PART 8

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CHAPTER 1

WEEDS AND TRASH

§ 8-101 ACCUMULATION OF TRASH OR WEEDS UNLAWFUL.

It is unlawful for any owner of any lot, tract or parcel of land situated wholly or in part within the corporate limits of the city to allow trash or weeds to grow, stand or accumulate upon such premises and it is the duty of such owner to remove or destroy any such trash or weeds.

State Law Reference: Authority to order removal of accumulations of weeds, trash, and charge costs, 11 O.S. § 22-111.

Cross Reference: Nuisances defined, § 8-407 of this code.

§ 8-102 DEFINITIONS.

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

A. "Weeds" include, but is not limited to poison ivy, poison oak or poison sumac and all vegetation at any state of maturity which:

1. Exceed twelve inches (12") in height, except healthy trees, shrubs or produce for human consumption or grown in a tended and cultivated garden unless such trees and shrubbery by their density or location constitute a detriment to the health,

benefit and welfare of the public and community or a hazard to traffic or create a fire hazard to the property or otherwise interfere with the mowing of the weeds of the said weeds;

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

3. Harbors rodents or vermin;

4. Gives off unpleasant or noxious odors;

5. Constitutes a fire or traffic hazard; or

6. Is dead or diseased.

The term “weed” does not include tended crops on land zoned for agricultural use which are planted more than one hundred fifty feet (150') from a parcel zoned for other than agricultural use;

B. “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; and

C. “Owner” means the owner of record as shown by the most current tax rolls of the county treasurer; and

D. “Cleaning” means the removal of trash from property. (Ord. No. 624, 7/25/06)

§ 8-103 REPORTS OF ACCUMULATION OF GRASS, WEEDS OR TRASH ON PROPERTY.

A. Any officer or employee of the city who discovers an accumulation of trash or the growth of grass and weeds, or both these conditions, upon any premises within the limits of the city, shall report the condition to the city clerk if, as a result of the accumulation or growth, the premises appear to be:

1. Detrimental to the health, benefit and welfare of the public and use of the community;

2. A hazard to traffic; or

3. A fire hazard to property.

B. The chief or assistant chief of police, chief or assistant chief of the fire department, or the county sanitarian or other representative of the department of public health, and any other person authorized by the city manager shall, on citizen complaint or upon their own

notice, inspect subject property. If their inspection reveals a violation of one or more of the above named conditions, and their decision must be unanimous, they shall report their findings to the city manager. (Prior Code, § 13-16 in part)

State Law Reference: Cleaning and mowing of property, procedures and powers, 11 O.S. § 22-111.

§ 8-104 PROCEDURE FOR NOTICE, REMOVAL AND ASSESSMENT OF COSTS.

Without limiting any procedure contained in other sections of this code or in any other code, duly adopted by the city, the city manager may cause the property within the municipal limits to be cleaned of trash and weeds or grass to be cut or mowed in accordance with the provisions of this section as follows:

A. At least ten (10) days' notice shall be given to the owner of the property by mail with return receipt requested at the address shown by the current year's tax rolls in the county treasurer's office, or any other source deemed by the city to be more accurate than the tax rolls, before the city manager takes action. The notice shall order the property owner to clean the property of trash, or to cut or mow the weeds or grass on the property, as appropriate, and the notice shall further state that unless such work is performed within ten (10) days of the date of the notice, the work shall be done by the city and a notice of lien shall be filed with the county clerk against the property for the costs due and owing the city. The notice shall also state that any accumulation of trash or excessive weed or grass growth on the owner's property occurring within six (6) months after the removal of trash or cutting or mowing of weeds or grass on the property pursuant to such 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. If the mail to the property owner is refused, service of the notice shall be deemed valid and complete. However, if the property owner cannot be located as shown by the mail being returned as unclaimed, or if the return receipt is not returned within ten (10) days from the date of mailing by the city, notice shall be given by posting a copy of the notice on the property for ten (10) days or by publication by publishing in a legal newspaper published in the city, and which is of general circulation within the city, one time not less than ten (10) days prior to any hearing or action by the city;

B. The owner of the property may give his written consent to the city authorizing the removal of the trash or the mowing of the weeds or grass. By giving the written consent, or by failing to request a hearing within the time prescribed, the owner waives his right to a hearing by the city;

C. Upon a finding that the condition of the property constitutes a detriment or hazard, and that the property would be benefitted by the removal of such conditions, the agents of the city are granted the right of entry on the property for the removal of trash, mowing of weeds or grass, and performance of the necessary duties as a governmental function of the city. Immediately following the cleaning or mowing of the property, the city clerk

shall file a notice of lien with the county clerk describing the property and the work performed by the city and stating that the city claims a lien on the property for the cleaning or mowing costs;

D. The city manager 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 city clerk shall forward by mail to the property owner 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;

E. If payment is not made within thirty (30) days from the date of the mailing of the statement, the city clerk shall forward a certified statement of the amount of the costs to the county treasurer and the same shall be levied on the property and collected by the county treasurer as other taxes authorized by law. Until 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 any time prior to the collection as provided in this paragraph, the city may pursue any civil remedy for collection of the amount owing and interest therein including an action in person against the property owner and an action in rem to foreclose its lien against the property. A mineral interest, if severed from the surface interest and not owned by the surface owner, shall not be subject to any tax or judgment lien created pursuant to this section. Upon receiving payment, if any, the city clerk shall forward to the county treasurer a notice of such payment and directing discharge of the lien; and

F. The provisions of this section shall not apply to any property zoned and used for agricultural purposes or to railroad property under the jurisdiction of the Oklahoma Corporation Commission. However, the city manager may cause the removal of weeds or trash from property zoned and used for agricultural purposes pursuant to the provisions of this section but only if such weeds or trash pose a hazard to traffic and are located in, or within ten (10) yards of, the public right-of-way at intersections. (Prior Code, §§ 13-15, 13-17, 13-18, as amended; Ord. No. 410, 12/3/91; Ord. No. 624, 7/25/06)

§ 8-105 WORK DONE BY EMPLOYEES OR CONTRACT.

The work ordered to be performed under § 8-104 of this code may be done by the employees of this city under supervision of the city manager, or it may be "let" in the manner for letting other contracts by public bid.

§ 8-106 SUMMARY ABATEMENT.

If the city manager causes property within the city limits to be cleaned of trash and weeds or grass to be cut or mowed in accordance with the procedures provided for in § 8-104 of this chapter, 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. Immediately following each such summary abatement, the city clerk shall notify the property owner of the abatement and the costs thereof. The notice shall state that the property owner may request a hearing concerning the assessment of costs within ten (10) days after the date of mailing the notice. The notice and hearing shall be as provided for in § 8-104 of this chapter. Unless otherwise determined at the hearing, the cost of such abatement shall be determined and collected as provided for in paragraphs 5 and 6 of § 8-104 of this chapter. Provided, however, that this section shall not apply if the records of the county clerk show that the property was transferred after notice was given pursuant to § 8-104 of this chapter. (Prior Code, §§ 13-18, 13-19 in part; Ord. No. 410, 12/3/91)

§ 8-107 EXCEPTIONS.

The provisions of §§ 8-104 and 8-106 of this chapter shall not apply to any property zoned and used for agricultural purposes. (Prior Code, § 13-19 in part; Ord. No. 410, 12/3/91)

§ 8-108 SERVICE OF NOTICE.

The service of all notices prescribed by this chapter shall be evidenced by the return of the officer making such service, certified in his official capacity, and filed in the office of the city clerk.

§ 8-109 UNLAWFUL TO DEPOSIT RUBBISH.

A. It is unlawful for any person to throw, place or deposit any rubbish, trash, slop, garbage, filthy substance, grass, weeds, trees, brush or any other refuse or waste matter in any street, avenue, alley or in any ditch or watercourse, or upon the premises of another, or upon any public ground in this city.

B. Persons convicted for violating Subsection A of this section shall also be subject to an assessment to be paid into the Littering Reward Fund as provided by §§ 1-109, 8-118 and 8-119 of this code. (Ord. No. 373, 9/8/88)

§ 8-110 REMOVAL OF DEAD ANIMALS.

A. The owner or any person having charge of any animal dying in this city, shall within twenty-four (24) hours after the death of such animal, remove its carcass.

B. The owner or any person having charge of any animal that has died, whether such death occurred within the city or outside the city, shall not remove the animal carcass onto the right-of-way, road or highway or onto public property which is located within the city.

C. Persons sentenced for violating Subsection B of this section shall be subject to an assessment to be paid into the Littering Reward Fund as provided by §§ 1-109, 8-118 and 8-119 of this code. (Prior Code, § 11-16, in part; Ord. No. 373 9/8/88)

Cross Reference: Animals generally, § 4-101 of this code.

§ 8-111 UNLAWFUL TO LITTER.

A. Littering is defined as throwing any trash, refuse, waste paper, tin can, bottles, or any other object or substance whatever upon the public streets, alleys, roadways and sidewalks of the city or upon any real property owned or occupied by another.

B. Also as used in this section, "litter" means any flaming or glowing substances except those which by law may be placed upon highway rights-of-way, any substances which may cause a fire, any bottles, cans, trash, garbage or debris of any kind. As used in this section, "litter" shall not include trash, garbage or debris placed by residents beside a public road in front of or adjacent to their home for collection by a garbage or collection agency, or deposited upon or within public property designated by the state or by any of its agencies of the city or Oklahoma County as an appropriate place for such deposits if the person making the deposit is authorized to use the property for such purpose.

C. It is unlawful for any person to litter, as defined by either Subsection A or Subsection B above.

D. Persons sentenced for violating Subsection B of this section, or Subsections B and C in combination, shall be subject to an assessment to be paid into the Littering Reward Fund, as provided by §§ 1-109, 8-118 and 8-119 of this code. (Prior Code, § 13-10, in part; Ord. No. 373, 9/8/88)

§ 8-112 UNLAWFUL TO LITTER FROM AUTOMOBILES.

A. It is unlawful for any person to throw, drop, deposit or otherwise place or dispose from any automobile or motor vehicle being operated and driven upon and over the streets, alleys and roadways of the city any garbage, litter, trash, waste paper, rubbish, refuse, tin cans, or any other substance or refuse whatever.

B. The operator of a vehicle shall be liable pursuant to Subsection D of this section, for any act of throwing, dropping, depositing or otherwise placing any litter from his vehicle upon highways, roads, or public property unless any other person in the vehicle admits to or is identified as having committed the act.

C. Any person who admits to or is identified as having committed the act shall be liable for the act.

D. Persons sentenced for violating this section shall be subject to an assessment to be paid into the Littering Reward Fund as provided by §§ 1-109, 8-118 and 8-119 of this code.

(Ord. No. 373, 9/8/88)

§ 8-113 LITTER NOT TO ACCUMULATE ON PROPERTY.

It is unlawful for any person, firm or corporation occupying any real property, either as tenant or owner, to allow trash, waste paper, litter objects, bottles, tin cans, or any other used or disposed of objects to accumulate upon such real property or premises being so occupied or rented to such an extent as to constitute a littering nuisance.

§ 8-114 WEEDS TO BE CUT.

A. No person shall permit any lot, yard, parkway or sidewalk or the space abutting thereon to the center of the street or the center of the alley of the property, owned, occupied or controlled by him or for which he is agent or who has charge thereof for the owner, to become covered, overgrown with weeds or other noxious or injurious growth or accumulation. Any lot, yard, sidewalk, parkway or space abutting thereon, which shall become covered or overgrown with such weeds or other accumulation so as to become noxious, detrimental to the general health, or offensive, or likely to cause or spread disease, is hereby declared to be a public nuisance.

B. The owner, occupant or any other person having the care of any lot or tract of land within the city limits, shall cut down and remove, or cause to be cut down and removed, from such lot or tract of land, to the center of the street or alley, all offensive, unwholesome and noxious weeds, vines and grass thereon. Any person, firm or corporation refusing or neglecting to cut down and remove such offensive and unwholesome and noxious weeds, vines and grass and other accumulation, with or without notice, shall be guilty of an offense. (Prior Code, § 13-14 in part)

§ 8-115 PREMISES TO BE FREE FROM RUBBISH.

No person having in his possession, supervision or control, whether as owner, occupant or tenant, any premises situated in the city, shall allow or permit any such premises to have thereon, any empty boxes, barrels, rubbish, trash, waste paper, excess tin cans, weeds, junk, old auto parts, ice boxes, refrigerators, refuse or trash of any description not properly cared for. No persons shall place or dump any of the items above mentioned in any public street, thoroughfare, avenue or alley, or upon any vacant lot or premises within the city. (Prior code, § 11-17 in part)

§ 8-116 DILAPIDATED BUILDINGS UNLAWFUL.

It shall be unlawful and an offense for any person to keep, maintain or own a dilapidated building in this city.

§ 8-117 ABANDONED ICE BOXES, REFRIGERATORS.

It is unlawful for any person, firm or corporation to leave in a place accessible to children any abandoned or discarded ice box, refrigerator or other container which has an air-tight door with a

lock or other fastening device which cannot be easily released for opening from the inside of the ice box, refrigerator, or container, without first removing the door, lock or fastener. (Prior Code, § 11-14)

§ 8-118 PENALTY, RESTITUTION AND ASSESSMENT FOR LITTERING REWARD FUND.

A. Any person, firm or corporation violating any of the provisions of this chapter, whether the same has been declared a nuisance or not, shall be guilty of an offense, and, upon conviction thereof, shall be punished as provided in § 1-108 of this code.

B. In addition to the penalty prescribed by Subsection A of this section, the municipal court may direct the person:

1. To make restitution to the property owner affected;

2. To remove and properly dispose of the garbage, trash, waste, refuse or debris from the property;

3. To pick up, remove and properly dispose of garbage, trash, waste, rubbish, refuse, debris and other nonhazardous deleterious substances from public property; or

4. Any combination of the foregoing which the court, in its discretion, deems appropriate.

The dates, times and locations of such activities shall be scheduled by the chief of police pursuant to the order of the court in such manner as not to interfere with the employment of family responsibilities of the defendant.

C. In addition to the penalty prescribed in Subsection A and the restitution prescribed in Subsection B, the court may order the defendant to pay into the reward fund as prescribed in § 8-119 of this code an amount not to exceed One Hundred Dollars ($100.00) (Ord. No. 373, 9/8/88)

§ 8-119 REWARD FUND CREATED FOR LITTERING OFFENSES.

A. The city council hereby crates, ordains and maintains a reward fund in the municipal treasury which shall be a revolving fund not subject to fiscal year limitations, from which to pay the rewards provided in Subsection B of this section.

B. The city council may offer and pay a reward, from funds set aside for that purpose, in an amount not less than fifty percent (50%) of the fine imposed, for the arrest and conviction or for evidence leading to the arrest and conviction of any person who violates §§ 8-109, 8-110, 8-111 or 8-112 of this code.

C. Any monies for which no claim is filed within the period provided in Subsection D of this

section shall revert to the general fund. Any monies remaining in the reward fund after all claims have been paid or denied shall revert to the general fund.

D. Claims for rewards shall be on forms provided by the city and shall be submitted to the city prosecutor no more than thirty (30) days after sentencing of the defendant. The city prosecutor shall investigate the validity of the claim and make a non-binding written recommendation to the city council.

E. All claims relating to a particular conviction shall be considered together at the next regular meeting of the city council, following receipt of the city prosecutor's report.

F. In determining the amount of the reward, the city council shall have sole discretion to honor or deny the claim, but shall consider:

1. The severity of the offense;

2. The size of the fine imposed;

3. The number of persons claiming a reward and the degree to which each claimant was responsible for the arrest or conviction.

4. The burden, if any, incurred by the claimant including cost to appear at the trial; and

5. Other factors which the board or governing body deems appropriate.

G. No reward shall be authorized and no debt shall accrue to the city upon the depletion of the reward fund authorized by this section.

H. The reward authorized by this section shall be in lieu of any other city or county reward.

I. Full-time peace officers of this state or of any county or municipality within this state shall not be eligible for the reward provided by this section. (Ord. No. 373, 9/8/88)

§ 8-120 REBUTTABLE PRESUMPTIONS.

A. Any full-time peace officer in this state upon investigation of the disposal of any substance in violation of this section which contains three (3) or more items bearing a common address in a form which tends to identify the latest owner of the items shall create a rebuttable presumption that all competent persons residing at such address committed the unlawful act. The discovery or use of such evidence shall not be sufficient to qualify for the reward provided in § 8-119 of this code.

B. The operator of a vehicle shall be liable pursuant to § 8-112 of this chapter for any act of throwing, dropping, depositing, or otherwise placing any litter from his vehicle upon highways, roads, or public property unless any other person in the vehicle admits to or is

identified as having committed the act. (Ord. No. 373, 9/8/88)

CHAPTER 2

ABANDONED, WRECKED MOTOR VEHICLES

§ 8-201 DEFINITIONS.

A. For the purposes of this chapter, the following terms, phrases, words and their derivations shall have the meaning given herein:

1. "Chief of police" is the chief of police of the city;

2. "Derelict motor vehicle" is any motor vehicle, as defined by Paragraph 2 of this section, which does not have lawfully affixed thereto both an unexpired license plate or plates and a current motor vehicle safety inspection certificate, or whose condition renders the vehicle incapable of operation or noncompliance with state or federal minimum safety standards;

3. "Motor vehicle" is any vehicle manufactured for transportation purposes that is subject to state and federal licensing or registration for use;

4. "Person" means any person, firm, partnership, association, corporation, company or organization of any kind;

5. "Private property" means any real property of a minimum lot size of ten thousand (10,000) square feet within the city which is privately owned and which is not public property as defined in this section;

6. "Public property" means any street or highway which shall include the entire width between the boundary line of every way publicly maintained for the

purposes of vehicular travel, and shall mean any other publicly owned property or facility; and

7. "Site proof fence" means a fence or wall which conforms to the following standards:

   a. A minimum of six (6) feet but not more than eight (8) feet in height;

   b. Attractive;

   c. Made of wood, masonry, stockade poles, metal or other suitable material which serves to beautify, decorate or adorn the property;

   d. Permanently anchored to the ground by a base situated entirely upon its subject property;

   e. Obscures vision from one property to another. Note: if a chain link fence is used, the metal or wooden inserts must be used to obscure vision;

   f. Kept in an attractive state and in good repair at all times by the property owner; and

   g. Must be behind the front building line and when on a corner lot, the side building line adjacent to the side street of the primary building.

B. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory. (Ord. No. 221, 5/4/82; Ord. No. 466, 3/21/95)

§ 8-202 STORING, PARKING OR LEAVING DERELICT MOTOR VEHICLE PROHIBITED; AND DECLARED NUISANCE; EXCEPTIONS.

A. No person shall park, store, leave or permit the parking, storing or leaving of any derelict motor vehicle or major components thereof, whether owned or possessed by such person or others, upon any public or private property within the city for a period of time in excess of thirty (30) days.

B. The presence of the derelict motor vehicles or major components thereof which exceeds the time limitation specified in Subsection A of this section is hereby declared a public nuisance which may be abated as such in accordance with the provisions of this chapter.

C. This section shall not apply to:

   1. Any derelict motor vehicle or major components thereof enclosed within a building on private property;

2. Any derelict motor vehicle or major components thereof held in connection with a business enterprise, lawfully licensed and properly operated in the appropriate business zone, pursuant to the zoning laws of the city;

3. Any motor vehicle in operable condition specifically adapted or designed for operation on drag strips or raceways;

4. Any derelict motor vehicle or major components thereof enclosed by a sight proof fence on private property, based upon the following limitations:

   a. The enclosed area within the sight proof fence shall be six percent (6%) of the total area of the subject private property or five thousand (5,000) square feet, whichever is less; and

   b. Derelict motor vehicles or major components thereof contained within the sight proof fence must maintain a thirty-six (36) inch clearance completely around the vehicle and shall not be visible from the property lines of adjoining public or private property;

5. One derelict motor vehicle which is not enclosed by a sight proof fence or within a building may be parked or stored on private property with the following limitation:

   a. Such vehicle shall be completely covered with a suitable, snug-fitting, nontransparent type of material, maintained in good repair.

D. Nothing in this chapter is intended to grant property owners the right to do any act prohibited by Oklahoma Statutes or city ordinances. (Ord. No. 221, 5/4/82; Ord. No. 466, 3/21/95)

§ 8-204 NOTICE TO REMOVE.

Whenever it comes to the attention of the city manager or his designee that any nuisance as defined in § 8-202 of this code exists in the city, a notice in writing shall be served upon the occupant of the property where the nuisance exists, or in case there is no such occupant, then upon the owner of the property or his agent, notifying of the existence of the nuisance and requesting its compliance with § 8-202 in the time specified in this chapter. (Ord. No. 221, 5/4/82; Ord. No. 466, 3/21/95)

State Law Reference: Removal of abandoned vehicles on private property, 47 O.S. § 954A; grounds for removal on state highways by state, 47 O.S. § 951 et seq.

§ 8-204 RESPONSIBILITY FOR REMOVAL.

Upon proper notice and opportunity to be heard, the owner of the declared nuisance and the

owner or occupant of the private property on which the nuisance is located, either or all of the above, shall be responsible for the abatement of the nuisance. In the event of removal and disposition of the nuisance by the city, the owner, or occupant of the private property where the nuisance was located, shall be liable for the expenses incurred by the city for the removal and disposition. (Ord. No. 221, 5/4/82; Ord. No. 466, 3/21/95)

§ 8-205 NOTICE PROCEDURE.

A. The city manager or his designee shall give notice of the declared nuisance by either certified mail or delivered in person to the owner of the nuisance or owner and/or occupant of the private property where the declared nuisance is located at least thirty (30) days before the time of compliance.

B. If the property owner of the declared nuisance and/or the owner or occupant of the private property is unable to be notified by certified mail or hand delivery, then it shall constitute sufficient notice, when a copy of same is posted in a conspicuous place upon the private property on which the nuisance is located. (Ord. No. 221, 5/4/82; Ord. No. 466, 3/21/95)

§ 8-206 CONTENT OF NOTICE.

The notice shall contain the request for abatement within the time specified in this chapter. The notice shall advise that upon failure to comply with the notice to abate, city shall prosecute a criminal complaint for failure to abate the nuisance or the city or its designee shall undertake such actions to abate the nuisance including, but not limited to, the removal of the nuisance with the cost of removal to be levied against the owner or occupant of the property. (Ord. No. 221, 5/4/82; Ord. No. 466, 3/21/95)

§ 8-207 REQUEST FOR HEARING; COMMISSION CREATED.

A. The persons to whom the notices are directed, or their duly authorized agents may file a written request for hearing before the city manager of the city within the thirty (30) day period of compliance prescribed in § 8-205 of this code.

B. Request for hearing shall be directed to the city manager of the city. (Ord. No. 221, 5/4/82; Ord. No. 466, 3/21/95)

§ 8-208 PROCEDURE FOR HEARING.

The hearing shall be held as soon as practicable after the filing of the request and the persons to whom the notices are directed shall be advised of the time and place of the hearing at least five (5) days in advance thereof. At any such hearing the city and the persons to whom the notices have been directed may introduce such witnesses and evidence as either party deems necessary. (Ord. No. 221, 5/4/82; Ord. No. 466, 3/21/95)

§ 8-209 REMOVAL OF DECLARED NUISANCE FROM PROPERTY.

A. If the nuisance described in the notice has not been abated within the thirty (30) day period of compliance, or in the event that a notice requesting a hearing is timely filed, a hearing is had, and the existence of the violation is affirmed by the city manager, then:

1. The chief of police or his designee shall have the right to take possession of the derelict motor vehicle and remove it from the premises; or

2. The city shall continue to prosecute criminal charges on a daily basis for failure to abate the nuisance.

B. It is unlawful for any person to interfere with, hinder or refuse to allow such person or persons to enter upon private property for the purpose of removing a vehicle under the provisions of this chapter. (Ord. No. 221, 5/4/82; Ord. No. 466, 3/21/95)

§ 8-210 NOTICE OF REMOVAL.

Within forty-eight (48) hours of the removal of such nuisance, the chief of police shall give notice to the registered owner of the vehicle, if known, and also to the owner or occupant of the private property from which a declared nuisance was removed, that the vehicle or vehicles, has been impounded and stored for violation of this chapter. The notice shall give the location of where the vehicle or vehicles is stored, and the costs incurred by the city for removal. (Ord. No. 221, 5/4/82; Ord. No. 466, 3/21/95)

§ 8-211 DISPOSITION OF VEHICLES.

Upon removing a vehicle under the provisions hereof, the chief of police shall, after a period of ten (10) days, give notice of public sale not less than ten (10) days prior to the date of the proposed sale, or the chief, in his discretion, may request the wrecker service to impound, store, sell or otherwise dispose of the vehicle in accordance with state laws. (Ord. No. 221, 5/4/82; Ord. No. 466, 3/21/95)

§ 8-212 REDEMPTION OF IMPOUNDED VEHICLES.

The owner of any vehicle seized under the provisions of this chapter may redeem such vehicle at any time after its removal but prior to the sale or destruction thereof upon proof of ownership and payment to the city clerk of such sums as he may determine and the actual and reasonable expense of removal, and any preliminary sale expenses, plus storage, for each vehicle redeemed. (Ord. No. 221, 5/4/82; Ord. No. 464, 3/21/95)

§ 8-213 CONTENTS OF PUBLIC SALE NOTICE.

The notice of sale authorized by the provisions of § 8-211 shall state:

A. The sale is of seized property in the possession of the city;

B. A description of the vehicle, including make, model, license number and any other information which will accurately identify the vehicle;

C. The terms of the sale; and

D. The date, time and place of the sale. (Ord. No. 466, 3/21/95)

§ 8-214 PUBLIC SALE.

The vehicle authorized to be sold under the provisions of § 8-211 shall be sold to the highest and best bidder. At the time of payment of the purchase price, the chief of police shall execute a certificate of sale, in duplicate, the original of which is to be given to the purchaser, and the copy thereof to be filed with the city clerk of the city. Should the sale for any reason be invalid, the city"s liability shall be limited to the return of the purchase price. (Ord. No. 455, 3/21/95)

§ 8-215 PENALTY.

Any person violating the provisions of this chapter shall be guilty of an offense and, upon conviction, shall be fined as provided in § 1-108 of this code. (Ord. No. 221, 5/4/82; Ord. No. 466, 3/21/95)

CHAPTER 3

FOOD AND MILK

§ 8-301 FOOD REGULATIONS ADOPTED.

A. The latest edition of the "Oklahoma State Department of Health Rules and Regulations Pertaining to Food Service Establishments" is hereby adopted and incorporated in this code by reference. At least one copy of the regulations shall be on file in the office of the city clerk. The regulations shall govern the definitions; inspection of food service establishments; the issuance, suspension, and revocation of permits to operate food service establishments; the prohibiting of the sale of adulterated or misbranded food or drink and the enforcement of this section.

B. Any person who violates any of the provisions of this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided in § 1-108 of this code. In addition thereto, any person convicted of violation may be enjoined from continuing the violation. (Prior Code, §§ 11-9, 11-10, in part)

State Law Reference: State food regulations, 63 O.S. §§ 1-1101 et seq.

§ 8-302 MILK ORDINANCE ADOPTED.

The production, transportation, processing, handling, sampling, examination, grading, labeling, and sale of milk and milk products sold for the ultimate consumption within the city, or its police jurisdiction; the inspection of dairy herds, dairy farms, and milk plants; the issuing and revocation of permits to milk producers, haulers, and distributors shall be regulated in accordance with the provisions of the "Milk Ordinance Recommendations of the Public Health Service Revised to Comply with Oklahoma State Statutes", a certified copy of which shall be filed in the office of the city clerk. §§ 9 and 16 of the unabridged ordinance shall be replaced, respectively by §§ 8-302 and 8-303 of this code. (Prior Cord, § 11-6)

§ 8-303 GRADES OF MILK WHICH MAY BE SOLD.

Only certified pasteurized and grade A pasteurized, and certified raw or grade A raw milk and milk products shall be sold to the final consumer, or to restaurants, soda fountains, grocery stores, or similar establishments. However, in an emergency, the sale of pasteurized milk and milk products which have not been graded, or the grade of which is unknown, may be authorized by the health authority, in which case, such milk and milk products shall be labeled "ungraded". (Prior Code, § 11-17)

§ 8-304 ENFORCEMENT BY WHOM.

All sampling, examining, grading and regrading of milk and milk products and all inspections, and issuing and suspension or revocation of permits shall be done by the director of the county health department or his authorized representative, who shall be a registered professional sanitarian. (Prior Code, § 11-8)

CHAPTER 4

NUISANCES

§ 8-401 NUISANCE DEFINED; PUBLIC NUISANCES; PRIVATE

NUISANCES.

A. A nuisance is unlawfully doing an act, or omitting to perform a duty, or is anything of condition which either:

1. Annoys, injures or endangers the comfort, repose, health or safety of others;

2. Offends decency;

3. Unlawfully interferes with, obstructs, or tends to obstruct, or renders dangerous for passage, any lake or navigable river, stream, canal or basin, or any public park, square, street or other public property; or

4. In any way renders other persons insecure in life or in the use of property.

B. A public nuisance is one which affects at the same time an entire community or neighborhood or any considerable number of persons, although the extent of the annoyance or damage inflicted upon the individuals may be unequal.

C. Every nuisance not included in Subsection B above is a private nuisance. (Prior Code, § 13-1)

State Law Reference: Power to define and abate nuisances, 50 O.S. §§ 1 et seq.

§ 8-402 PERSONS RESPONSIBLE.

Every successive owner of property who neglects to abate a continuing nuisance upon or in the use of such property, created by a former owner, is liable therefore in the same manner as the one who first created it. (Prior Code, § 13-2)

§ 8-403 TIME DOES NOT LEGALIZE.

No lapse of time can legalize a public nuisance amounting to an actual obstruction of public right. (Prior Code, § 13-3)

§ 8-404 REMEDIES AGAINST PUBLIC NUISANCES.

The remedies against a public nuisance are:

A. Prosecution on complaint before the municipal court;

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

C. Civil action; or

D. Abatement:

1. By person injured as provided in § 12 of Title 50 of the Oklahoma Statutes; or

2. By the city in accordance with law or ordinance. (Prior Code, § 13-4)

§ 8-405 REMEDIES AGAINST PRIVATE NUISANCES.

The remedies against a private nuisance are:

A. Civil action; and

B. Abatement:

1. By person injured as provided in § 12 of Title 50 of the Oklahoma Statutes; or

2. By the city in accordance with law or ordinance. (Prior Code, § 13-5)

§ 8-406 CITY HAS POWER TO DEFINE AND SUMMARILY ABATE NUISANCES.

As provided in § 16 of Title 50 of the Oklahoma Statutes, the city has power to determine what is and what shall constitute a nuisance within its corporate limits and, for the protection of the public health, the public parks, and the public water supply, outside of its corporate limits. Whenever it is practical to do so, the city has the power summarily to abate any such nuisance after notice to the owner and an opportunity for him to be heard, if this can be done. (Prior Code, § 13-6)

§ 8-407 CERTAIN PUBLIC NUISANCES IN THE CITY DEFINED.

In addition to other public nuisances declared by other sections of this code or law, the following are hereby declared to be public nuisances:

A. The sale, or offering for sale, of unwholesome food or drink; or the keeping of a place where such sales or offerings are made;

B. The sale, offering for sale, or furnishing of intoxicating liquor in violation of the state law or ordinances of the city, or keeping of a place where intoxicating liquor is sold, offered for sale, or furnished in violation of the state law or ordinances of the city;

C. The exposure, display, sale, or distribution of obscene pictures, books, pamphlets, magazines, papers, documents or objects; or the keeping of a place where such are exposed, displayed, sold or distributed;

D. The keeping of a place where persons gamble, whether by cards, slot machines, punchboards or otherwise;

E. The keeping of a place where prostitution, illicit sexual intercourse, or other immoral acts

are practiced;

F. The keeping of a place where activities in violation of state law or ordinance are practiced or carried on;

G. The conduct or holding of public dances in violation of the ordinances of the city; or the keeping of a place where such dances are held;

H. The public exposure of a person having a contagious disease;

I. The continued making of loud or unusual noises which annoy persons of ordinary sensibilities; or the keeping of an animal which makes such noise;

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

K. Any use of a street or sidewalk or a place adjacent thereto which causes crowds of people to gather so as to obstruct traffic on such street or sidewalk, or which otherwise obstructs traffic thereon, except as may be authorized by law or ordinance;

L. Permitting water or other liquid to flow or fall, or ice or snow to fall, from any building or structure upon any street or sidewalk;

M. All wells, pools, cisterns, bodies or containers of water in which mosquitoes breed or are likely to breed, or which are so constructed, formed, conditioned, or situated as to endanger the public safety;

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

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

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

Q. Any fire or explosion hazard which endangers the public safety;

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

S. Any motor vehicle (whether in operating condition or not) or any trailer without a current vehicle plate and current safety inspection sticker as required by law for vehicles used on the public highways, when stored or kept in a residence district;

T. Any stable or other place where animals are kept that may become obnoxious or annoying to any resident of this city, by reason of any noise or noises made by the animals therein, or by reason of lack of sanitation, is hereby declared to be a nuisance; and

U. Every building or other structure that shall become unsafe and dangerous from fire, decay or other cause, or shall become hazardous from fire, by reason of age, decay or construction, location or other cause, or shall be detrimental to the health, safety or welfare of this city or its inhabitants from any cause, is hereby declared to be a nuisance.

The above enumeration of certain public nuisances shall be cumulative and not limit other provisions of law or ordinances defining public or private nuisances either in more general or more specific terms. (Prior Code, § 13-7, in part)

§ 8-408 SUMMARY ABATEMENT OF NUISANCES.

A. Some nuisances are of such nature as to constitute a grave and immediate danger to the peace, health, safety, morals or welfare of one or more persons or of the public generally. It is recognized that circumstances may be such as to justify, and even to require the city manager or other appropriate officer or agency of the city government to take immediate and proper action summarily to abate such nuisances, or to reduce or suspend the danger until more deliberate action can be taken toward such abatement.

B. The chief of the fire department, the chief of police, the city attorney, the building official, the electrical inspector, the plumbing inspector, or any other officer subordinate to the city manager, may submit to the city manager a statement as to the existence of a nuisance as defined by the ordinances of the city or law, and a request or recommendation that it be abated.

C. The city manager shall determine whether or not the alleged nuisance is a nuisance in fact. For the purpose of gathering evidence on the subject, he shall have power to subpoena and examine witnesses, books, papers and other effects. Before proceeding to abate the nuisance or have it abated, the city manager shall give notice of a hearing on the proposed abatement to the owner of any property concerned and to any other person alleged or deemed responsible for or to be causing the nuisance, and an adequate opportunity to be heard, if such notice and opportunity for a hearing can be given. Such notice to the owner and other persons concerned shall be given in writing by mail or by service by a police officer if their names and addresses are known; but, if the names or addresses are not known, and the peace, health, safety, morals, or welfare of the person or persons or public adversely affected would not be unduly jeopardized by the necessary delay, a notice of the hearing shall be published in a paper of general circulation within the city.

D. If the city manager determines that a nuisance or other violation exists, he shall order the nuisance to be abated by the owner or occupant. If the condition is not abated within the specified time period stated in the city manager’s notice, or if the owner or occupant

requests in writing an appeal of the city manager's decision within fifteen (15) days after the notice is sent or published, then the matter shall be placed on the agenda or a meeting of the council to review the city manager's decision and consider abatement of the condition or nuisance.

E. If the council finds that a nuisance does in fact exist, it shall direct the owner or other persons responsible for or causing the nuisance to abate it within a specified time if the peace, health, safety, morals or welfare of the persons or persons or public adversely affected would not be unduly jeopardized by the consequent delay. If such peace, health, safety, morals or welfare would be unduly jeopardized by the consequent delay, or if the owner or other persons responsible for or causing the nuisance do not abate it within the specified time, the council shall direct the city manager to abate the nuisance or to have it abated, if summary abatement is practical, as authorized by § 16 of Title 50 of the Oklahoma Statutes. The city clerk shall send a statement of the cost of such summary abatement to the owner or other persons responsible for or causing the nuisance, as may be just under the circumstances, if their names and addresses are known. Until paid, such cost shall constitute a debt to the city collectable as other debts of the city may be collected. (Prior Code, § 13-11, as amended)

§ 8-409 ABATEMENT BY SUIT IN DISTRICT COURT.

In cases where it is deemed impractical summarily to abate a nuisance, the city may bring suit in the district court of the county where the nuisance is located, as provided in § 17 of Title 50 of the Oklahoma Statutes. (Prior Code, § 13-12)

§ 8-410 NUISANCE UNLAWFUL.

It is unlawful for any person, including but not limited to, any owner, lessee or other person to create or maintain a nuisance within the city or to permit a nuisance to remain on premises under his control within the city. (Prior Code, § 13-13)

§ 8-411 HEALTH NUISANCES; ABATEMENT.

A. Pursuant to authority granted by § 1-1011 of Title 63 of the Oklahoma Statutes, the health officer has authority to order the owner or occupant of any private premises in the city to remove from such premises, at his own expense, any source of filth, cause of sickness, condition conducive to the breeding of insects or rodents that might contribute to the transmission of disease, or any other condition adversely affecting the public health, within twenty-four (24) hours, or within such other time as may be reasonable, and a failure to do so shall constitute an offense. Such order shall be in writing and may be served personally on the owner or occupant of the premises, or authorized agent thereof, by the health officer or by a policeman, or a copy thereof may be left at the last usual place of abode of the owner, occupant, or agent, if known and within the state. If the premises are unoccupied and the residence of the owner, occupant, or agent is unknown, or is without the state, the order may be served by posting a copy thereof on the premises, or by publication in at least one issue of a newspaper having a general circulation in the

city.

B. If the order is not complied with, the health officer may cause the order to be executed and complied with, and the cost thereof shall be certified to the city clerk, and the cost of removing or abating such nuisance shall be added to the water bill or other city utility bill of the owner or occupant if he is a user of water from the city water system or such other utility service. The cost shall be treated as a part of such utility bill to which it is added, and shall become due and payable, and be subject to the same regulations relating to delinquency in payment, as the utility bill itself. If such owner or occupant is not a user of any city utility service, such cost, after certification to the city clerk, may be collected in any manner in which any other debt due the city may be collected. (Prior Code, § 13-21)

State Law Reference: Power to abate health nuisances, 63 O.S. § 1-1011

§ 8-412 TOILET FACILITIES REQUIRED; NUISANCE.

For the purpose of this section, the following terms shall have the respective meanings ascribed to them herein:

A. "Human excrement" means the bowel and kidney discharge of human beings;

B. "Sanitary water closet" means the flush type toilet which is connected with a sanitary sewer line of such capacity and construction as to carry away the contents at all times; and

C. "Sanitary pit privy" means a privy which is built, rebuilt, or constructed so as to conform with the specifications approved by the state health department.

D. Every owner of a residence or other building in which humans reside, are employed, or congregate within this city shall install, equip, and maintain adequate sanitary facilities for the disposal of human excrement by use of a sanitary water closet or a sanitary pit privy. The closets and toilets hereby required shall be of the sanitary water closet type when located within two hundred (200) feet of a sanitary sewer and accessible thereto, and of the sanitary water closet type (notwithstanding a greater distance from a sanitary sewer) or the water closet type emptying into a septic tank system or the pit privy type. A septic tank system or a pit privy may be used in such cases only if it meets the standards of and is approved by the state health department.

E. All human excrement disposed of within the city shall be disposed of by depositing it in closets and privies of the type provided for in this section. It is unlawful for any owner of property within the city to permit the disposal of human excrement thereon in any other manner, or for any person to dispose of human excrement within the city in any other manner.

F. All privies shall be kept clean and sanitary at all times, and the covers of the seats of

privies shall be kept closed at all times when the privies are not being used. No wash water, kitchen slop, or anything other than human excrement and toilet paper shall be emptied into a privy. No excrement from any person suffering from typhoid fever, dysentery, or other serious bowel disease shall be deposited in any sanitary pit privy or sanitary water closet until it is disinfected in such a manner as may be prescribed by the health officer.

G. All facilities for the disposal of human excrement in a manner different from that required by this section, and all privies and closets so constructed, situated or maintained as to endanger the public health, are hereby declared to be public nuisances, and may be dealt with and abated as such. Any person maintaining any such nuisance is guilty of an offense, and each day upon which any such nuisance continues is a separate offense. (Prior Code, §§ 11-1 to 11-5)

§ 8-413 PROCEDURE CUMULATIVE.

The various procedures for abating nuisances prescribed by this chapter and by other provisions of law and ordinance shall be cumulative on to any other penalties or procedures authorized. (Prior Code, § 13-22)

§ 8-414 OFFENSIVE ODORS.

It is unlawful for the owner or occupant of any lot or piece or parcel of ground in the city to suffer or permit any refuse matter, animal or vegetable, or any putrid or unwholesome substance to accumulate thereon, or to suffer or permit any cellar, stable, barn, hen house, dog kennel or any place where an animal or animals are kept, or any water closet or privy, septic tank or cesspool therein, to become in such a condition as to emit offensive odors, or to be injurious or dangerous to the health of the neighborhood. Any such condition above described is hereby declared to be a nuisance, and the same may be abated as provided in this code.

CHAPTER 5

AIR QUALITY CONTROL

§ 8-501 DEFINITIONS.

As used in this chapter, the following terms shall respectively have the meanings ascribed to them in this section unless the context requires otherwise:

A. "Air contaminant" means any smoke, soot, fly ash, dust, cinder, dirt, noxious substances, acids, fumes, oxides, gases, vapors, odors, toxic or radioactive substances, waste particulates, solid, liquid or gaseous matter in the atmosphere which when in sufficient quantities is capable of injuring human, plant or animal life or depriving the enjoyment thereof;

B. "Air pollution" means the emission of any air contaminants in such place or manner which when by itself or combined with other air contaminants present in the atmosphere is detrimental to or endangers the health, comfort or safety of any person or which may cause injury or damage to property or premises;

C. "Atmosphere" means the air that envelops or surrounds the earth;

D. “Board” means the Air Quality Control Variance Board;

E. “Certified Visible Emissions Reader” shall be anyone certified by the State Health Department, Air Quality Service as having satisfactorily completed their visible emissions training course;

F. “Chimney or stack” means chimney, stack, conduit, duct, vent, flue or opening of any kind whatsoever arranged to conduct any products to the atmosphere;

G. “Combustible materials and fuels” means any substance which will readily burn and shall include those substances which, although generally considered non-combustible, are or may be included in the mass of the combustible material burned or to be burned;

H. “Director” means the director of the city-county health department, or his designated employees or representatives;

I. “Emission” means the emission of air contaminants into the atmosphere;

J. “Evaporating loss control system” means a system or device designed a installed in such a manner as to reduce or prevent the emission to the atmosphere of the vapors of the hydrocarbon fuel contained in the fuel tank, carburetor or fuel pump of the motor vehicle;

K. “Exhaust mission control system” means a system, device or engine modification designed and installed in such a manner as to reduce or prevent the emission to the atmosphere of air pollutant gases, vapors and particulate matter released from the motor vehicle engine through the exhaust manifold and tailpipe;

L. “Fuel burning equipment” means any equipment, machinery, device, structure or contrivance, and all appurtenances thereto, including ducts, breeching, fuel-feed equipment, ash removal equipment, internal combustion engines, combustion controls, stacks and chimneys, which burn fuel or combustible material for the purpose of producing heat or energy, but shall not mean process equipment or operations or incinerators;

M. “Fugitive Emissions” shall mean an emission or dust emanates from some point other than a point source;

N. “Incinerator” means any devise, structure or contrivance used to dispose of refuse or other waste by burning or the processing of salvageable material by burning but excluding flares;

O. “Motor vehicle” means a self-propelled, wheeled vehicle designed for normal use on public streets and highways;

P. “Motor vehicle pollution control device” means any or all of the devices or systems referred to in this section and designed to control or prevent air pollution emissions from

motor vehicles;

Q. “Multiple chamber incinerator” means any incinerator consisting of two (2) or more combustion chambers of in line or retort type physically separated by curtained walls with gas passage ports or ducts and designed for maximum combustion of the material to be burned;

R. “Open burning” means the burning of combustible materials or refuse in such a manner that the products of combustion are emitted directly into the atmosphere;

S. “Open-pit incinerator” means a device consisting of a pit (into which the material to be burned is placed), nozzles, pipes and other appurtenances designed and arranged in a manner to deliver additional air and/or auxiliary fuel to, or near, the zone of combustion so that theoretically complete combustion is accomplished or approached;

T. “Particulate matter” means discrete particles of liquid (except uncombined water) or solid matter or both which may or may not be suspended in air;

U. “Positive crankcase ventilator” means a system or device designed and installed in such a manner as to prevent or reduce the release or emission into the atmosphere of gases or vapors produced or otherwise present in the crankcase of the engine of a motor vehicle;

V. “Process equipment or operation” means any equipment, machinery, device, or premises used for the training, processing or manufacturing of materials, products or substances which operation may emit smoke, particulate matter or other air contaminants;

W. “Process weight” means the total weight of all materials introduced into any specific process, equipment or operation. Solid fuels shall be considered as part of the process weight but liquids and gases used solely as fuel shall not;

X. “Process weight per hour” means the weight derived by dividing the total process weight by the number of hours in one complete operation from the beginning of any given process to the completion thereof, excluding any time during which the equipment is idle;

Y. “Products of combustion” means all particulate matter and other air contaminants emitted as a result of the burning of refuse and combustible materials;

Z. “Refuse” means garbage, rubbish, trade waste, leaves, salvageable material, agricultural waste and other wastes;

AA. “Opacity” means the percent of reduction of light visible through the emission;

BB. “Source” means any physical arrangement or structure which may emit air contaminants. It includes, but is not limited to, stacks, chimneys, building openings, open fires, vehicles, processes, equipment, structures and premises; and

CC. "Source gas volume" means the total amount of gas including air contaminants, emitted from any process, equipment or operation into the atmosphere. (Prior Code, § 11-19)

State Law Reference: Oklahoma Clean Air Act, 27 O.S. §§ 2-5-101 et seq.

§ 8-502 ENFORCEMENT.

The director or fire chief shall enforce the provisions of this chapter. (Prior Code, § 11-22)

§ 8-503 AIR POLLUTION PROHIBITED.

No person shall permit or cause air pollution or an air contaminant to be emitted from any source or premises under his jurisdiction or control in sufficient amounts as to exceed those permissible under this chapter, or in quantities such that it interferes with the health, comfort or safety of any person or which may cause injury or damage to property or premises. (Prior Code, § 11-35, in part)

§ 8-504 EMISSION OF DENSE SMOKE PROHIBITED.

No person shall cause or permit the emission of dense visible emissions from any source whatever except as specifically permitted. (Prior Code, § 11-36)

§ 8-505 INCINERATORS; PERMIT AND SPECIFICATIONS; EMISSIONS.

A. No person shall install or make any alteration or modification to any incinerator which affects the emission of air contaminants without first having obtained a permit from the director and paying the fee as set by the city council by motion or resolution.

B. A person making application for a permit shall furnish such information concerning the incinerator as the director may request including the plans, specifications, manufacturer's descriptive literature and test reports.

C. All incinerators installed after the effective date of this chapter shall be multiple chambered, gas fired in the primary and secondary chamber and water scrubbed. All incinerators shall have a capacity of seventy-five (75) pounds per hour or greater, provided that this capacity shall not be applicable to incinerators designed and used exclusively as pathological incinerators. An incinerator of different construction may be used when the director determines that the incinerator will be equally effective in controlling the emission of air contaminants and approves its installation.

D. All incinerator shall be maintained and operated according to good practices.

E. Incinerators with a maximum burning capacity of two hundred (200) pounds per hour or more shall not emit particulate matter in excess of 0.2 grains per dry cubic foot corrected to twelve percent (12%) CO_2 of exhaust gas under standard conditions. Incinerators with a maximum burning capacity of less than two hundred (200) pounds per hour or more

shall not emit particulate matter in excess of 0.3 grains per dry cubic foot corrected to twelve percent (12%) CO_2 of exhaust gas under standard conditions.

F. Incinerators may emit dense smoke up to but not exceeding a shade or the equivalent opacity of the shade designated as No. 2 on the Ringelmann Chart for periods not exceeding five (5) minutes in any sixty (60) minute period and not exceeding twenty (20) minutes in any twenty-four (24) hour period.

G. No permit shall be granted for the proposed installation, alteration or modification of an incinerator unless the conditions contained in this chapter are satisfied. (Prior Code, § 11-37; Ord. No. 121, 12/2/75)

§ 8-506 FUEL BURNING EQUIPMENT.

A. Fuel burning equipment shall not emit particulate matter in excess of that indicated on Table 1 or Chart 1.

B. Fuel burning equipment in operation prior to the effective date of this chapter shall not emit particulate matter in excess of six-tenths (0.6) pounds per million BTU heat input provided that all such existing fuel burning equipment shall comply with all the provisions of this chapter within twelve (12) months after it becomes effective. (Prior Code, § 11-38)

§ 8-507 PROCESS EQUIPMENT OR OPERATIONS

A. Process equipment or operations shall not emit from the premises upon which such equipment or operation is located, particulate matter in excess of that indicated on either Table 2, Table 3 or Chart 2.

B. The owner or operator of any process equipment or operation shall maintain dust control of the plant premises and plant owned, leased or controlled access roads by paving, oil treatment or other suitable measures. Good operating practices, including water spraying or other suitable measures, shall be employed to minimize dust generation and emission when bins are pulled. (Prior Code, § 11-39)

§ 8-508 HOT MIX ASPHALT PLANTS.

A. Hot mix asphalt plants installed or commenced after effective date of this chapter shall not emit particulate matter into the atmosphere in excess of the quantity set out in Table 4. Existing hot mix asphalt plants shall not emit particulate matter into the atmosphere in excess of the quantity emitted at plants exhibiting good operation and economic control. Within one year all hot mix asphalt plants shall comply with the emission rate shown on Table 4 or a new rate to be determined by testing and experience.

B. Hot mix asphalt plants may emit dense smoke not exceeding a shade or the equivalent opacity of the shade designated at No. 3 on the Ringelmann Chart, for periods not

exceeding four (4) minutes in any sixty (60) minute period.

C. No hot mix asphalt plant shall be operated unless it is equipped with a fugitive dust control system for the hot aggregate which prevents the emission of particulate matter from any other chimney. (Prior Code, § 11-40)

§ 8-509 MOTOR VEHICLE POLLUTION CONTROL DEVICES.

A. This section shall apply to all motor vehicles registered or subject to registration with the Oklahoma Tax Commission in which, as new vehicles, motor vehicle pollution control devices have been installed by virtue of federal laws and regulations, in effect now and hereafter, requiring such devices to be installed. However, nothing in this chapter shall supersede or otherwise modify such federal laws and regulations, nor shall anything in this ordinance be construed to require the installation of motor vehicle pollution control devices on motor vehicles not referred to by such federal laws and regulations.

B. No person shall cause, suffer, allow or permit the removal, disconnection or disabling of a motor vehicle pollution control device which is on a motor vehicle.

C. Operation of a motor vehicle or its engine which uses liquefied petroleum gas as fuel is hereby exempt from provisions of this chapter. (Prior Code, § 11-42)

§ 8-510 NOTICE.

All notices required under this chapter, unless otherwise specified, shall be in writing and shall be served upon the person being given notice personally or mailed to his last known address, postage prepaid. The date of mailing shall be considered as the date such notice is given. (Prior Code, § 11-31)

§ 8-511 TESTS; DATA SAMPLING.

Upon written notice, the director or fire chief may require from any person subject to this chapter data to establish the nature, extent, quantity or degree of air contaminants which are or may be discharged by a source under such person's control and may require that such data be certified by a professional engineer registered in the state. The director or chief may, at his expense, designate an agent to independently gather data as to the nature, extent, quantity and degree of any air contaminants which are or may be discharged from the source. Subject to the confidentiality requirements of this chapter, an agent as so designated is authorized to inspect any facilities and equipment necessary to gather the data. The owners of the premises being inspected will make the same available to inspection and shall permit the director to install and maintain sampling and testing apparatus as is reasonable and necessary for measurement of emissions of air contaminants, provided that they shall not unduly interfere with the operations of the owner. The director or chief may, in writing, require the owner to provide, and maintain means of access to locations for sampling and testing purposes, in order to secure date that will disclose the nature, extent and quantity or degree of air contaminants discharged into the atmosphere. (Ord. No. 121, 12/2/75)

§ 8-512 AIR QUALITY CONTROL VARIANCE BOARD.

A. There is hereby created an air quality variance board, hereinafter referred to as the board, which shall consist of the members of the planning commission of the city. The members shall be residents of the city and shall serve terms consistent with the terms of office of the planning commission of the city. The planning commission chairman shall serve as the chairman of the board.

B. The members of the board shall have the power to subpoena witnesses, require the production of records, documents and other matters and administer oaths. Four (4) members shall constitute a quorum provided that no variances shall be granted or revoked without concurrence of at least four (4) members. The meetings and hearings of the board shall be called by the chairman. The members shall be given adequate notice prior to any meetings or hearings. Emergency meetings or hearings may be held provided adequate members to constitute a quorum are present at the emergency meeting. The board shall make any other rules and regulations concerning the procedure in granting or revoking variance as it shall deem necessary. All actions of the board are subject to review and concurrence or rejection by the city council of the city. (Prior Code, § 11-26)

§ 8-513 APPLICATIONS FOR VARIANCE.

Any person may make an application for a variance from the terms of this chapter by paying the required fee and by filing a written application with the director. The application form shall be verified by the applicant and set forth all information required by the board including the full name and address of the applicant, the nature of the violation and the extent to which a variance is sought. (Prior Code, § 11-29)

§ 8-514 FEES.

Any applicant for a variance shall pay to the city clerk a fee in the amount set by the council. Such fee shall be paid each time a variance is sought provided that the board may in its discretion review any variance denied within ninety (90) days from the date of each denial without additional cost to the applicant. (Prior Code, § 11-32)

§ 8-515 VARIANCES.

A. Variances from the strict provisions of this chapter may be granted by the board pursuant to applications therefore when:

1. Due to conditions beyond the control of the person in violation, and which are not self imposed, compliance with this chapter shall result in an arbitrary and unreasonable taking of the property or the practical closing and elimination of any lawful business, occupation or activity; and

2. There are not sufficient corresponding benefits or advantage to the public in the

reduction of air pollution;

B. Variances shall be for a specified time but not to exceed one year. Upon expiration of a variance, additional variances may be granted.

C. A variance shall be personal to the applicant and not transferable.

D. All variances granted are subject to review and revocation by the board. (Prior Code, § 11-27)

§ 8-516 PUBLIC HEARINGS.

No variance shall be granted or revoked without first holding a public hearing. No less than ten (10) days notice shall be given to all interested persons as appear in the file and records of the board. In addition, notice of the hearing shall be published in a newspaper of general circulation and published within the city not less than ten (10) days prior to the date of hearing. (Prior Code, § 11-29)

§ 8-517 NUISANCE DECLARED.

The emission of air contaminants in violation of this chapter is declared to be a public nuisance and may be abated by the director or fire chief as provided by law. (Ord. No. 121, 12/2/75)

§ 8-518 ABATEMENT PROCEDURE.

A. In addition to any penalties, upon determination by the director that a violation of this chapter has occurred and that the person in violation has not furnished satisfactory proof that corrective measures have been or are being taken to abate the nuisance, the director shall give written notice to the person in violation to abate the nuisance. The notice shall specify the section which is being violated and a reasonable time not exceeding twenty (20) days within which to abate the nuisance.

B. If, at the end of the time allowed in Subsection A of this section, the violation has not been corrected, the director shall abate the nuisance as provided by law. (Ord. No. 121, 12/2/75)

§ 8-519 EMERGENCY.

When a violation of this chapter creates a hazardous or dangerous condition capable of immediately harming life or property, the director shall summarily abate the nuisance immediately and without notice. (Ord. No. 121, 12/2/75)

§ 8-520 LIABILITY.

Any person owing, operating or controlling a source of air contaminants which violates this chapter shall be subject to all penalties and liabilities for such violation. Each day of any such

violation shall constitute a separate offense. (Prior Code, § 11-34)

§ 8-521 PROPRIETARY INFORMATION.

A. No person shall disclose to anyone other than the director, the council or a court of competent jurisdiction, any information furnished or obtained pursuant to this chapter.

B. Upon request of the interested party, all hearings or trials, in which proprietary information is to be divulged shall be held "in camera" and such information shall be sealed and access otherwise limited. (Prior Code, § 11-29)

§ 8-522 PENALTY.

Any person owning, operating or controlling a source of air contaminants which violates this chapter shall be subject to all penalties and liabilities for such violation, and shall be guilty of an offense. Upon conviction thereof, a person shall be fined as provided in § 1-108 of this code. (Prior Code, § 11-44)

§ 8-523 TABLE AND CHARTS.

The following tables and charts were adopted as part of Ordinance No. 7-21-70 and are hereby incorporated by reference as fully as if set out in full herein:

A. Table 1;

B. Chart 1;

C. Chart 2;

D. Table 2;

E. Table 3; and

F. Table 4.

A copy of these are available in the office of the city clerk. (Prior Code, § 11-43)

CHAPTER 6

ENFORCEMENT AND PENALTY

§ 8-601 CITY-COUNTY HEALTH DEPARTMENT DESIGNATED TO ENFORCE HEALTH ORDINANCES.

Anywhere in this chapter where the word or words “health officer” are used, it shall be construed to mean either the director of the city-county health department or his duly designated representative or the code enforcement officer for the city or his duly designated representative. It is the intent and purpose of the mayor and city council to delegate the enforcement of the health ordinances of this city as set out in this section and any such decisions rendered under this section shall be subject to review by the governing board upon an appeal from an offender. (Ord. No. 323, 5/6/86)

§ 8-602 OBSTRUCTING HEALTH OFFICER.

It is unlawful for any person to willfully obstruct or interfere with any health officer or physician charged with the enforcement of the health laws of this city.

§ 8-603 QUARANTINE; VIOLATIONS.

It is unlawful for any person to willfully violate or refuse or omit to comply with any lawful order, direction, prohibition, rule or regulation of the board of health, or any officer charged with enforcement of such order, direction, prohibition, rule or regulation.

§ 8-604 PENALTY.

Any person who violates any provision of this chapter or any law or code adopted by reference in this chapter is guilty of an offense, and upon conviction thereof, shall be punished as provided in § 1-108 of this code. In addition thereto, such person may be enjoined from continuing such violations.

CHAPTER 7

OPEN BURNING REGULATIONS

§ 8-701 OPEN BURNING ALLOWED.

The open burning of refuse and other combustible material shall henceforth be permissible in the city, when conducted in compliance with the provisions of this chapter, and all other applicable laws, regulations, or orders of any governmental entities having jurisdiction, and so long as no public nuisance will be created by the burning. (Ord. No. 313, 2/4/86)

Cross Reference: See also Air Quality Regulations, § 8-501, et seq.

§ 8-702 PERMIT REQUIRED.

No person shall cause or permit any open burning at any outside location, on public or private property, unless and until a request has been submitted to, and approved by, the Oklahoma County Health Department, or a permit has been obtained from the city fire department, in accordance with the provisions of this chapter. Each permit shall specify the dates burning is permitted, but in no event shall any permit exceed one day. (Ord. No. 313, 2/4/86)

§ 8-703 PURPOSES FOR WHICH OPEN BURNING SHALL BE ALLOWED.

Open burning shall be allowed, when all other provisions of this chapter have been satisfied, for the following purposes:

A. Any fire purposely set for the instruction and training of firefighting personnel, as authorized by the fire chief;

B. Any fires set for the elimination of fire hazards or hazardous material, where no other practical or lawful method of disposal exists, as authorized by the fire chief;

C. Any fire purposely set for the management of forest or game, in accordance with the practices recommended by the Oklahoma Department of Agriculture and the United States Forest Service, which are authorized by the fire chief;

D. Any fire for the burning of refuse and other combustible material in the maintenance of a domestic household, when no regular garbage service is available;

E. Any fire in an open-pit incinerator, or any fire for the purpose of burning combustible material, which fire is in an open-pit incinerator designed and operated for the control of smoke and particulate matter;

F. Any fire for the burning of hydrocarbons by atmospheric flares, when no other means of disposal is practical;

G. Any fire for the burning of trees, brush, grass and other vegetation for the purpose of clearing land;

H. Agricultural crop burning; or

I. Any camp fire or other fire used solely for recreational or ceremonial purposes, or for outdoor non-commercial preparation of food. (Ord. No. 311, 2/4/86)

§ 8-704 SAFETY REGULATIONS.

Any other burning authorized and conducted under this chapter shall be conducted in accordance with the safety regulations:

A. No burning shall be conducted within one hundred fifty (150) feet of any occupied residence or structure, at any time or under any circumstances;

B. No open burning shall be commenced until three (3) hours after sunrise on any given day, and no fuel shall be added to any fire authorized under this chapter later than three (3) hours before sunset, with the exception of open fires set under paragraph 9 of § 8-703;

C. No oils, rubber, or other similar material, which produce unreasonable amount of air contaminants and smoke, shall be burned;

D. Anyone conducting open burning under the provisions of this chapter shall minimize the amount of dirt on the material being burned; and

E. No burning shall be authorized or conducted which creates a traffic hazard. (Ord. No. 311, 2/4/86)

§ 8-705 APPROVAL OF PERMIT ISSUANCE BY FIRE CHIEF.

The fire chief may prohibit any and all outdoor fires when atmospheric conditions or local circumstances make such fires hazardous. This determination shall be made within the sole discretion of the fire chief of the city. (Ord. No. 311, 2/4/86)

§ 8-706 STANDBY OF APPARATUS AND MANPOWER.

When open burning is conducted that requires standby of city fire department manpower and

apparatus, as determined and required by the fire chief when issuing a permit, the fee will be Twenty Dollars ($20.00) per man hour (with a minimum of two (2) men) plus Seventy-five Dollars ($75.00) per hour for the apparatus. There will be a one hour minimum to be charged for both men and equipment. A One Hundred Twenty-five Dollar ($125.00) deposit shall be required at the time of issuance of the burning permit for the burning, with any additional fees incurred to be paid in full within five (5) days after the burning takes place. (Ord. No. 311, 2/4/96; Ord. No. 315, 3/4/86)

§ 8-707 PENALTY.

Any person, firm or corporation or other legal entity which shall violate any of the provisions of this chapter or fail to comply therewith, or with any of the requirements thereof, shall be deemed guilty of an offense punishable as provided in § 1-108 of this code. (Ord. No. 311, 2/4/86; Ord. No. 315, 3/4/86)

CHAPTER 8

DILAPIDATED BUILDINGS

§ 8-801 PROCEDURE FOR NOTICE, HEARING, REMOVAL AND ASSESSMENT OF COSTS.

Without limiting any procedure contained in other sections of this code or in any other code, duly adopted by the city, the city manager of the city may cause the dilapidated buildings within the city to be torn down and removed in accordance with the provisions of this section as follows:

A. At least ten (10) days' notice that a building is to be torn down or removed shall be given to the owner of the property before the city manager holds a hearing and takes action. The notice shall state the date, time and place of the hearing and shall state in general terms the specific problem or problems with the building which cause it to be dilapidated or otherwise detrimental to the health, safety or welfare of the general public. The notice shall also inform the property owner that failure to attend the hearing will result in the immediate removal of the dilapidated building. 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 with return receipt requested to the property owner at the address shown on the current year=s tax rolls in the office of the county treasurer or any other source deemed by the city to be more accurate than the tax rolls. Written notice shall also be sent by mail with return receipt requested to any mortgage holder, as shown in the records of the office of the county clerk, to the last known address of the mortgagee. If the mail to the property owner is refused, service of the notice shall be deemed valid and complete. However, if the property owner cannot be located as shown by the mail being returned as unclaimed, notice shall be given by posting a copy of the notice on the property and by publication, by publishing in a legal newspaper published in the city, and which is of general circulation within the city, one time, not less than ten (10) days prior to any hearing or action by the city manager;

B. A hearing shall be held by the city manager 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. At the hearing the property owner shall be informed of the substance of the evidence upon which the charges are based. The property owner may be represented by counsel and may present evidence and testimony on his behalf and may cross-examine witnesses against him;

C. Pursuant to a finding that the condition of the property constitutes a detriment or a hazard and that the property would be benefitted by the removal of such conditions, the city manager may cause the dilapidated building to be torn down and removed. The city manager 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 manager;

D. The city manager 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 first-class mail to the property owner. In addition, a copy of the statement shall be mailed to any mortgage holder at the address provided for in paragraph 1 of this section. At the time of mailing of the statement of costs to any property owner or mortgage holder, the city clerk shall obtain a receipt of mailing from the postal service, which receipt shall indicate the date of mailing and the name and address of the mailee. If the city dismantles or removes any dilapidated buildings, the cost to the property owner shall not exceed the actual cost of the labor, maintenance and equipment required for the dismantling and removal of the dilapidated buildings. If dismantling and removal of the dilapidated buildings is done on a private contract basis, the contract shall be awarded to the lowest and best bidder;

E. When payment is made to the city for costs incurred, the city clerk shall file a release of lien. If payment attributable to the actual cost of the dismantling and removal of the buildings is not made within six (6) months from the date of the mailing of the statement to the owner of such property, the city clerk shall forward a certified statement of the amount of the cost to the county treasurer. 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 and after the date of 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 any time prior to collection of the amount owing and interest thereon, the city may pursue any civil remedy for collection of the amount owing and interest thereon, including an action in person against the property owner and an action in rem to foreclose its lien against the property. A mineral interest, if severed from the surface interest and not owned by the surface owner, shall not be subject to any tax or judgment lien created pursuant to this section. Upon receiving payment the city clerk shall forward to the county treasurer a notice of such payment and shall direct

discharge of the lien; and

F. The property owner shall have the right of appeal to the city council from any order of the city manager. Such appeal shall be taken by filing written notice of appeal, clearly stating all grounds upon which the appeal is based, with the city clerk within ten (10) days after the administrative order is rendered. (Ord. No. 411, 12/3/91)

State Law Reference: Dilapidated Buildings, removal, procedure 11 O.S. § 22-112.

§ 8-802 DEFINITIONS.

For the purposes of this chapter:

A. "Dilapidated building" means 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; and

B. "Owner" means the owner of record as shown by the most current tax rolls of the county treasurer. (Ord. No. 411, 12/3/91)

§ 8-803 CITY NOT LIABLE FOR DAMAGES.

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 section or as otherwise prescribed by law. (Ord. No. 411, 12/3/91)

§ 8-804 PROVISIONS NOT EXCLUSIVE.

Nothing in the provisions of this section 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. 411, 12/3/91)

§ 8-805 EXCEPTION.

The provisions of this section shall not apply to any property zoned and used for agricultural purposes. (Ord. No. 411, 12/3/91)

CHAPTER 9

SMOKING IN PUBLIC PLACES

§ 8-901 LEGISLATIVE INTENT.

The State Legislature by adopting the Smoking in Public Places and Indoor Workplaces Act intends to pre-empt any other regulation promulgated to control smoking in public places and to standardize laws that governmental subdivisions may adopt to control smoking. Cities and towns may enact and enforce laws prohibiting and penalizing conduct under provisions of this Article, but such provisions shall be the same as provider in the Act and the enforcement provisions under such article shall not be more stringent than those of the Act. (Ord. No. 636, 8/28/07)

State Law Reference: O.S. Title 63 §§ 1-1527, et al. and O.S. Title 21 § 1247.

§ 8-902 DEFINITIONS.

As used in this Article:

A. "Educational facility" means a building owned, leased or under the control of a public or private school system, college or university;

B. "Health facility" means an entity which provides health services, including, but not limited to, hospitals, nursing homes, long-term care facilities, kidney disease treatment centers, health maintenance organizations and ambulatory treatment centers;

C. "Indoor workplace" means any indoor place of employment or employment-type service for or at the request of another individual or individuals, or any public or private entity, whether part-time or full-time and whether for compensation or not. Such services shall include, without limitation, any service performed by an owner, employee, independent contractor, agent, partner, proprietor, manager, officer, director, apprentice, trainee, associate, servant or volunteer. An indoor workplace includes work areas, employee lounges, restrooms, conference rooms, classrooms, employee cafeterias, hallways, any other spaces used or visited by employees, 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 workplace at any given time, whether or not work is being performed;

D. “Meeting” means a meeting as defined in the Oklahoma Open Meeting Act;

E. “Public body” means a public body as defined in the Oklahoma Open Meeting Act;

F. “Public place” means any enclosed indoor area where individuals other than employees are invited or permitted;

G. “Restaurant” means any eating establishment regardless of seating capacity;

H. “Smoking” means the carrying by a person of a lighted cigar, cigarette, pipe or other lighted smoking device;

I. “Stand-alone bar”, “stand-alone tavern”, and “cigar bar” mean an establishment that derives more than sixty percent (60%) of its gross receipts, subject to verification by competent authority, from the sale of alcoholic beverages and low-point beer and no person under twenty-one (21) years of age is admitted, except for members of a musical band employed or hired as provided in paragraph 2 of subsection B of § 537 of Title 37 of the Oklahoma Statutes and that is not located within, and does not share any common entryway or common indoor area with, any other enclosed indoor workplace, including a restaurant. (Ord. No. 636, 8/28/07)

§ 8-903 PROHIBITION AGAINST SMOKING - EXEMPTIONS.

A. Except as specifically provided in this Article, no person shall smoke in a public place, in an indoor workplace, in any vehicle providing public transportation, at a meeting of a public body, in a nursing facility licensed pursuant to the Nursing Home Care Act, or in a child care facility licensed pursuant to the Oklahoma Child Care Facilities Licensing Act. A nursing facility licensed pursuant to the Nursing Home Care Act may designate smoking rooms for residents and their guests. Such rooms shall be fully enclosed, directly exhausted to the outside, and shall be under negative air pressure so that no smoke can escape when a door is opened and no air is re-circulated to nonsmoking areas of the building.

B. Except as otherwise provided in paragraph 1 of this subsection, an educational facility which offers an early childhood education program or in which children in grades kindergarten through twelve are educated shall prohibit smoking, the use of snuff, chewing tobacco or any other form of tobacco product in the buildings and on the grounds of the facility by all persons including, but not limited to, full-time, part-time, and contract employees, during the hours of 7:00 a.m. to 4:00 p.m., during the school session, or when class or any program established for students is in session.

1. Career and technology centers may designate smoking areas outside of buildings, away from general traffic areas and completely out of sight of children under eighteen (18) years of age, for use by adults attending training courses, sessions, meetings or seminars.

2. An educational facility may designate smoking areas outside the buildings for the use of adults during certain activities or functions, including, but not limited to, athletic contests.

C. Nothing in this section shall be construed to prohibit educational facilities from having more restrictive policies regarding smoking and the use of other tobacco products in the building or on the grounds of the facility.

D. A private residence is not a "public place" within the meaning of this Article except that areas in a private residence that are used as a licensed child care facility during hours of operation are "public places" within the meaning of this Article.

E. Smoking is prohibited in all vehicles owned by the City of Choctaw and all of its agencies and instrumentalities.

F. An employer not otherwise restricted from doing so may elect to provide smoking rooms where no work is performed except for cleaning and maintenance during the time the room is not in use for smoking, provided each smoking room is fully enclosed and exhausted directly to the outside, in such manner that no smoke can drift or circulate into a nonsmoking area. No exhaust from a smoking room shall be located within fifteen (15) feet of any entrance, exit or air intake. If smoking is to be permitted in any space exempted in subsection G of this section or in a smoking room pursuant to subsection H of this section, such smoking space must either occupy the entire enclosed indoor space or, if it shares the enclosed space with any nonsmoking areas, the smoking space shall be fully enclosed, exhausted directly to the outside with no air from the smoking space circulated to any nonsmoking area, and under negative air pressure so that no smoke can drift or circulate into a nonsmoking area when a door to an adjacent nonsmoking area is opened. Air from a smoking room shall not be exhausted within fifteen (15) feet of any entrance, exit or air intake.

G. This Article shall not prohibit smoking in:

1. Stand-alone bars, stand-alone taverns or cigar bars;

2. The room or rooms where licensed charitable bingo games are being operated, but only during the hours of operation of such games;

3. Up to twenty-five percent (25%) of the guest rooms at a hotel or other lodging establishment;

4. Retail tobacco stores predominantly engaged in the sale of tobacco products and accessories and in which the sale of other products is merely incidental and in which no food or beverage is sold or served for consumption on the premises;

5. Workplaces where only the owner or operator of the workplace, or the immediate

family of the owner or operator, performs any work in the work place, and the workplace has only incidental public access;

6. Workplaces occupied exclusively by one or more smokers, if the workplace has only incidental public access. “Incidental public access” means that a place of business has only an occasional person, who is not an employee, present at the business to transact business or make a delivery. It does not include businesses that depend on walk-in customers for any part of their business;

7. Private offices occupied exclusively by *one* or more smokers;

8. Workplaces within private residences, except that smoking shall not be allowed inside any private residence that is used as a licensed child care facility during hours of operation;

9. A facility operated by a post or organization of past or present members of the Armed Forces of the United States which is exempt from taxation pursuant to §§ 501(c)(8), 501(c)(10) or 501(c)(19) of the Internal Revenue Code, 26 U.S.C., §§ 501(c)(8), 501(c)(10) or 501(c)(19), when such facility is utilized exclusively by its members and their families and for the conduct of post or organization nonprofit operations except during an event or activity which is open to the public;

10. Any outdoor seating area of a restaurant; provided, smoking shall not be allowed within fifteen (15) feet of any exterior public doorway or any air intake of a restaurant; and

11. Medical research or treatment centers, if smoking is integral to the research or treatment.

H. Restaurants shall be totally nonsmoking or may provide nonsmoking areas and designated smoking rooms. Food and beverage may be served in such designated smoking rooms, which shall be in a location, which is fully enclosed, directly exhausted to the outside, under negative air pressure so smoke cannot escape when a door is opened, and no air is re-circulated to nonsmoking areas of the building. No exhaust from such room shall be located within twenty five (25) feet of any entrance, exit or air intake. Such room shall be subject to verification for compliance with the provisions of this subsection by the State Department of Health. (Ord. No. 636, 8/28/07)

§ 8-904 MEASURES TO PREVENT SMOKING IN PUBLIC PLACES.

A. The City or the person who owns or operates a place where tobacco use is prohibited by law shall be responsible for posting a sign or decal, at least four (4) inches by two (2) inches in size, at each entrance to the building indicating that the place is smoke-free or tobacco-free.

B. Responsibility for posting signs or decals shall be as follows:

1. In privately owned facilities, the owner or lessee, if a lessee is in possession of the facilities, shall be responsible;

2. In corporately owned facilities, the manager and/or supervisor of the facility involved shall be responsible; and

3. In publicly owned facilities, the manager and/or supervisor of the facility shall be responsible. (Ord. No. 636, 8/28/07)

§ 8-905 GOVERNING BODY MAY DESIGNATE SMOKING AND NONSMOKING AREAS IN MUNICIPAL FACILITIES.

All buildings, or portions thereof, that are owned and operated by the City, are designated as entirely nonsmoking.

§ 8-906 SMOKING PROHIBITED AT ALL CHILDREN ACTIVITIES AND PLAYGROUNDS LOCATED IN CHOCTAW CITY PARKS.

A. That smoking is prohibited within 50 feet of City playgrounds located in the following parks:

1. Optimist Park;
2. Lloyd Williamson Park;
3. Choctaw Creek Park; and
4. Ten Acre Lake Park

B. That smoking is prohibited within 50 feet of City water parks located in the following parks:

1. Barrel Springs Park; and
2. Bouse Park

C. That smoking is prohibited within 50 feet of fenced portions of athletic complexes located in the following parks:

1. Choctaw Creek Park;
2. Lloyd Williamson Park;
3. Optimist Park; and
4. Ten Acre Lake Park

D. That smoking is prohibited during the following children activities located in the parks:

1. Choctaw Land Run, Choctaw Creek Park;
2. Halloween Activities, Choctaw Creek Park;

3. Easter Egg Hunt, Choctaw Creek Park; and
4. Fishing Derby, Ten Acre Lake Park (Ord. No. 694, 1/15/13)

§ 8-907 PENALTY.

That any person who knowingly violates any provision of this section is guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than Five Hundred Dollars ($500.00), excluding court costs. (Ord. No. 694, 1/15/13)