = The amount in cents or fraction thereof by which the average cost of power per kWh purchased was paid to suppliers of power by the utility during the previous month preceding the end of the billing period for which kWh usage is billed exceeds 54.00 mills per kWh.

B = The average percentage of power losses expressed decimally for the year ending June 30 preceding and equal to:

Distribution	0.110

(Ord. No. 2817, § V, 6-15-2015; Ord. 2019-15, 7-2-2019)

Sec. 28-132. - Residential electric.

(a) *Availability.* Available to residential customers where the total load is used for domestic purposes by the resident-owner or tenant and that all applications of this rate shall be in accordance with terms and conditions of service or other policies set forth by the BMA.

(b) *Rate.*

(1) *Residential Electric Rates shall be as follows:*

Customer charge	$19.83 per customer per month.
Energy charge	$0.11684 per kWh per month.
Minimum Charge	$19.83 per month

(2) *Reserved.*

(c) *Power cost adjustment.* The net monthly bill as computed by the residential rate will be increased by an amount computed to account for increases in power costs, as stipulated under billing adjustments, section 28-131 herein.

(Ord. No. 2817, § V, 6-15-2015; Ord. No. 2826, § I, 6-16-2016; Ord. No. 2017-18, 6-15-2017; Ord. No. 2018-05, 6-7-2018)

Sec. 28-133. Commercial electric.

(a) *Availability.* Available to all customers where service is to a unit that is not occupied as a living unit in total by the resident-owner or tenant and wholesale capacity requirements are equal to or less than 75 kW. Maximum demand is defined as the maximum rate at which electric energy is used for any period of 15 consecutive minutes of the month for which a bill is rendered, as shown by the customer's meter or a test meter furnished by the BMA.

(b) *Rate.*

Customer charge	$29.37 per customer per month.
Energy charge	$0.12357 per kWh per month.
Minimum charge	$29.37 per month.

(c) *Power cost adjustment.* The net monthly bill as computed by the above rate will be increased by an amount computed to account for increases in power costs as stipulated in section 28-131 herein.

(Ord. No. 2817, § V, 6-15-2015; Ord. No. 2826, § I, 6-16-2016; Ord. No. 2017-18, 6-15-2017; Ord. No. 2018-05, 6-7-2018))

Sec. 28-134. Large power electric.

(a) *Availability*: Available to all customers having a minimum demand in excess of 75 kW. No resale or breakdown, standby, auxiliary or supplemental service shall be available under this rate.

(b) *Rate*:

(1) Secondary service:

Demand charge	$9.01 per kW of billing demand per month.
Energy charge	$0.05179 per kWh per month.

(2) Distribution service:

Demand charge	$8.63 per kW of billing demand per month.
Energy charge	$0.05932 per kWh per month.

(3) Transmission service:

Demand charge	$8.27 per kW of billing demand per month.
Energy charge	$0.05685 per kWh per month.

(c) *Determination of billing demand*: The billing demand shall be the greater of the following:

(1) The maximum kilowatt demand established by the customer for any 15 consecutive minutes during the month for which the bill is rendered, as indicated by a demand meter and adjusted for power factor as provided in subsection (d) below; or

(2) Sixty percent of the customer's highest billing demand (as adjusted for power factor) previously determined during the 12 months ending with the current month; or

(3) 75kW.

(d) *Power factor adjustment*: The customer agrees to maintain unity power factor as nearly as practicable. The BMA reserves the right to measure power factor. Should such measurement indicate that the monthly power factor is less than 95 percent, the demand for billing purposes will be increased one percent for each one percent by which peak load is less than 95 percent leading or lagging.

(e) [*Additional facilities charge*:] The BMA may specify an additional facilities charge when necessary to justify the investment necessary to provide service.

(f) *Transmission, distribution or secondary service*: For purposes of this rate, the following shall apply:

(1) Transmission service shall mean service at any nominal standard voltage of the BMA above 50 kV where service is rendered through a direct tap to the BMA's transmission source.

(2) Distribution service shall mean service at any nominal standard voltage of the BMA between 2,000 volts and 50 kV, both inclusive, where service is rendered through a direct tap to the BMA's distribution line.

When the above conditions for distribution service are met and the BMA chooses to meter on the load side of the customer's transformers, the kWh billed shall be increased by the amount of the transformer losses, calculated as follows:

One percent of the total kVA rating of the customer's transformer times 730 hours.

(3) Secondary service shall mean service at any nominal standard voltage of the BMA less than 2,000 volts or at voltages from two kV to 50 kV where service is rendered through the BMA-owned line transformer.

(g) *Power cost adjustment*: The net monthly bill as computed by the above rate will be increased by an amount computed to account for increases in power costs as stipulated in section 28-131 herein.

(Ord. No. 2817, § V, 6-15-2015; Ord. No. 2826, § I, 6-16-2016 Ord. No. 2017-18, 6-15-2017; Ord. No. 2018-05, 6-7-2018; Ord. 2019-15; 7-2-2019).

Sec. 28-135. Educational facilities.

(a) *Availability*: Available to all educational facilities having a minimum demand in excess of 200 kW.

(b) *Rate*:

Demand charge	$6.19 per kW of billing demand per month.
Energy charge	$.046614 per kWh per month.

(c) *Determination of billing demand*: The billing demand shall the greater of the following:

(1) The maximum kilowatt demand established by the customer for any 15 consecutive minutes during the month for which the bill is rendered, as indicated by a demand meter and adjusted for power factor as provided in subsection (d) below; or

(2) Sixty percent of the customer's highest billing demand (as adjusted for power factor) previously determined during the 12 months ending with the current month; or

(3) 200 kW.

(d) *Power factor adjustment*: The customer agrees to maintain unity power factor as nearly as practicable. The BMA reserves the right to measure power factor. Should such measurement indicate that the monthly power factor is less than 95 percent, the demand for billing purposes will be increased one percent for each one percent by which peak load is less than 95 percent leading or lagging.

(e) [*Additional facilities charge*:] The BMA may specify an additional facilities charge when necessary to justify the investment necessary to provide service.

(f) *Power cost adjustment*: The net monthly bill as computed by the above rate will be increased by an amount computed to account for increases in power costs as stipulated in section 28-131 herein.

(Ord. No. 2817, § V, 6-15-2015; Ord. No. 2826, § I, 6-16-2; Ord. 2019-15, 7-2-2019)

Sec. 28-136 Residential and Commercial Distributed Generation Customer's Rate.

Wind, Solar and other Grid-Connected Non-Utility Owned Electric Generation Customers (hereinafter referred to as "Residential and Commercial Distributed Generation Customers" or "Customers") Residential and Commercial Distributed Generation Customers shall pay shall pay a customer charge of $58.00 per month and the usage rate per month based on actual metered consumption of $0.07 per kilowatt hour (kWh) for the first 1200 kWh used, which per kilowatt hour (kWh) charge shall substituted for the regular residential or commercial per kilowatt hour (kWh) charge for such customer and used together with the other applicable rate variables in determining and calculating the rate as provided in this code and after such 1200

kWh usage, the per kilowatt hour (kWh) charge shall be the same per kilowatt hour (kWh) charge as provided for all other users in such similar class of customer. All customers shall ensure that any back feed of electricity into the City's system is safe and constructed, operated and maintained in accordance with all state and local electrical codes and the customer agrees that the City has the right to inspect the customer's system to ensure such connection standard. The City will not use or pay for any electricity generated or received from a customer's generation system. Any customer who shall construct, install, operate and/or use, or permit the construction, installation, operation and/or use of a distributed generation service at such customer's residence or business, shall notify the City of such fact by making a personal visit to city hall at least ten (10) business days prior to the date of such construction, installation, operation and/or use of the distributed generation system. During such personal visit, said customer's rate shall be adjusted to the rate provided herein and a date and time for inspection of the facilities at the customer's home or business shall be set, and continued from time to time as required, to ensure that the installation is approved for use by the City, prior to its actual use by the customer. Any customer who shall violate any provision of this section, by act or omission, shall be guilty of an offense and be subject to a fine of Two Hundred Dollars ($200.00), court costs and all applicable fees and state assessments, with each such day of continued violation deemed an additional offense.

(Ord. No. 2017-25; 10-5-2017).

Sec. 28-137 Distributed Generation Rules And Regulations

A. IN GENERAL. This section provides for the rules and regulations concerning customer-owned, grid-connected non-utility owned electric generating systems (hereinafter referred to as "Generation systems ") which may connect for parallel operation with the electrical system of the City of Blackwell and the Blackwell Municipal Authority (hereinafter for purpose of convenience only referred to as the "City").

1. Generation systems will be permitted to interconnect to the City's electric distribution system at the service level voltage only after a determination by the City that such interconnection will not interfere with the operation of the distribution or transmission system and that such interconnection ensures the safety of City employees and customers.

2. The City will not compensate, reimburse, refund, credit, or pay for any generation created by the Generation systems and sent back into the distribution system of the City.

3. All agreements under the original connection agreement between the Customer and the City shall remain in effect including, but not limited to paying for electricity used and the penalties assessed for payment failure.

B. Interconnection Requirements

1. Customer has elected to operate, at its own expense, a Generation system. Generation systems shall be limited in size to not more than five (5) kW per customer aggregated for a combined total of fifty-three (53) Kw at the service interconnection point. The generation system is intended to offset either all or part of the customer's electrical requirements.

2. Customer's Generation system shall supply alternating current power, 60 Hertz, at a voltage and phase of the City's established secondary or primary distribution system.

3. If the Customer's Generation system full output capacity is larger than ten percent (10%) of the substation, feeder, or distribution line tap minimum load at the point of interconnection, additional studies and equipment may be required to provide proper line protection and voltage regulation. The Customer is responsible for the cost of any studies and/or upgrades required to allow safe interconnection of the Customer-owned generation.

4. Generation systems which produces frequencies that result in interference or generates distorted wave forms into the 60 Hertz City electric system which adversely affects the operation of City's electric system shall be corrected at the expense of the Customer.

5. Any costs or expenses incurred by the City due to modifications made to the City's existing electrical system as a result of the interconnection of Customer's Generation system shall be paid by the Customer.

6. Customer shall be the owner of the renewable attributes of the electricity that is generated, to include any and all credits, certificates, benefits, environmental attributes, emission reductions, offsets, and allowances, however entitled, attributable to the generation of electricity from the Customer-owned renewable generation and its displacement of conventional energy generation; provided however, the Customer agrees that any electricity created by the Customer's Generation System and sent back into the distribution system of the City need not be paid for by the City.

7. City may require Customer to interrupt or reduce deliveries when necessary in order to construct, install, maintain, repair, replace, remove, investigate, or inspect any of its equipment or part of its system.

8. Customer shall comply with all the latest applicable National Electric Code (NEC) requirements, NESC requirements, State of Oklahoma requirements, building codes, and shall obtain electrical permits for the equipment installation. Installation shall comply with local site permitting requirements.

9. The meter and transformer or transformer pole serving the Generation systems shall be labeled to indicate potential electric current back feed, and label shall be maintained by the Customer.

10. Customer shall provide space for metering equipment and meter base per City's requirements.

11. Customer's over-current device at the service panel shall be marked to indicate the type of back feed power source. Markings shall be maintained by the Customer.

12. Customer assumes full responsibility for all maintenance of generators, inverters, and associated equipment including protective equipment. Customer shall keep record of maintenance activities and provide such records to the City upon request.

13. Customer's Generation systems shall comply with NEC Articles 690 and 705 and applicable and current Institute of Electrical and Electronics Engineers (IEEE) standards including Standard 1547 "Interconnection Distributed Resources with Electric Power Systems" and any future updates or revisions for parallel operation with the City's electric system, in particular: a) Power output control system shall automatically disconnect from the City's source upon loss of voltage and not reconnect until City's voltage has been restored for at least five (5) minutes continuously, b) Power output control system shall automatically initiate a disconnect from the City's power source with six (6) cycles (0.1 second) if Customer's voltage falls below 50% of nominal on any phase, c) Power output control system shall automatically initiate a disconnect from the City's power source within two (2) seconds if Customer's voltage falls below 88% of nominal or rises above 120% of nominal on any phase.

14. Customer shall provide a written description of how the protection devices will achieve compliance with the requirements of this section as part of the building permit application.

15. Customer shall furnish and install on Customer's side of meter a UL-approved safety disconnect switch, or transfer switch, which shall be capable of fully disconnecting the Customer's generating facility from the City's electric system. The disconnect switch shall be located adjacent to the City's meter and shall be of the visible break type in a metal enclosure which can be secured in the "Off" position with a padlock. The switch shall be accessible to City personnel at all times.

16. For systems up to five (5) Kw, THE Customer shall, at its own expense, maintain in force general liability insurance in the amount of $500,000.00, which insurance will protect against third party claims of property damage or injury to persons, including death, without any exclusion for liabilities related to the interconnection.

17. For purposes of gathering research data, City may at its expense install and operate additional metering and data-gathering devices on the Generation systems.

C. Specifications and System Diagram

1. Customer shall supply specifications for the proposed Generation system as part of the building permit process.

2. Customer shall supply a system diagram for use of City in determining the safety and functionality of a grid-connected generator that will be kept in City files.

3. Customer shall supply a certificate or completion from a qualified professional engineer or electrician that the Generation system meets all the requirements of this section.

4. All customers will sign a statement that they will adhere to the provisions of this section during the construction, installation and operation of my Generation system.

(Ord. No. 2017-23, 10-5-2017)

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Appendix A SALES TAXES

ARTICLE I. 1971 SALES TAX

ARTICLE II. 1999 SALES TAX

ARTICLE III. 2001 SALES TAX

ARTICLE IV 2016 SALES TAX

Appendix A - SALES TAXES

Editor's note— Other taxes are found in chapter 24 of the code.

State Law reference— Municipal taxation, 68 O.S. § 2701 et seq.

ARTICLE I. 1971 SALES TAX

Editor's note— Printed in this article is Ord. No. 1958, enacted January 12, 1971, and approved at a referendum election on February 16, 1971, following publication on January 14 and 21, 1971. Section 3 of the ordinance provides that it shall take effect March 1, 1971. The absence of a history note indicates that the provision remains unchanged from original. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, headings and catch-lines have been made uniform, and the same system of capitalization and expression of numbers in text as used in the Code of Ordinances has been used.

ORDINANCE NUMBER 1958

An ordinance levying and assessing an excise tax of two percent upon the gross proceeds or gross receipts derived from all sales to any person taxable under the Sales Tax Law of Oklahoma, including, but not limited to, certain enumerated sales listed therein; providing exemptions exempted from the Sales Tax Law of Oklahoma, including, but not limited to, certain enumerated exemptions listed therein; providing for the administration and collection of tax; requiring the filing of returns, providing for interest and penalties for failure to pay tax when due; providing for taxpayer to keep records; requiring vendors to collect tax from purchaser at time of sale; establishing liens; authorizing board of commissioners to make administration and technical changes and additions except tax rate; making the tax cumulative; providing severability of provisions; requiring approval of ordinance by majority of registered voters voting at an election held for such purpose as provided by law; fixing effective date; and declaring an emergency.

Be it ordained by the board of commissioners of Blackwell, Oklahoma:

Sec. 1. Citation and codification.

This ordinance shall be known and may be cited as "Blackwell, Oklahoma Sales Tax Ordinance" and is hereinafter referred to as "ordinance" or "title."

Sec. 2. Subsisting state permits.

All valid and subsisting permits to do business issued by the Oklahoma Tax Commission pursuant to the Oklahoma Sales Tax Code are, for the purposes of this ordinance, hereby ratified, confirmed and adopted in lieu of any requirement for an additional city permit for the same purpose.

Sec. 3. Effective date.

This ordinance shall become and be effective on and after March 1, 1971, subject to approval of a majority of the registered voters of the City of Blackwell, Oklahoma, voting on same in the manner prescribed by 11 O.S. 1961, section 61 [see now 11 O.S. § 2701].

Sec. 4. Purpose of revenues.

It is hereby declared to be the purpose of this title to provide revenues for the support of the functions of the municipal government of Blackwell, Oklahoma.

Sec. 5. Tax rate; sales subject to tax.

There is hereby levied an excise tax of two percent upon the gross proceeds or gross receipts derived from all sales taxable under the Sales Tax Law of Oklahoma, including but not exclusive of the following:

(a) Tangible property.

(b) Natural or artificial gas, electricity, ice, steam or any other utility or public service, except water.

(c) Transportation for hire or persons by common carrier, including railroads, both steam and electric, motor transportation companies, taxicab companies, Pullman car companies, airlines and all other means of transportation for hire.

(d) Service by telephone and telegraph companies to subscribers or users, including transmission of messages, whether local or long distance. This shall include all services and rental charges having any connection with transmission of any message.

(e) Printing or printed matter of all types, kinds and characters and the service of printing or over-printing.

(f) Service of furnishing rooms by hotels, apartment hotels, public rooming houses and public lodging houses and tourist camps.

(g) Service of furnishing storage or parking privileges by auto hotels and parking lots.

(h) Foods, confections and all drinks sold or dispensed by hotels, restaurants or other dispensers, and sold for immediate consumption upon the premises or delivered or carried away from the premises for consumption elsewhere.

(i) Advertising of all kinds, types and character, including any and all devices used for advertising purposes and the servicing of any advertising devices except as provided in subsection (n) of section 6 hereof.

(j) Dues or fees to clubs, and the sale of tickets or admission to places of amusement, to athletic, entertainment, recreational events, or dues or fees for the privilege of having access to or the use of amusement, entertainment, athletic or recreational facilities, including free or complimentary passes, tickets, dues or fees, are hereby declared to have a value equivalent to the sale price of said tickets, passes, admissions, fees or dues of like kind or character.

(k) For the purpose of this title, sales of services and tangible personal property made for the purpose of developing real estate even though such real estate is intended for resale as real property, are hereby declared to be sales to consumers or users. Sales of service and tangible personal property, including materials, supplies and equipment made to contractors who use same in the performance of any contract, are hereby declared resale. Sales of tangible personal property to persons who are primarily engaged in

selling their services shall be deemed sales to consumers or users and therefore, taxable. Sales of tangible personal property to peddlers, solicitors and other salesmen who do not have established places of business shall be deemed to be sales to consumers or users, and therefore, taxable.

(l) The total retail sales price received for the sale, preparation or service of mixed beverages, ice and nonalcoholic beverages to be mixed with alcoholic beverages for consumption on the premises where such sale, preparation and service occurs shall constitute the gross receipt from such transaction, and therefore, taxable.

(Ord. No. 2087, §§ 1, 2, 10-21-1975; Ord. No. 2414, § 1, 7-2-1985)

Sec. 6. Exemptions.

There is hereby specifically exempted from the tax levied by this title the gross receipts or gross proceeds exempted from the Sales Tax Law of Oklahoma inclusive but not exclusive of, and derived from the:

(a) Sale of nonintoxicating beverages taxed as provided by state law.

(b) Sale of cigarettes and such tobacco products as are taxed by state law.

(c) Sale of raw products from the farm, orchard or garden, where such sale is made by the producer of such raw products directly to the consumer or user; gross receipts or gross proceeds derived from the sale of livestock, poultry, poultry products, and dairy products by the producers; exemptions granted by this subdivision shall not apply when such articles are sold, even through the producer thereof, at or from an "established business place" not on a farm; neither shall this exemption apply unless said articles are produced or grown within the State of Oklahoma. The provisions of this subsection are intended to exempt the sale by livestock producers of livestock sold at special sales. The provisions of this subsection are intended to exempt the sale of dairy products when sold by a dairyman or farmer who owns all of the cows from which the dairy products he sells are produced. The provisions of this subsection shall not be construed to exempt sales of dairy products by any other business. The provisions of this subsection shall not be construed to exempt sales by florists, nurserymen and chicken hatcheries.

(d) Dues paid to fraternal, religious, civic, charitable or educational societies or organizations by regular members thereof, provided, such societies or organizations operate under what is commonly termed the lodge plan or system, and provided such societies or organizations do not operate for a profit which inures to the benefit of any individual member or members thereof to exclusion of other members.

(e) Sale of tangible personal property or services to or by churches, except where such organizations may be engaged in business for profit or savings, competing with other persons engaged in the same or similar business.

(f) Gross receipts and gross proceeds deriving from the transportation of school children to and from schools and high schools in motor and other vehicles.

(f-1) Transportation of persons where the fare of each person does not exceed $0.15, or local transportation of persons within the corporate limits of cities and towns except by taxicabs.

(g) Sale of food in public, common, high school or college cafeterias and lunch rooms operated primarily for teachers and pupils, not operated primarily for the public and not operated for profit.

(h) Carrier sales made directly to consumers or users of newspapers or any other periodicals where any individual transaction does not exceed $0.20.

(i) Sales to the United States government, State of Oklahoma, or any of its political subdivisions.

(j) Sale of gasoline or motor fuel on which the motor fuel tax, gasoline excise tax or special fuels tax has been paid to the State of Oklahoma.

(k) Sale of crude petroleum or natural or casinghead gas and other products subject to gross production tax under the provisions of the laws of this state. This exemption shall not apply when such products are sold to a consumer or user for consumption or use, except when used for injection into the earth for the purpose of promoting or facilitating the production of oil or gas.

(l) Sale of motor vehicles, attached optional equipment and accessories, on which sale the Oklahoma Motor Vehicle Excise Tax has been paid.

(m) Sales by county, district and state fairs.

(n) Sale of advertising space in newspapers and periodicals and billboard advertising service, and sale of time for radio and television broadcasts of advertising.

(o) Sales for resale to persons regularly engaged in the business of reselling the articles purchased, whether within or without the state, provided that such sales to residents of this state are made to persons to whom sales tax permits have been issued by the Oklahoma Tax Commission as provided by law.

This exemption shall not apply to the sales of articles made to persons holding permits when such persons purchase items for their own use and which they are not regularly engaged in the business of reselling; neither shall this exemption apply to sales of intangible personal property to peddlers, solicitors, and other salesmen who do not have sales tax permits or established places of business.

(o-1) Goods, wares, merchandise and property sold for use in manufacturing, compounding, processing, assembling or preparing for sale shall be classified as having been sold for the purpose of resale or the subject matter of resale only in the event:

(a) Such goods, wares, merchandise, or property are purchased for the purpose of being manufactured into a finished article and if it becomes a recognizable, integral part of the manufactured, compounded, processed, assembled or prepared products; or

(b) If it is consumed in the process of manufacturing, compounding, processing, assembling or preparing products for resale.

(p) Sale of machinery and equipment purchased and used by persons establishing new manufacturing or processing plants in Oklahoma, and machinery and equipment purchased and used by persons in the operation of manufacturing plants already established in Oklahoma, provided this exemption shall not apply unless such machinery and equipment is incorporated into, and is directly used in, the process of manufacturing property subject to taxation hereunder. The term "manufacturing plants" shall mean those establishments primarily engaged in manufacturing or processing operations and generally recognized as such.

(q) Sale of tangible property manufactured in Oklahoma when sold by the manufacturer to a person who transports it to another state for immediate and exclusive use in some other state.

(r) Sale of an interest in tangible personal property to a partner or other person who after such sale owns a joint interest in such tangible personal property where the Oklahoma Sales or Use Tax has previously been paid on such tangible personal property.

(s) Sales of containers shall be exempt when sold to a person regularly engaged in the business of reselling empty or filled containers, or when he purchases such containers for the purpose of packaging raw products of farm, garden or orchard, for resale to the consumer or processor; provided, this exemption shall not apply to the sale of containers used more than once and which are ordinarily known as returnable containers unless a tax under this title is collected and paid to the tax collector with respect to each and every transfer by such person of title or possession of such returnable container if made to any consumer or user within this state; nor shall it apply to the sale of labels or other materials delivered along with items sold but which are not necessary or absolutely essential to the sale of the sold merchandise.

(t) Exemptions of poultry and livestock feed and farm machinery as prescribed by the state sales tax code shall be equally applicable as exemptions from the tax herein levied.

Sec. 7. Other exempt transfers.

Also, there is hereby specifically exempted from the tax herein levied the transfer of tangible personal property exempted from the Sales Tax Law of Oklahoma inclusive but not exclusive of the following:

(a) From one corporation to another corporation pursuant to a reorganization. As used in this subsection the term "reorganization" means:

(1) A statutory merger by consolidation.

(2) The acquisition by a corporation of substantially all of the properties of another corporation when the consideration is solely all or a part of the voting stock of the acquiring corporation, or of its parent or subsidiary corporation.

(b) In connection with the winding up, dissolution or liquidation of a corporation only when there is a distribution in kind to the shareholders of the property of such corporation.

(c) To a corporation for the purpose of organization of such corporation where the former owners of the property transferred are immediately after the transfer in control of the

corporation, and the stock or securities received by each is substantially in proportion to this interest in the property prior to the transfer.

(d) To a partnership in the organization of such partnership if the former owners of the property transferred are immediately after the transfer members of such partnerships and the interest in the partnership, received by each, is substantially in proportion to this interest in the property prior to the transfer.

(e) From a partnership to the members thereof when made in kind in the dissolution of such partnership.

Sec. 8. Tax due when; returns, records.

The tax levied hereunder shall be due and payable at the time and in the manner and form prescribed for payment of the state sales tax under the Sales Tax Law of the State of Oklahoma.

Sec. 9. Payment of tax; brackets.

(a) The tax herein levied shall be paid to the tax collector at the time and in form and manner provided for payment of state sales tax under the Sales Tax Law of Oklahoma.

Sec. 10. Lien, collection of taxes, penalty, interest.

Such taxes, penalty and interest due hereunder shall at all times constitute a prior, superior and paramount claim as against the claims of unsecured creditors, and may be collected by suit as any other debt.

Sec. 11. Classification of taxpayers; permit to do business.

(a) For the purpose of this title the classification of taxpayers hereunder shall be as prescribed by state law for purposes of the Oklahoma Sales Tax Code.

Sec. 12. Vendor's duty to collect tax.

(a) The tax levied hereunder shall be paid by the consumer or user to the vendor and it shall be the duty of each and every vendor in this city to collect from the consumer or user, the full amount of the tax levied by this title, or an amount equal as nearly as possible or practicable to the average equivalent thereof.

(b) Vendors shall add the tax imposed hereunder, or the average equivalent thereof, to the sales price or charge, and when added such tax shall constitute a part of such price or charge, shall be a debt from the consumer or user to vendor until paid, and shall be recoverable at law in the same manner as other debts.

(c) A vendor, as defined herein, who willfully or intentionally fails, neglects or refuses to collect the full amount of the tax levied hereof, or willfully or intentionally fails, neglects or refuses to comply with the provisions or remits or rebates to a consumer or user, either directly or indirectly, and by whatsoever means, all or any part of the tax herein levied, or makes in any form of advertising, verbally or otherwise, any statement which infers that he is absorbing the tax, or paying the tax for the consumer or user by an adjustment of prices or at a price including the tax, or in any manner whatsoever, shall be deemed guilty of an offense, and upon conviction thereof shall be fined not more than $20.00 including costs.

Sec. 13. Returns and remittances; discounts.

Returns and remittances of the tax herein levied and collected shall be made to the tax collector at the time and in the manner, form and amount as prescribed for returns and remittances required by the state sales tax code; and remittances of tax collected hereunder shall be subject to the same discount as may be allowed by said code for collection of state sales taxes.

Sec. 14. "Tax collector" defined.

The term "tax collector" as used herein means the department of the city government or the official agency of the state duly designated according to law or contract authorized by law to administer the collection of the tax herein levied.

Sec. 15. Definitions.

The definitions of words, terms and phrases contained in the Oklahoma Sales Tax Code, section 1302, Title 68, O.S. Supp. 1965 [Repealed—see now 68 O.S. § 1352] are hereby adopted by reference and made a part of Blackwell Sales Tax Ordinance No. 1958.

Sec. 16. Interest and penalties; delinquency.

Section 217 of Title 68, O.S. Supp. 1965 [see now 68 O.S. § 217], is hereby adopted and made a part of this Ordinance No. 1958, and interest and penalties at the rates and in amounts as therein specified and are hereby levied and shall be applicable in cases of delinquency in reporting and paying the tax levied by said ordinance; 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 said ordinance shall cause such tax to be delinquent.

Sec. 17. Waiver of interest and penalties.

The interest or penalty or any portion thereof accruing by reason of a taxpayer's failure to pay the city tax as 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 Title 68, O.S. Supp. 1965, section 220 [see now 68 O.S. § 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 Ordinance No. 1958.

Sec. 18. Erroneous payments; claim for refund.

Refund of erroneous payment of the city 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 [Title] 68, O.S. Supp. 1965, section 227 [see now 68 O.S. § 227], and to accomplish the purposes of this section, the applicable provisions of said section 227 are hereby adopted by reference and made a part of this ordinance.

Sec. 19. Fraudulent returns.

In addition to all civil penalties herein provided, the willful failure or refusal of any taxpayer to make reports and remittances therein 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 said ordinance shall be an offense, and upon conviction thereof, the offending taxpayer shall be subject to a fine of not more than $20.00 including costs.

Sec. 20. Exemption of fertilizer.

In addition to all other exemptions, the sale of agricultural fertilizer to persons regularly engaged for profit in the business of farming and/or ranching which are exempt from state sales taxes under provisions of 68, O.S. Supp. 1965, section 1305b(a) [Repealed—see now 68 O.S. § 1358(A.5.a)] shall likewise be exempt from the city sales tax herein levied.

Sec. 21. Records confidential.

The confidential and privileged nature of the records and files concerning the administration of the city sales tax is legislatively recognized and declared, and to protect the same provisions of [Title] 68, O.S. Supp. 1965, section 205 of the state sales tax code [see now 68 O.S. § 205], and each subsection thereof, is hereby adopted by reference and made fully effective and applicable to administration of the city sales tax as if here set forth in full.

Sec. 22. Amendments.

The people of Blackwell, Oklahoma, by their approval of this ordinance at the election hereinabove provided, hereby authorize the board of commissioners, by ordinances duly enacted to make such administrative and technical changes or additions in the method and manner of administration and enforcing this ordinance as may be necessary or proper for efficiency and fairness, except that the rate of the tax herein provided shall not be changed without approval of the qualified electors of the city as provided by law.

Sec. 23. Provisions cumulative.

The provisions hereof shall be cumulative, and in addition to any and all other taxing provisions of the city ordinances.

Sec. 24. Severability.

The provisions of this ordinance are severable, and if any part or provision hereof shall be adjudged invalid by any court of competent jurisdiction, such adjudication shall not affect or impair any of the remaining parts or provisions hereof.

PASSED AND APPROVED this 12th day of January, 1971.

ATTEST:

Max Fry, Mayor

Jack Amos, City Clerk

STATE OF OKLAHOMA	)
	) ss:

COUNTY OF KAY	)

I, the undersigned and duly qualified clerk of the City of Blackwell, Oklahoma, in said county and state, hereby certify that the foregoing ordinance is a true and complete copy of the ordinance passed by the board of commissioners of the City of Blackwell, Oklahoma, held on the 12th day of January, 1971.

Witness my hand and seal this 12th day of January, 1971.

(Seal) Jack Amos, city Clerk

ARTICLE II. 1999 SALES TAX

Editor's note— Printed in this article is Ord. No. 2699, enacted May 4, 1999, effective October 1, 1999. Such ordinance was approved at referendum. The absence of a history note indicates that the provision remains unchanged from original. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, headings and catch-lines have been made uniform, and the same system of capitalization and expression of numbers in text as used in the Code of Ordinances has been used.

ORDINANCE NUMBER 2699

An ordinance of the City of Blackwell, Oklahoma relating to the levying and assessing of a city excise tax (sales tax) of 1½ percent in addition to all other excise taxes now in force to be levied upon the gross proceeds or gross receipts derived from all sales taxable under the Oklahoma Sales Tax Code; providing for the use of the proceeds of said excise tax; providing for the effective date and termination date of said excise tax; providing for subsisting state permits; providing for payment of tax; providing that the tax is in addition to taxes currently levied pursuant to Ordinance No. 1958 of the city; authorizing city commission to make administrative and technical amendments; providing that the provisions of Ordinance No. 2699 are cumulative; providing for severability of provisions; requiring approval of ordinance by a majority of registered, qualified voters voting at an election held for such purpose as provided by law; and containing other provisions related thereto.

Be it ordained by the city commission of the City of Blackwell, Oklahoma:

Sec. 1. Citation and codification.

This ordinance shall be known and may be cited as "City of Blackwell Sales Tax Ordinance of 1999" and shall be codified with the ordinances of the City of Blackwell, Oklahoma.

Sec. 2. Tax imposed.

There is hereby imposed an excise tax of 1½ percent in addition to any and all other excise taxes now in force; to be levied upon the gross proceeds or gross receipts derived from all sales taxable under the Oklahoma Sales Tax Code.

Sec. 3. Effective date.

The provisions of this ordinance and the collection of the excise tax referenced herein shall become effective on and after October 1, 1999, subject to approval by a majority of the qualified electors of the city voting on the same in the manner prescribed by law.

Sec. 4. Purpose of revenues.

It is hereby declared to be the purpose of this ordinance to provide revenues to be used for capital expenditures for the use and benefit of the City of Blackwell, Oklahoma (the "city") and the Blackwell Municipal Authority, and/or for the payment of debt service in connection with obligations heretofore issued or to be issued to finance said capital expenditures, said capital expenditures to include, but not by way of limitation, costs associated with the planning, acquisition and construction of improvements to streets, water, sewer and electric systems serving the city.

Sec. 5. This tax in addition—Administrative procedures.

The tax levied hereby is in addition to any and all other excise taxes levied or assessed by the city including those levied and assessed by Ordinance Number 1958, provided however, that those provisions of Ordinance Number 1958 relating to definitions; tax collector defined; classification of taxpayers; subsisting state permits; exemptions; other exempt transfers; tax due when - returns - records; tax constitutes debt; vendor's duty to collect tax; returns and remittances - discounts; interest and penalties - delinquency; waiver of interest and penalties; erroneous payments - claim for refund; fraudulent returns; and records confidential shall apply to the excise tax levied and assessed by this ordinance.

Sec. 6. Subsisting state permits.

All valid and subsisting permits to do business issued by the Oklahoma Tax Commission pursuant to the Oklahoma Sales Tax Code are, for the purposes of this ordinance, hereby ratified, confirmed and adopted in lieu of any requirement for an additional city permit for the same purpose.

Sec. 7. Amendments.

The people of the City of Blackwell, Oklahoma by their approval of this ordinance at the election herein above provided, hereby authorize the city by ordinance duly enacted to make such administrative and technical changes or additions in the method and manner of administration and enforcing this ordinance as may be necessary or proper for efficiency and fairness or in order to make the same consistent with the Oklahoma Sales Tax Code, as amended, except that the rate, purpose of revenues and limitation of time for collection of the tax herein provided for shall not be changed without approval of the qualified electors of the city as provided by law.

Sec. 8. Provisions cumulative.

The provisions hereof shall be cumulative, and in addition to any and all other taxing provisions of city ordinances.

Sec. 9. Termination of tax.

This ordinance and the excise tax referenced herein shall terminate and shall cease to be levied on September 30, 2009.

Sec. 10. Severability.

The provisions of this ordinance are severable, and if any part or provision hereof shall be adjudged invalid by any court of competent jurisdiction, such adjudication shall not affect or impair any of the remaining parts or provisions hereof.

This ordinance approved this 4th day of May, 1999, all commissioners being present and voting on the question of passage of this ordinance as follows: Morgan Aye, Gose Aye, Holcomb Aye; all commissioners being present and voting on waiver of the reading of the ordinance in open meeting: Morgan Aye, Gose Aye, Holcomb Aye.

PASSED AND APPROVED this 4th day of May, 1999.

_____

Mayor

ATTEST:

_____

City Clerk

(SEAL)

ARTICLE III. 2005 SALES TAX

ORDINANCE NUMBER 2753

AN ORDINANCE OF THE CITY OF BLACKWELL, OKLAHOMA, RELATING TO THE AMENDMENT OF ORDINANCE NO. 2718, BY MODIFYING THE PURPOSE OF THE REVENUES GENERATED PURSUANT TO ORDINANCE NO. 2718, AND BY EXTENDING THE STATED TERMINATION DATE FOR THE COLLECTION OF THE EXCISE TAX GENERATED PURSUANT TO ORDINANCE NO. 2718; FURTHER RELATING TO THE AMENDMENT OF ORDINANCE NO. 2699, BY EXTENDING THE STATED TERMINATION DATE FOR THE COLLECTION OF THE EXCISE TAX LEVIED PURSUANT TO ORDINANCE NO. 2699; PROVIDING FOR AMENDMENTS TO THIS ORDINANCE; PROVIDING FOR SEVERABILITY OF PROVISIONS; AND CONTAINING OTHER PROVISIONS RELATED THERETO

Be it ordained by the board of commissioners of the City of Blackwell, Oklahoma:

Editor's note— Ordinance 2753 continued and replaced Ord. No. 2718 and was approved and became effective on January 10, 2016.

Sec. 1. Citations and codification.

This Ordinance shall be known and may be cited as The City of Blackwell Sales Tax Ordinance of 2005, and the same shall be codified and incorporated into the Code of Ordinance of The City of Blackwell, Oklahoma (the "City").

Sec. 2. Tax imposed.

There is hereby imposed an excise tax of one half of one percent (in addition to any and all other excise taxes now in force) to be levied upon the gross proceeds or gross receipts derived from all sales taxable under the Oklahoma Sales Tax Code.

Sec. 3. Purpose of revenues.

It is hereby declared to be the purpose of this Ordinance to provide revenues to be used for capital expenditures for park and recreation facilities of The City of Blackwell, Oklahoma, and to operate and maintain said facilities, for the use and benefit of the City and any public trust having the City as beneficiary thereof and/or for the payment of debt service in connection with obligations issued to finance said capital expenditures. The expenditures shall include renovation of the Memorial Park Swimming Pool, including, but not limited to, a modem gutter system, a seamless liner, upgraded plumbing and electrical systems and renovation of the bathhouse, including compliance with facility accessibility requirements of the Americans With Disabilities Act (ADA). Revenues may also be expended for improvements, operations and maintenance of parks and other recreation facilities, including, but not limited to, other municipal pools, baseball, softball, and soccer fields, Morgan Stadium, Youth Center, Senior Citizen Center, Wheatheart Nutrition Center, tennis courts, and walking trails. Upon retirement or provision for payment of the Blackwell Municipal Authority Sales Tax Revenue Note, Series 2002, it is hereby declared to be the purpose of this Ordinance to provide revenues to be used for capital expenditures for the use and benefit of The City of Blackwell, Oklahoma (the "City") and the Blackwell Municipal Authority, and/or for the payment of debt service in connection with obligations heretofore issued or to be issued to finance said capital expenditures, said capital expenditures to include, but not by way of limitation, costs associated with the planning, acquisition, and construction of improvements to streets, water, sewer, and electric systems serving the City.

Sec. 4. Effective date and termination date.

The provisions of this Ordinance and the collection of the excise tax referenced herein shall become effective on and after January 1, 2002, subject to approval by a majority of the qualified electors of the City voting on the same in the manner prescribed by law. The provisions of this Ordinance and the collection of the excise tax referenced herein shall terminate and said excise tax shall not be collected after September 30, 2030.

Sec. 5. No repeal of tax.

This ordinance and the excise tax levied pursuant hereto shall not be repealed by the city commission of the city or by referendum of the registered qualified voters of the city in the event the proceeds of the referenced excise tax are being used or have been pledged by the city or any public trust having the city as beneficiary for the purpose of paying debt service on obligations issued by the city or any public trust having the city as beneficiary.

Sec. 6. Subsisting state permits.

All valid and subsisting permits to do business issued by the Oklahoma Tax Commission pursuant to the Oklahoma Sales Tax Code are, for the purposes of this ordinance, hereby ratified, confirmed and adopted in lieu of any requirement for an additional city permit for the same purpose.

Sec. 7. Payment of tax.

The tax herein levied shall be paid to the tax collector at the time and in the manner and form prescribed for payment of the state sales tax under the State Tax Law of the State of Oklahoma.

Sec. 8. This tax in addition to taxes currently levied; administrative procedures.

The tax levied hereby is in addition to any and all other excise taxes levied or assessed by the city including those levied and assessed by Ordinance No. 1958, Ordinance No. 2087, and Ordinance No. 2699 (collectively, the "ordinances"); provided, however, that those provisions of said ordinances relating to definitions; tax collector defined; classification of taxpayers; subsisting state permits; the portion of tax rate-sales subject to tax, pertaining to sales subject to tax (not rate of tax); the provisions of said ordinances regarding exemptions and other exempt transfers; the provisions of said ordinances regarding tax due when—returns—records; the portion of said ordinances regarding tax constituting debt; vendor's duty to collect tax; returns and remittances - discounts; interest and penalties—delinquency; waiver of interest and penalties; erroneous payments—claim for refund; fraudulent returns; and records confidential shall apply to the excise tax levied and assessed by this ordinance. For purposes of this ordinance, references in Ordinance No. 1958, in Ordinance No. 2087, and in Ordinance No. 2699, to specific provisions of the Oklahoma Statutes shall be deemed to be references to said statutory provisions, as amended.

Sec. 9. Amendments.

The people of the City of Blackwell, Oklahoma, by their approval of this ordinance at the election hereinabove provided for, hereby authorize the city by ordinance duly enacted to make such administrative and technical changes or additions in the method and manner of administration and enforcing this ordinance as may be necessary or proper for efficiency and fairness or in order to make the same consistent with the Oklahoma Sales Tax Code, as amended, except that the rate of the tax, purpose of the revenues and limitation of time for collection of said tax herein provided for shall not be changed without approval of the qualified electors of the city as provided by law.

Sec. 10. Provisions cumulative.

The provisions hereof shall be cumulative and in addition to any and all other taxing provisions of city ordinances.

ARTICLE IV 2016 SALES TAX

Ordinance No. 2016-2825

An Ordinance Of The City Council Of The City Of Blackwell, Oklahoma, Relating To The Assessing, Levying And Authorizing The Collection Of The One Cent (1%) Sales (Excise) Tax Within The Corporate Limits Of The City Of Blackwell, Oklahoma, From And After October 1, 2016 And Continuing Thereafter Until Lawfully Repealed, And With The One Cent (1%) Sales (Excise) Tax Being On The Gross Receipts Or Proceeds Derived From Certain Sales Governed By The Oklahoma Sales Tax Code; Providing For The Purpose Of The Tax; Providing For The Transfer Of The Tax To The Medical Health Sales Tax Fund Within The General Budget Of The City Of Blackwell, Oklahoma; Providing That The Implementation Of The Ordinance Is Subject To Voter Approval; Fixing The Effective Date; Providing For Cumulative Effect; Repealer; Savings Clause; Codification; Severability; And Declaring An Emergency.

Emergency Ordinance

Be It Ordained By The City Council Of The City Of Blackwell, Oklahoma:

Section 1. Definitions. The definition of words, terms and phrases contained in the Oklahoma Sales Tax Code, Title 68 Oklahoma Statutes, Sections 1301 et seq., as amended and supplemented, are hereby adopted by reference and made a part of this ordinance as if fully set out.

Section 2. Effective Date; Termination Date; Voter Approval. The effectiveness of this ordinance shall be subject to, and conditioned upon, the approval of a majority of the registered voters of the City of Blackwell, Oklahoma, voting on the same as provided by law, at a nonpartisan special municipal election called and held for that purpose on the 28th day of June 2016. Subject to such voter approval, this ordinance shall become effective on and after October 1, 2016, and shall be levied, assessed and collected until and unless lawfully repealed.

Section 3. One Percent (1%) Sales Tax; Purpose. That the Blackwell Municipal Code shall be amended by the addition of a new Section, which shall read as follows:

Additional One Per Cent (1%) Sales (Excise) Tax For Medical Health Purposes.

1. Beginning on October 1, 2016, and continuing until and unless lawfully repealed, there is hereby declared and shall be levied and collected, a City excise (sales) tax of one per cent (1%), such sales (excise) tax being in addition to the city, county and state sales taxes heretofore levied or assessed, upon the gross proceeds or receipts derived from all sales to any person taxable under the sales tax laws for the State of Oklahoma.

2. It is hereby declared to be the purpose of the additional one per cent (1%) sales (excise) tax to promote medical health in the City of Blackwell, including but not limited to providing financial support for the maintenance, operation and administration of Blackwell's hospital, and in the event Blackwell's hospital closes, for the support of public medical health facilities and/or emergency medical services and/or any other service that supports medical health in the City of

Blackwell, to include the construction, maintenance and repair of any public improvements or purchase of equipment necessary for such medical health purpose, and for the payment of principal and interest on bonds, notes or other evidences of indebtedness, including the cost of issuance, issued by any public trust with the City of Blackwell as sole beneficiary, to finance one or more of the above listed medical health uses.

3. Provided, the receipts from such sales (excise) tax shall be deposited into the Medical Health Sales Tax Fund ("Fund"), which Fund shall be in the General Fund and which Fund shall be used solely for the purpose of receiving the revenue derived from the collection of the additional one per cent (1%) sales (excise) tax imposed hereunder, receiving any income from the investment of monies contained in the Fund, and making authorized expenditures for the purposes as provided in subsection 2 hereinabove.

4. Neither this section nor the one per cent (1%) sales (excise) tax levied pursuant hereto may be repealed by the City Council of the City or by initiative or referendum of the registered voters of the City in the event that the proceeds of the referenced tax are being used or have been pledged by the City or any public trust with the City of Blackwell as sole beneficiary for the purpose of paying debt service obligations.

Section 4. Cumulative Effect. The provisions hereof shall be cumulative and in addition to any and all other taxing provisions of City Ordinances.

Section 5. Repealer. All ordinances or parts thereof which are inconsistent with this ordinance are hereby repealed.

Section 6. Savings Clause. Nothing in this ordinance hereby adopted shall be construed to affect any suit or proceeding now pending in any court, or any rights acquired or liability incurred nor any cause or causes of action accrued or existing, under any act or ordinance repealed hereby. Nor shall any right or remedy of any character be lost, impaired or affected by this ordinance.

Section 7. Codification. This ordinance shall be codified as herein provided.

Section 8. Severability. If any one or more of the sections, sentences, clauses or parts of this ordinance, chapter or section shall for any reason be held invalid, the invalidity of such section, clause or part shall not affect or prejudice in any way the applicability and validity of any other provision of this ordinance. It is hereby declared to be the intention of the City Council of the City of Blackwell that this section of the Blackwell Municipal Code would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

Section 9. Emergency. WHEREAS, it being immediately necessary for the preservation of the peace, health, safety and public good of the City and the inhabitants thereof that the provisions of this Ordinance be put into full force and effect in order to permit the voters to approve or reject this medical health one per cent (1%) sales (excise) tax for the public purposes as provided thereby; By reason whereof, this Ordinance shall take effect and be in full force and

effect after its passage, as provided by law.

Approved and executed this 11th day of April 2016.

THE CITY OF BLACKWELL, OKLAHOMA

_____
JON WEBB, VICE-MAYOR

(Seal)
ATTEST:

_____
Cindy Neumayer, City Clerk

Approved as to Form and Legality:

_____
Bryce S. Kennedy, Jr., City Attorney

ARTICLE V 2019 SALES TAX

ORDINANCE NO. 2019-01

AN ORDINANCE OF THE CITY OF BLACKWELL, OKLAHOMA (THE "CITY"), AMENDING ORDINANCE NO. 2825 OF THE CITY; PROVIDING THE PURPOSE OF REVENUES AND EXTENDING THE TERMINATION DATE OF AN EXISTING CITY EXCISE TAX (SALES TAX) OF ONE PERCENT (1.00%); PROVIDING FOR THE EFFECTIVE DATE; PROVIDING THAT THE PROVISIONS OF THIS ORDINANCE ARE CUMULATIVE AND IN ADDITION TO ANY AND ALL TAXING PROVISIONS OF OTHER CITY ORDINANCES; PROVIDING FOR SEVERABILITY OF PROVISIONS; AND CONTAINING OTHER PROVISIONS RELATED THERETO.

WHEREAS, the City of Blackwell, Oklahoma (the "City") currently levies a one percent (1.00%) excise tax (sales tax) pursuant to Ordinance No. 2825 of the City dated April 11, 2016 (the "2016 Sales Tax Ordinance"); and

WHEREAS, it was the purpose of the 2016 Sales Tax Ordinance to promote medical health in the City, including but not limited to providing financial support for the maintenance, operation, and administration of Blackwell's hospital, and in the event Blackwell's hospital closes, for the support of public medical health facilities and/or emergency medical in the City, to include the construction, maintenance and repair of any public improvements or purchase of equipment necessary for such medical health purpose, and for the payment of principal and interest on bonds, notes or other evidences of indebtedness, including the cost of issuance, issued by any public trust with the City as sole beneficiary, to finance one or more of the above listed health uses; and

WHEREAS, pursuant to the terms of the 2016 Sales Tax Ordinance, the referenced one percent (1.00%) excise tax (sales tax) was to be levied beginning October 1, 2016 and continuing until and ending September 30,2021; and

WHEREAS, if approved by the registered, qualified voters of the City at a special election to be held in the City on April 2, 2019, this Ordinance will amend the purpose of the tax as set forth below and will extend the termination date of said tax from September 30, 2021 to September 30, 2046.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BLACKWELL, OKLAHOMA, AS FOLLOWS:

Section 1. Citations and Codification. This Ordinance shall be known and may be cited as the City of Blackwell Sales Tax Ordinance of 2019, and the same shall be codified and incorporated into the Code of Ordinances of the City of Blackwell, Oklahoma.

Section 2. Amendment to Section 3 of Ordinance 2825. Section 3 of Ordinance No. 2825 is hereby amended to read as follows:

"Section 3. One Percent (1%) Sales Tax; Purpose. That the Blackwell Municipal Code shall be amended by the addition of a new Section, which shall read as follows:

ADDITIONAL ONE PERCENT EXCISE TAX (SALES TAX) FOR MEDICAL PURPOSES.

1. Beginning on October 1, 2016, and continuing until and ending on September 30, 2046, there is hereby declared to be levied and collected, a City excise tax (sales tax) of one percent (1.00%), such excise tax (sales tax) being in addition to the City, County and State of Oklahoma excise tax (sales tax) heretofore levied or assessed, upon the gross proceeds or receipts derived from all sales to any person taxable under the sales tax laws of the State of Oklahoma.

2. It is hereby declared that the proceeds of the additional one percent (1.00%) excise tax (sales tax) be made available to promote medical health in the City, including but not limited to costs associated with the construction, equipping, operating and maintaining of hospital facilities, and to the extent there is no hospital in Blackwell, to support public medical health facilities and/or emergency medical facilities and services for the use and benefit of the City, or any public trust with the City as beneficiary and/or for debt service in connection with obligations issued to finance said expenditures."

Section 3. Effective Date. The provisions of this Ordinance shall become effective on and after April 2, 2019, subject to approval by a majority of the qualified electors of the City voting on the same in the manner prescribed by law.

Section 4. Provisions Cumulative. The provisions hereof shall be cumulative and in addition to any and all other taxing provisions of City Ordinances.

Section 5. Severability. The provisions of this Ordinance are severable, and if any part or provision hereof shall be adjudged invalid by any court of competent jurisdiction, such adjudication shall not affect or impair any of the remaining parts or provisions hereof.

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PASSED AND APPROVED this 28th day of January 2019.

CITY OF BLACKWELL, OKLAHOMA

T J Greenfield, Mayor

ATTEST:

Merry Whitham, City Clerk

(SEAL)

Note: This 2019 Hospital Sales Tax Ordinance superseded the 2016 Sales Tax provided in Article IV hereinabove.

Appendix B Fine and Bond Schedule

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