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## CHAPTER 1

### ADMINISTRATION AND MANAGEMENT

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#### **Article 1. Incorporation; Form of Government; Powers**

##### **Section 1-1. Incorporation.**

The City of Elk City, Oklahoma, within the corporate limits as now established or as hereafter may be established, shall continue to be a municipal body politic and corporate in perpetuity under the name of the "City of Elk City, Oklahoma." It shall succeed to and possess all the property, rights, privileges, franchises, powers and immunities now belonging to the corporation known as the City of Elk City, Oklahoma, and shall be liable for all debts and other obligations for which the corporation is now legally bound.

##### **Section 1-2. Form of Government.**

The municipal form of government for the City of Elk City shall be the City Commission-City Manager form of government as created by charter duly voted on and adopted by the Citizens of Elk City. All powers of the municipality shall be exercised in the manner prescribed by this Code of Ordinances, future Ordinances or applicable state law; provided that this Code and all future Ordinances are not repugnant to the State Constitution, applicable State Law, or the Charter of Elk City, Oklahoma.

**Section 1-3. General Powers of the Municipality.**

1. The City of Elk City, Oklahoma, shall have all the power, functions, rights, franchises and immunities specifically granted to municipalities, or not prohibited by the State Constitution and applicable Laws, or by the Charter of the City of Elk City, Oklahoma.

2. The City of Elk City, Oklahoma, shall have the power to adopt a corporate seal and alter the same, to sue and be sued, to make contracts and to grant, extend and renew franchises. It shall have the power to issue bonds, in accordance with the State Constitution and Laws. It shall have the power, in accordance with the State Constitution and Laws, to accept and administer Federal and State grants-in-aid. It shall have the power to ordain and enforce local legislation, consistent with the State Constitution and Laws and the Charter of Elk City, Oklahoma, for the proper organization and functioning of municipal government, for the preservation of health, life, peace, safety, morals and property, for the prevention, summary abatement and removal of nuisances, and otherwise for the promotion of the common welfare.

3. The enumeration of particular powers in this Code of Ordinances shall not be deemed exclusive or limiting. In addition to the powers enumerated herein or implied hereby, the City of Elk City, Oklahoma, shall have all powers which, under the State Constitution and Laws and the Charter of the City of Elk City, it would be competent for this Code of Ordinances specifically to enumerate.

**Sections 1-4 through 1-9. (Reserved for future use.)**

**Article 2. Municipal Elections**

**Section 1-10. Municipal Elections.**

(See Elk City Charter, Appendix 1, Article IV and Ordinance 917 [03/16/94] and Ordinance 935 [09/05/95].)

**Section 1-11 through 1-24. (Reserved for future use.)**

**Article 3. City Commission**

**Section 1-25. Creation and Composition of the Commission.**

Except as otherwise provided in this Code and City Charter, all powers of the City shall be vested in a Commission composed of a Mayor and four (4) Commissioners. The Mayor shall be

nominated by wards and elected at large. The term of the Mayor shall be two (2) years and the term of the Commissioners shall be four (4) years and until their successors are elected and qualified. The term of the Mayor and Commissioners shall begin on the day of the first regular meeting of the Commission after their election. The Commissioners elected at the first election from wards number one and four shall hold their office for two years, after which, their successors shall be elected for a four-year (4) term. Members of the Commission shall be qualified electors of the City and shall not hold any other public office except that of Notary Public or member of the state militia. A member of the Commission ceasing to possess any of the qualifications specified in this Section or convicted of a felony while in office, shall immediately forfeit his office. All members of the Commission shall serve without compensation.

**Section 1-26. Meeting of the Commission.**

1. For the purposes of this Section, the following words, terms, and phrases shall have the meanings indicated herein below:

- a. Meeting means the conducting of business of a public body by a majority of its members being personally together.
- b. Regularly scheduled meeting means a meeting at which the regular business of the public body is conducted.
- c. Emergency meeting means any meeting called for the purpose of dealing with an emergency. For purposes of this act, an emergency is defined as a situation involving injury to persons or injury and damage to public or personal property or immediate financial loss when the time requirements for public notice of a special meeting would make such procedure impractical and increase the likelihood of injury or damage or immediate financial loss.
- d. Continued or reconvened meeting means a meeting which is assembled for the purpose of finishing business appearing on an agenda of a previous meeting. For the purposes of this act, only matters on the agenda for the previous meeting at which the announcement of the continuance is made may be discussed at a continued or reconvened meeting.

2. At eight p.m. on the first Monday following a regular municipal election, the Commission shall meet at the usual place for holding its meeting and the newly elected members shall, after qualifying, assume the duties of office. Thereafter the commission shall meet at such times as may be prescribed by ordinance or resolution, but not less frequently than once each month.

3. Municipal business of the City Commission shall be conducted at regularly scheduled, open and public meetings held in City Hall (or other agreed upon place which is open to the public) on the first Monday, beginning at 7:00 o'clock p.m., and the third Wednesday, beginning

at 2:00 o'clock p.m., of each month or, in the event of conflict with a holiday, on the next following day which is not a holiday, except when a special or emergency meeting is deemed necessary by the Mayor, City Commission or City Manager.

4. An agenda for each regularly scheduled meeting of the City Commission shall be prepared and shall be publicly posted in accordance with the Oklahoma Open Meeting Act (25 O.S., 1981 ss 301-314).

5. If any change in the date, time, or place of a regularly scheduled meeting is made, notice of the change shall be given to the City Clerk no less than ten (10) days prior to the implementation of such change, and the Clerk shall publicly post a notice of the change.

6. In all meetings of the City Commission, the vote of each member must be publicly cast and recorded.

7. No informal gatherings or any electronic or telephonic communications among a majority of the Commissioners shall be used to decide any action or to take any vote on any matter.

8. The Clerk shall prepare a schedule of all meetings prior to each calendar year and shall post this schedule in the City Hall prior to December 15 preceding the calendar year for which the schedule has been determined.

9. Special meetings of the Commission shall be called by the City Clerk upon the written request of the Mayor, the City Manager or two members of the Commission. Any such notice shall state the subject to be considered at the special meeting, and no other subject shall be there considered. Before the action taken at a special meeting shall be valid, the record must show the members of the Commission present, the members absent that each absent member had notice of the meeting and its purpose, and the notice itself must be spread upon the record.

a. Special meetings shall not be held without public notice being given at least forty-eight (48) hours prior to said meeting, shall be given in writing, in person, or by telephonic means to the City Clerk.

b. At least twenty-four (24) hours prior to the special meeting, a written public notice of the special meeting shall be prominently posted in the city hall. Such notice shall include the date, time, place, and agenda for the special meeting, and only items appearing on the agenda shall be considered at the meeting. The twenty-four (24) hours public posting shall exclude Saturdays, Sundays, and holidays legally declared by the State of Oklahoma.

10. In the event of an emergency, an emergency meeting of the City Commission may be held without public notice required. Should an emergency meeting be required, as much advance

public notice as is reasonable and possible under the circumstances existing shall be made in person or by telephonic or electronic means.

**Section 1-27. Commission Rules.**

The Commission shall determine its own rules and order of business and keep a journal of its proceedings. It shall have power to compel the attendance of absent members, may punish its members for disorderly behavior, and by vote of not less than four members may expel a member for disorderly conduct or violation of its rules, but no member shall be expelled unless notified of the charge against him and given an opportunity to be heard in his own defense. The rules of the Commission shall provide that citizens of the City shall have a reasonable opportunity to be heard at any open meeting of the Commission in regard to any matter considered thereat.

**Section 1-28. Quorum.**

A majority of the members elected to the Commission shall constitute a quorum to do business, but a less number may adjourn from time to time and compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance. The affirmative vote of a majority of the members elected to the Commission shall be necessary to adopt any ordinance, resolution, order or vote; except that a vote to adjourn, or to compel the attendance of absent members, may be adopted by a majority of the members present. No member shall be excused from voting except on matters involving the consideration of his own official conduct or when his financial interests are involved. Upon every vote the ayes and nays shall be called and recorded, and every motion, resolution or ordinance shall be reduced to writing and read before the final vote is taken thereon. Every resolution or ordinance passed by the Commission must be signed by the Mayor or by the Mayor Pro Tem, when so acting, and be recorded and published before the same shall be in force, except as otherwise hereinafter provided.

**Sections 1-29 through 1-34. (Reserved for future use.)**

**Article 4. Officers and Employees**

**Section 1-35. Mayor and Mayor Pro Tem.**

The Mayor shall preside at all meetings of the Commission, and shall exercise such other powers and perform such other duties as are or may be conferred and imposed upon him by the City Charter and the Ordinances of the City. He shall be recognized as the head of the City government

for all ceremonial purposes, by the courts for serving civil processes, and by the Governor for purposes of military law. In time of public danger or emergency, the Mayor shall, if so authorized and directed by vote of the Commission, take command of the Police, maintain order and enforce the law. The Commission shall choose one of their number as Mayor Pro Tem, to act in case of a vacancy in the office of Mayor or in case of his absence or disability.

**Section 1-36. City Manager.**

1. The Commission shall appoint a City Manager. He shall be chosen by the Commission solely upon the basis of his executive and administrative qualification. He shall be appointed for an indefinite period and shall be removable at the pleasure of the Commission, by a majority vote thereof. He shall receive a compensation to be prescribed by the Commission.

2. The City Manager shall be the administrative head of the municipal government. He shall not, during his term of office, be an employee of, or perform any executive duty for, any person, firm, corporation or institution in the profits or emoluments of any contract, job, work, or service for the City.

3. The City Manager shall have the special powers and duties as enumerated, by the City Charter and this Code of Ordinance and shall be directly responsible to the Commission for the proper administration, thereof. (See Charter, Article VI, Section 19.)

**Section 1-37. City Treasurer.**

1. The Commission shall appoint a City Treasurer, who shall be an officer of the City for an indefinite term and shall be removable at the pleasure of the Commission, by a majority vote thereof. He shall receive a compensation to be prescribed by the Commission.

2. The City Treasurer shall deposit daily all funds coming into his hands in such depositories as the City Manager may designate; and shall disburse such funds in the manner provided by the City Charter, Section 18. He shall have such other powers, duties and functions as may be prescribed by the City Charter, by applicable law or by ordinance.

3. The City Treasurer shall receive all moneys due the City from any and all sources (except such as are received by other officers and by them paid to the City Treasurer) and pay out the same on warrant/check ordered by the board of Commissioners, drawn, signed and attested by the City Clerk with the City Seal attached and signed by the Mayor. At the expiration of the term of his office he shall deliver to his successor in office, all moneys, books, papers and records connected with his office.

4. The City Treasurer shall keep a register of all warrants redeemed, describe each warrant/check by date, number and amount, and the name of the payee; and all warrants/checks so redeemed shall be canceled, and kept in his office. The City Treasurer shall keep in a book for that

purpose, a complete list of every bond and coupon, showing the mature date, to whom sold, the amount of the payment falling due, whether principal or interest, and showing also the date of redemption of any outstanding bond or interest coupon, the amount thereof actually paid to redeem same, and the number of the bond or interest coupon retired.

5. The City Treasurer shall keep the cash accounts of the City in a book to be kept for that purpose; which book must clearly and fully show all moneys received and disbursed by him in behalf of the City, setting forth the date of receipt, from whom received, the date of disbursement, to whom disbursed and the amount of such disbursement, and for and on what account the same was received and disbursed. The Treasurer shall issue to every person, firm or corporation from whom he received money a receipt therefore, which shall show the fund to which said money is to be applied, the purpose of the collection and one copy of said receipt shall be retained by the Treasurer, and a copy thereof furnished to the City Clerk.

6. It shall be the duty of the Treasurer, at the end of each month, to report to the board of Commissioners, a statement of the financial transactions of his office for the month then ended, which statement shall be in writing, and under his oath and shall set forth clearly and fully:

- a. The balance in the treasury at the beginning and the end of the month.
- b. The amount received during the month, and to have available an accounting of from whom and on what account received and to what fund charged.
- c. To have available the amount disbursed during the month, to whom and on what account disbursed and to what fund charged.
- d. The amount of warrants/checks redeemed during the month and from whom received and on what account drawn.
- e. The amount of bonds and interest coupons redeemed during the month.
- f. The amount of warrants/checks purchased by him with the Sinking Fund with a list thereof attached.
- g. The amount that has been credited to the respective funds which are or may hereafter be provided for by the Commission.
- h. The amount of interest, profit, compensation or money received by him, from any person, bank or corporation, for the use, control or deposit of the City funds in his charge, together with the amount of interest earned on warrants purchased with the Sinking Fund.

7. The Treasurer shall deposit all City funds in banks situated in Elk City, Oklahoma, which have been approved by the City Manager, and shall require the same security for said funds as is required by law for County deposits. He and his bondsmen shall be jointly and severally liable for



any failure to comply with these provisions in addition to all liability which might attach in the absence of these provisions. All bondsmen for the City Treasurer are charged with notice herewith and are liable accordingly, notwithstanding provisions in the bonds to the contrary. All such contrary provisions in said bonds are not binding on the City.

8. The City Treasurer shall perform such other duties as the City Manager and/or Commission may require.

### **Section 1-38. City Clerk.**

1. There shall be a City Clerk department, the director of which shall be the City Clerk, to be appointed and removed, at pleasure, by the City Manager.

2. It shall be the duty of the City Clerk to attend all meetings of the Commission and record the proceedings, keep the proper book of account pertaining to office, record all ordinances in a separate book provided for that purpose, and in connection with the Mayor shall attest the same.

3. The City Clerk shall keep a register of claims and bills filed with him against the City, which claims shall be numbered consecutively, corresponding with the number of such claims upon the register. Said claim register shall show in one column the number of claims, and in separate columns respectively, the name of the claimant, date of filing, amount thereof, for what purpose, on what fund, date paid, and the number of the warrant by which it is paid. It shall be the duty of the City Clerk to keep all claims against one fund separate and apart from other funds and each such claim shall show upon its face the particular fund to which the same is by law chargeable. All claims against the City shall be filed with the City Clerk. The City Clerk shall draw all warrants/checks against the City Treasurer, but no warrant/check shall be drawn until first authorized by the Mayor and Commission.

4. The Clerk shall, until otherwise prescribed by the Mayor and Commission issue all licenses provided by ordinance when the proper application has been filed and the fees have been paid to him. He shall receive all money due the City from any source, when not otherwise provided expressly by law or ordinance and in each and every case shall issue his receipt for same, showing the date received, the person from whom received, the amount received and the purpose of the same.

5. The City Clerk shall have custody of all documents, records and archives of the City, as well as be custodian of the municipal seal.

6. The City Clerk shall attest and affix said seal to documents as required by charter, law or ordinance, and shall see that all ordinances passed are kept on file, in triplicate, in the office of the City Clerk.

7. The City Clerk shall have such other powers, duties and functions as may be prescribed by charter, law, and ordinance or by the City Manager.

8. The City Clerk shall perform such other duties as the City Manager may require.

### **Section 1-39. Police Department; Chief of Police.**

1. There shall be a police department the director of which shall be the Chief of Police, to be appointed and removed, at pleasure, by the City Manager.

2. All employees (chief and officers) shall meet minimum qualifications. These include completion of evaluation similar to the Minnesota Multiphasic Personality Inventory, or its equivalent, or other evaluation as determined by the Council on Law Enforcement Education and Training and possession of a certificate attesting to satisfactory completion of a basic police course, as approved by the Council on Law Enforcement Education and Training, of not less than three hundred (300) hours. Every person who is not the holder of such certificate, and is duly appointed as a police or peace officer, shall be appointed to such position on a temporary basis only, and shall, within one (1) year from the date of appointment, qualify as required or forfeit such position. For the purpose of this Section, a police or peace officer is defined as a full time duly appointed officer who is paid for more than twenty-five (25) hours per week.

3. The Chief of Police and all police officers shall possess the powers, and be subject to the liabilities possessed and conferred by law upon sheriffs, in enforcing the City Charter and the Code of Ordinances of the City of Elk City, Oklahoma.

4. It shall be the duty of the Chief of Police and/or all police officers to bring to justice all violators of municipal Ordinances and Federal and State Laws, and to turn such violators over to the proper authorities. The Chief of Police shall serve all warrants, writs, executions and other process, properly directed and delivered to him.

5. All personal property coming into the possession of any police officer, which has been found, stolen or taken off the person, or out of the possession of, any prisoner or person suspected of, or charged with being a criminal, and which is not known to belong to some person laying claim thereto, shall be delivered into the charge of the Chief of Police, who shall make a permanent, written record of said property, including the date and circumstances of the receipt thereof, the name of the person from whom it was taken (or the place where it was found), the subsequent disposal thereof, the date of sale, name and address of the purchaser and the amount for which it was sold.

6. Any personal property which remains unclaimed and in the possession of the Chief of Police, or the ownership of which is not satisfactorily established to him for a period of sixty (60) days, shall be sold and the proceeds of the sale paid over to the City Clerk, who shall issue his receipt therefore and deposit the same to the credit of the General Fund of the municipality, except for such personal property as in the opinion of the City Manager can be more advantageously used by some department or office of the municipal government. Ten (10) days before a sale of such unclaimed property, the Chief of Police shall have posted in a conspicuous place in the City Hall, notice of the time, place and manner of such sale, including the general description of the property to be sold. If, in the opinion of the City Manager, all or any portion of the personal property may be more advantageously used in any municipal department or office, he shall so instruct the Chief of

Police in writing and said Police Chief shall thereupon deliver the designated property to that department or office of municipal government and make a permanent record of its disposition.

7. Any personal property found by a person other than a public official or employee, which is delivered to any police officer for identification, if not claimed or identified within sixty (60) days, shall, within ten (10) additional days thereafter, if requested by the finder, be returned to him, and a record of such disposal made thereof. If the finder does not request return of the property to him within such additional ten (10) days, then the Chief of Police shall sell the property as if it had been found by a public official or employee, or, on the instruction of the City Manager, deliver it to some department for its use.

8. If any property is sold as herein provided, and the owner thereof takes and recovers possession of the same from the purchaser, the amount paid therefore shall be returned to the purchaser, upon verified claim being submitted and approved by the City Manager.

9. The Chief of Police, or his designated representative, is authorized to direct any regularly-employed police officer of the City of Elk City, Oklahoma, to provide law enforcement assistance to another municipality in an emergency; provided that, a written request from an official representative of the other municipality has been received by the City of Elk City, Oklahoma.

10. While serving in said capacity (above), the City of Elk City, Oklahoma, shall provide salaries, insurance and other regular benefits to these officers.

11. The City Manager or Police Chief of the City of Elk City, Oklahoma, is authorized to request law enforcement assistance from other municipalities in emergency situations. In such cases, the assisting officers of the other municipalities shall have the same powers and duties as though employed by the City of Elk City, Oklahoma; however, salaries, insurance and other benefits shall not be paid by the City of Elk City, Oklahoma.

12. In all events, the police officers of the City of Elk City, Oklahoma, shall return to their regular duties when directed to do so by the Police Chief or City Manager or the Police Chief of the requesting municipality, whichever direction occurs first.

13. When the Police Chief shall direct, the assisting police officers of the other municipalities shall return to their own regularly-scheduled duties in their own municipalities, and those assisting police officers shall cease to have the powers and duties of police officers regularly employed by the City of Elk City, Oklahoma.

14. The Chief of Police and all police officers under the employ of the City of Elk City shall be identified by an identification card, bearing the officer's photograph, signed by the Mayor and the Police Chief, and by an official policeman's badge. The identification card and badge shall be provided to the officer by the City of Elk City and shall be surrendered by the officer whenever the individual ceases to serve as an official member of the Elk City Police Department.

15. The Chief of Police may authorize the appointment of reserve officers who shall serve

only on a part-time basis. Within one (1) year from the date of the appointment, each reserve officer shall obtain a certificate attesting the satisfactory completion of a basic reserve officer's training course of a minimum of one hundred twenty (120) hours and as approved by the Council on Law Enforcement Education and Training.

- a. Any applicant must be of reasonable health and character to become a member of the Elk City Police Reserve Force. He must maintain a residence in the Elk City area, and shall have been a resident at least 18 months.
- b. An applicant must be nominated and receive a second, then be approved by a majority of the Police Reserves. At this point, the applicant will be given to the Chief of Police for approval. After approval of the Chief of Police, all new members shall be on probation for a period of one (1) year.
- c. There shall be one (1) regular meeting and one shift worked each month. All reserves are to be present at all regular meetings, unless excused by the Senior Reserve Officer. Any member who misses two (2) consecutive meetings without being excused by the officer in charge will be automatically dropped from the rolls.
- d. Appeals--A member who has been dropped from the rolls due to a violation may appeal to the Police Chief for reinstatement.
- e. Any member who misses twenty-five percent (25%) of the meetings, drills, or schools in a one (1) year period running from January 1st to December 31st will be handled the same as in Section C. Any member who refuses to attend training classes will be dropped without appeal.
- f. Any member of the Elk City Police Reserves will be dropped from the rolls for any of the following: 1. Conduct unbecoming a Police Officer; 2. Any act of insubordination; 3. Neglect of duty; 4. Any violation of the Rules and Regulation of the Elk City Police Department; 5. Conviction of a felony; and 6. For the good of the service.
- g. The Chief of Police may appoint a reserve Police Officer to be in charge of the Reserve Officers. This appointment may be changed or terminated at the pleasure of the Chief of Police. This appointee's title shall be Sr. Reserve Officer.
- h. The Officer-in-Charge of the Police Reserves may at his pleasure appoint and/or remove assistants within the Reserves to assist him in operations of the Police Reserves.
- i. The Officer-in-Charge or his assistant(s) will handle all work schedules, training classes, or other special assignments of Reserve Officers.

- j. Probationary Reserve Officers defined as lacking their certification and still within the probationary period of one (1) year shall have limited duties and powers. They shall not be allowed to function as a single officer, rather they must be in the presence or control of a full- time officer.
- k. Reserve Officers defined as having their certification shall be recognized as having the same police powers as a full-time officer.
- l. A Reserve Police Officer shall serve on a part- time basis and shall perform his duties only while on authorized duty and not for more than twenty-five (25) hours per calendar week.
- m. Such Reserve Officers must meet the minimum requirements of Section 3311 of Title 70 of the Oklahoma State Statutes.
- n. The Reserve Organization can be dissolved by the authority of the Chief of Police or City Manager.

16. The Chief of Police and each police officer shall perform all other duties prescribed by charter, law or Ordinance.

17. The Chief of Police shall perform such other duties as the City Manager may require.

**Section 1-40. Municipal Judge; Alternate and Acting Judge.**

1. There shall be a Municipal Court as put into operation and continued by Resolution, duly passed and filed in accordance with State Law. There shall be one Municipal Judge of the Court, to be appointed and removed, at pleasure, by the City Manager.

2. The Municipal Judge shall be at least Twenty-Five (25) years of age, have a high school education (or the equivalent) and be of good moral character. A Judge who is a licensed attorney may engage in the practice of law in other Courts, but he shall not accept employment inconsistent with his duties as a Municipal Judge or arising out of facts which give rise to, or are connected with, cases within the jurisdiction of the Court pending therein or which might become the subject of the proceedings therein.

3. If the Judge of the Municipal Court is not a licensed attorney and has not complied with statutory judicial education requirements, the trial shall be to the Court, and the Court shall not impose a fine which exceeds Fifty Dollars (\$50.00), plus costs and may not order the Defendant imprisoned, except for the non-payment of fines or costs, or both. If however, the Judge of the Municipal Court is not a licensed attorney but has complied with statutory judicial education requirements, a jury trial may be held under appropriate circumstances as specifically provided in this Code of Ordinances and the Court may impose a maximum fine of Five Hundred Dollars (\$500.00) plus costs and may not order the Defendant imprisoned, except for the non payment of

finest or costs or both. If the Judge of the Municipal Court is a licensed attorney, the Court may impose a fine, order the Defendant imprisoned, or may impose both fine and imprisonment.

A term of imprisonment shall not exceed sixty (60) days. The maximum fine or deferral fee in lieu of fine for speeding or parking traffic offenses shall not exceed Two Hundred Dollars (\$200.00). For all other offenses, the maximum fine or deferral fee in lieu of fine shall not exceed Seven Hundred Fifty Dollars (\$750.00).

In the event a deferred sentence is imposed, an administrative fee not to exceed Five Hundred Dollars (\$500.00) may be imposed as costs in the case, in addition to any deferral fee and routine court costs.

In all prosecutions of the Municipal Court for any offense for which the punishment sought, with the concurrence of the Court, is more than Five Hundred Dollars (\$500.00), excluding courts costs, or imprisonment, or both such fine and imprisonment, a jury trial shall be held unless waived by the Defendant and the City. In prosecutions for all other offenses, or in cases wherein a jury trial is waived, the trial shall be to the Court.

Appeals from a Final Judgment of the Municipal Court shall be taken in accordance with State Law.

4. The Judge of the Municipal Court shall receive a salary as prescribed by the City Manager, paid in the same manner as the salaries of other Municipal employees.

5. The Municipal Judge may prescribe rules, consistent with the State Constitution and Laws and this Code of Ordinances, for the proper conduct of business of the Municipal Court.

6. There may be appointed an Alternate Judge of the Municipal Court possessed of the same qualifications as the Municipal Judge.

a. His appointment shall be for the same term and made in the same manner as the Municipal Judge. He shall sit as Acting Judge of the Municipal Court in any case if the Municipal Judge is absent from the Court, unable to act as Municipal Judge in a case.

b. If, at any time, there is no Municipal Judge or Alternate Judge, duly appointed and qualified, available to sit as Municipal Judge, the City Manager may appoint some person possessing the qualifications required by this Chapter for the Municipal Judge, who shall preside as Acting Judge over the Municipal Court in the disposition of pending matters until such time as a Municipal Judge or Alternate Judge shall be available.

7. An Alternate Judge or an Acting Judge shall be paid, as prescribed by the City Manager, for each day devoted to the performance of his duties, except that, for any month, the total payments so calculated shall not exceed the salary of the Municipal Judge in whose stead he sits. An

Alternate or Acting Judge who sits for an entire month shall receive the amount specified by the City Manager as the salary of the Municipal Judge in whose stead he sits.

8. Judges shall be subject to removal from office by the City Manager, for the causes prescribed by the State Constitution and Laws for the removal of public officers. Provisions of the Oklahoma Administrative Act governing individual proceedings (Title 75, Oklahoma Statutes, Sections 309-317 and any amendments or additions thereto in effect at the time of the hearing) shall govern removal proceedings hereunder so far as they can be made applicable.

9. A vacancy in the Office of the Municipal Judge shall occur if the incumbent dies, resigns, ceases to possess the qualifications for the office or is removed. Upon the occurrence of a vacancy in the Office of Municipal Judge, the City Manager shall appoint a successor to complete the unexpired term, using the same procedure as for original appointment.

**Section 1-41. City Attorney.**

1. The City Attorney shall be appointed and removed at pleasure, by the City Manager, and receive a salary as prescribed by the City Manager and paid in the same manner as other municipal employees.

2. It shall be the duty of the City Attorney to give legal advice on questions submitted to him by the City Manager and/or City Commission, when the subject matter concerns the powers of any municipal officials or employees, or the performance of their duties.

3. The City Attorney shall draw such ordinances, resolutions, notices, forms, leases, deeds, papers or other documents as may be required of him by the City Manager and/or City Commission.

4. The City Attorney shall be authorized to appear, prosecute and defend all actions wherein the City of Elk City, Oklahoma, is a party, and he shall institute proceedings in courts of law upon the order of the City Manager and/or City Commission.

5. The City Attorney shall be allowed actual and necessary traveling and hotel expenses while outside the City of Elk City, Oklahoma, and on official business for said City; provided that, his business has been approved and directed by the City Manager and/or City Commission.

6. The City Attorney shall perform such other duties as the City Manager may require.

## **Section 1-42. Fire Chief.**

1. There shall be a Fire Department the director of which shall be the Fire Chief, to be appointed and removed, at pleasure, by the City Manager.
2. Duties of the Fire Chief shall include:
  - a. The Fire Chief shall have supervision and control of the Fire Department, subject to the State Law, the provisions of this Chapter, and other Ordinances of the City.
  - b. The Fire Chief shall be held responsible for the general condition and efficient operation of the Fire Department and the training of personnel, to insure their receiving a minimum of twenty-four (24) hours continuing education and any other training required by State Statutes.
  - c. The Fire Chief shall see that all fire fighters receive Fire Fighter I training within six (6) months from date of hire.
  - d. The Fire Chief shall inspect, or cause to be inspected by members of the Department, the fire hydrants and water supply sources of the City at least once (1) each year;
  - e. The Fire Chief shall maintain a library or file of publications on fire prevention and fire protection;
  - f. The Fire Chief shall make every effort to attend all fires and direct and have complete charge of the officers and members of the Fire Department in the performance of their duties;
  - g. The Fire Chief shall ensure that the City Commission and the City's citizens are kept informed on fire hazards in the community and on the activities of the Fire Department;
  - h. The Fire Chief shall see that each fire is carefully investigated to determine its cause and, in the case of incendiarism, shall notify proper authorities and secure and preserve all possible evidence for future use in the case;
  - i. The Fire Chief shall see that complete records are kept of all fires, inspections, apparatus, equipment, and personnel;
  - j. The Fire Chief shall file the appropriate fire loss reporting forms with the State Fire Marshal's office in Oklahoma City each quarter of the calendar year. The report shall include notification of all fire-related deaths in his



jurisdiction and of fire fighter injuries, in the line of duty, requiring the services of a physician.

- k. The Fire Chief shall perform such other duties as the City Manager may require.

**Section 1-43. Assistant Fire Chief; Other Officers.**

1. The Assistant Fire Chief of the Fire Department shall be appointed by the Fire Chief. In the absence of the Fire Chief, the Assistant Fire Chief shall command the Fire Department and be held responsible therefore in all respects, with the full powers and responsibilities of the Fire Chief. (See Chapter 8, this Code of Ordinances).

2. The officers of the Fire Department shall be selected upon their ability to lead men and their knowledge of fire- fighting and fire-fighting equipment.

3. One (1) member elected by the members of the Fire Department shall be Secretary-Treasurer. His duties shall consist of calling the roll at each meeting, keeping the minutes of each meeting and collecting any money due said Department by the members.

**Section 1-44. Building Inspector.**

1. There shall be a Building Inspector Department, the director of which shall be the Building Inspector, to be appointed and removed, at pleasure, by the City Manager.

2. The Building Inspector shall be in good health and shall be physically capable of performing the duties of his office.

3. The powers and duties of the Building Inspector shall be as follows:

- a. To enforce all provisions of the Codes adopted by this Code of Ordinances;
- b. To receive and process applications required by such Codes or this Code of Ordinances;
- c. To review building permit applications, other permit applications and issue required certificates (See Chapter 4, this Code of Ordinances);
- d. To examine premises for which permits have been issued under such Codes or this Code of Ordinances and make necessary inspections to see that the provisions of the Codes or this Code of Ordinances are complied with and that construction is done safely;

- e. To investigate, when requested by the City Manager, or when the public interest so requires, matters referred to in such Codes and render written reports on the same;
- f. To issue such notices, orders or citations as may be necessary to enforce compliance with the adopted Codes or this Code of Ordinances, to remove illegal or unsafe conditions, to secure the necessary safeguards during construction or to require adequate exit facilities in buildings and structures; and
- g. To make inspections required under the provisions of the Codes adopted by this Code of Ordinances, or to ensure that inspections are made by his duly appointed assistant.

4. During the temporary absence or disability of the Building Inspector, the City Manager may designate an Acting Building Inspector; or the City Manager may serve as Acting Building Inspector.

5. The Building Inspector, while in the discharge of his official duty, shall have the authority to enter any building or premise for the purpose of making any inspection or test of the construction or equipment contained herein or its installation.

6. The Building Inspector may also serve as any other legally established Inspector, if so designated by the City Manager.

7. The Building Inspector shall perform such other duties as the City Manager may require.

**Section 1-45. Electrical Inspector.**

1. There shall be an Electrical Inspector Department, the director of which shall be the Electrical Inspector, to be appointed and removed, at pleasure, by the City Manager.

2. The Electrical Inspector shall have had experience as an electrician, shall be of good moral character and shall be knowledgeable of the approved methods of electrical construction.

3. The Electrical Inspector shall have all of the powers and duties prescribed by the Electrical Code adopted by this Code of Ordinances; he shall also ensure that all municipal Ordinances and regulations relating to electrical safety are properly enforced. (See Chapter 4, this Code of Ordinances).

4. The Electrical Inspector shall perform such other duties as the City Manager may require.

**Section 1-46. Plumbing Inspector.**

1. There shall be a Plumbing Inspection Department, the director of which shall be the Plumbing Inspector, to be appointed and removed, at pleasure, by the City Manager.

2. The Plumbing Inspector shall have all of the powers and duties prescribed by the Plumbing Code adopted by this Code of Ordinances; he shall also ensure that all municipal Ordinances and regulations relating to water and sanitary plumbing are properly enforced. (See Chapter 4, this Code of Ordinance).

3. The Plumbing Inspector shall perform such other duties as the City Manager may require.

**Section 1-47. Mechanical Inspector.**

1. There shall be a Mechanical Inspection Department, the director of which shall be the Mechanical Inspector, to be appointed and removed, at pleasure, by the City Manager.

2. The Mechanical Inspector shall have all of the powers and duties prescribed by the Mechanical Code adopted by this Code of Ordinances; he shall also ensure that all municipal Ordinances and regulations relating to mechanical fixtures (heat and air) are properly enforced. (See Chapter 4, this Code of Ordinance).

3. The Mechanical Inspector shall perform such other duties as the City Manager may require.

**Section 1-48. Department of Public Works.**

1. There shall be a Public Works Department, the director of which shall be the Director of Public Works, to be appointed and removed, at pleasure, by the City Manager.

2. The Director of Public Works shall coordinate, administer, and otherwise have charge of, as directed by the City Manager, all public work activities of the City of Elk City.

3. For purposes of this section, public works activities are those by the water, sewer, sanitation, street, and any other department as designated by the City Manager.

4. The Director of Public Works shall perform such other duties as the City Manager may require.

**Section 1-49. Water Department.**

1. There shall be a Water Department, the director of which shall be the Superintendent of the Water Department to be appointed and removed, at pleasure, by the City Manager.

2. It shall be the duty of the Water Department to have charge of, control, operate, repair, maintain and improve the water system of the City.

3. The superintendent or any other employee working in the utilities department, shall, within one (1) year from the beginning date of employment, be certified by the Oklahoma State Department of Health as a water system operator.

4. The Water Superintendent shall perform such other duties as the City Manager may require.

**Section 1-50. Wastewater Department.**

1. There shall be a Wastewater Treatment Department, the director of which shall be the Superintendent of the Wastewater Department appointed and removed, at pleasure, by the City Manager. He shall have supervision and control of the Wastewater Department.

2. It shall be the duty of the Wastewater Department to have charge of, control, operate, repair, maintain and improve the wastewater system of the City.

3. The Superintendent or any other employee working in the utilities department, shall, within one (1) year from the beginning date of employment, be certified by the Oklahoma State Department of Health as a wastewater system operator.

4. The Superintendent shall perform such other duties as the City Manager may require.

**Section 1-51. Sanitation Department.**

1. There shall be a Sanitation Department, the director of which shall be the Superintendent of the Sanitation Department appointed and removed, at pleasure, by the City Manager. The Superintendent shall have supervision and control of the Sanitation Department.

2. It shall be the duty of the Sanitation Department, among others, to collect garbage and other refuse, and to dispose of it.

3. The Superintendent shall perform such other duties as the City Manager may require.

**Section 1-52. Street Department.**

1. There shall be a Street Department, the director of which shall be the Superintendent of Streets appointed and removed, at pleasure, by the City Manager. He shall have supervision and control of the Street Department.

2. It shall be the duty of the Street Department, among others, to construct, repair, maintain and improve streets, alleys and other public ways, and street and traffic lights, signs, markings and signals.

3. The Superintendent shall perform such other duties as the City Manager may require.

### **Section 1-53. Parks Department.**

1. There shall be a Parks Department, the director of which shall be the Superintendent of Parks appointed and removed, at pleasure, by the City Manager. He/She shall have supervision and control of the Parks Department.

2. It shall be the duty of the Parks Department, among others, to construct, repair, maintain and improve the park and recreational facilities of the City that are open and free to at all times to the public.

3. Any club or organization desiring to utilize City property for recreational use limited to the club or organization, shall have a written Lease with the City defining the terms of the arrangement. The club or organization will be required to pay for all expenses and maintenance within the confines of said property for the term of the Lease.

4. The Park Superintendent shall perform any other duties as the City Manager may require.

### **Section 1-54. Civil Defense Director.**

1. The Office of Civil Defense Director is hereby created, to be appointed and removed, at the pleasure, of the City Manager, (See Chapter 7, this Code of Ordinances).

2. The Civil Defense Director shall be the executive director of the Department of Civil Defense and shall be responsible for carrying out the Civil Defense Program of the City of Elk City, Oklahoma.

3. The Director of Civil Defense shall have the authority, duty and responsibility to:

- a. Form an organization to prepare and implement a Civil Defense Program;
- b. Form committees to perfect such an organization;
- c. Appoint the chairman of such committees;
- d. Cooperate with other governmental civil defense agencies; and

- e. Formulate plans, gather information and maintain records for said Civil Defense Organization.

4. The Director of Civil Defense may be reimbursed for expenses incurred in the performance of his duties; provided such expenses are the direction of, and approved by, the City Manager.

5. In the event of an enemy-caused emergency or emergency resulting from natural causes, the Civil Defense Director, after authorization from the City Manager, shall have the authority to enforce all regulations relating to civil defense, for the purpose of protecting the residents of the City of Elk City, Oklahoma.

6. The Civil Defense Director shall perform any other duties as the City Manager may require.

#### **Section 1-55. Civil Defense Department Created; Purpose.**

1. There is hereby established a Department of Civil Defense Advisory Committee which shall consist of the City Manager, who shall serve as Committee Chairman, and five (5) members appointed by the Mayor, with approval of the Commission. Said members shall serve at the pleasure of the City Commission.

2. The function of the Civil Defense Advisory Committee shall be to act in an advisory capacity to, and as needed or requested by, the Mayor or the Commission.

#### **Section 1-56. Municipal Planning & Zoning Board.**

1. There is hereby created a Municipal Planning & Zoning Board for the City of Elk City, Oklahoma, to be composed of not less than five (5) members appointed by the Mayor and confirmed by the City Commission. One member of the City Commission shall serve as ex-officio member of said Board, with voting privileges. (See Chapter 18, this Code of Ordinances.)

2. All appointments of members shall be for a three (3) year term or until their successors are appointed and qualified. The members of the Municipal Planning & Zoning Board shall be appointed from members of the community, and shall serve without salary.

3. Members of the Municipal Planning & Zoning Board may be removed by the Mayor for inefficiency, neglect of duty, malfunction in office or for the good of the Board; vacancies occurring other than through the expiration of a term shall be filled only for the unexpired term by the Mayor.

4. The Mayor shall appoint one (1) of their number as Chairman; in addition, the

Municipal Planning & Zoning Board may create and fill such other offices as it may deem necessary. The term of all such offices shall be one (1) year, with eligibility for re-appointment/re-election.

**Section 1-57. Municipal Cemetery Board.**

1. There is hereby created a Municipal Cemetery Board for the City of Elk City, Oklahoma, to be composed of not less than three (3 ) members, appointed by the Mayor, subject to confirmation by the City Commission. One member of the City Commission shall serve as an ex-officio member of said Board with voting privileges. (See Chapter 6, this Code of Ordinances.)

2. All appointments of members shall be for a three (3) year term or until their successors are appointed and qualified. The members of the Municipal Cemetery Board shall be appointed from members of the community, and shall serve without salary.

3. Members of the Municipal Cemetery Board may be removed by the Mayor for inefficiency, neglect of duty, malfunction in office or for the good of the Board; vacancies occurring other than through the expiration of a term shall be filled only for the unexpired term by the Mayor.

4. The Mayor shall appoint one (1) of their number as Chairman; in addition, the Municipal Cemetery Board may create and fill such other offices as it may deem necessary. The term of all such offices shall be one (1) year, with eligibility for re- appointment/re-election.

**Section 1-58. Municipal Park Board.**

1. There is hereby created a Municipal Park Board for the City of Elk City, to be composed of not less than five (5) members appointed by the Mayor subject to confirmation by the City Commission. One member of the City Commission shall serve as ex-officio member, with voting privileges.

2. All appointments shall be for a five (5) year term or until their successors are appointed and qualified. The members of the Municipal Park Board shall be appointed from members of the community, and shall serve without salary.

3. The Municipal Park Board shall make recommendations as to the care, management and control of all municipal parks and recreation areas. It may recommend rules and regulations governing the parks, subject to the inaction of Ordinances by the City Commission. (See also Chapter 17, this Code of Ordinances.)

4. Members of the Municipal Park Board may be removed by the Mayor for inefficiency, neglect of duty, malfunction in office or for the good of the Board; vacancies occurring other than through the expiration of a term shall be filled only for the unexpired term by the Mayor.

5. The Mayor shall appoint one (1) of their number as Chairman; in addition, the Municipal Park Board may create and fill such other offices as it may deem necessary. The term of

all such offices shall be one (1) year, with eligibility for re- appointment/re-election.

**Section 1-59. Municipal Housing Authority Board.**

1. There is hereby created a Municipal Housing Authority Board for the City of Elk City, Oklahoma, to be composed of not less than five (5) members appointed by the Mayor and confirmed by the City Commission. One member of the City Commission shall serve as ex-officio member to said Board, with voting privileges.

2. All appointments of members shall be for a three (3) year term or until their successors are appointed and qualified. The members of the Municipal Housing Authority Board shall be appointed from members of the community, and shall serve without salary.

3. The Municipal Housing Authority Board shall have charge of the care, management and control of the Housing Authority of Elk City, Oklahoma.

4. Members of the Municipal Housing Authority Board may be removed by the Mayor for inefficiency, neglect of duty, malfunction in office or for the good of the Board; vacancies occurring other than through the expiration of a term shall be filled only for the unexpired term by the Mayor.

5. The Mayor shall appoint one (1) of their number as Chairman; in addition, the Municipal Housing Authority Board may create and fill such other offices as it may deem necessary. The term of all such offices shall be one (1) year, with eligibility for re-appointment/re-election.

**Section 1-60. Municipal Fair Housing Board.**

1. There is hereby created a Municipal Fair Housing Board of the City of Elk City, (hereinafter referred to as "Board"), composed of the five (5) members, of the City Commission for terms of four (4) years, or until their successors are appointed and qualified. The members of the Municipal Fair Housing Board shall be members of the community, and shall serve without salary.

2. It shall be the duty of the Municipal Fair Housing Board to initiate, receive, and investigate complaints, charging unlawful housing practice; seek conciliation of such complaints, hold hearing, make findings of fact, and publish its findings of fact; and adopt such rules and regulations as may be necessary within the limits of this Ordinance, and carry out the purposes and provisions of this Ordinance.

**Section 1-61. Municipal Library Board.**

1. There is hereby created a Municipal Library Board for the City of Elk City, Oklahoma to be composed of not less than six (6) members, appointed by the Mayor, subject to confirmation by the City Commission. One member of the City Commission shall serve as ex-officio member, with voting privileges.

2. All appointments of members shall be for a three (3) year term or until their



successors are appointed and qualified. The members of the Municipal Library Board shall be appointed from members of the community, and shall serve without salary.

3. The Municipal Library Board shall have advisory responsibilities for the management of municipal libraries in the City of Elk City, Oklahoma.

4. The Municipal Library Board may make all necessary rules and regulations for its operation and for the care and management of libraries supported by the City of Elk City, Oklahoma, subject to approval and enactment by the City Commission.

5. Members of the Municipal Library Board may be removed by the Mayor for inefficiency, neglect of duty, malfunction in office or for the good of the Board; vacancies occurring other than through the expiration of a term shall be filled only for the unexpired term by the Mayor.

6. The Mayor shall appoint one (1) of their number as Chairman; in addition, the Municipal Library Board may create and fill such other offices as it may deem necessary. The term of all such offices shall be one (1) year, with eligibility for re- appointment/re-election.

#### **Section 1-62. Municipal Museum Board.**

1. There is hereby created a Municipal Museum Board for the City of Elk City, Oklahoma, to be composed of not less than nine (9) members appointed by the Mayor and confirmed by the City Commission. One member of the City Commission shall serve as ex- officio member of said Board, with voting privileges.

2. All appointments of members shall be for a five (5) year term or until their successors are appointed and qualified. The members of the Municipal Museum Board shall be appointed from members of the community, and shall serve without salary.

3. The President and Vice-President of the Western Oklahoma Historical Society shall be ex-officio members of the Municipal Museum Board.

4. The President and Executive Vice President of the Elk City Chamber of Commerce shall be ex-officio members of the Municipal Museum Board.

5. The Municipal Museum Board shall have advisory responsibilities for the management of municipal museums in the City of Elk City, Oklahoma.

6. The Municipal Museum Board may make all necessary rules and regulations for its operation and for the care and management of museums supported by the City of Elk City, Oklahoma, subject to approval and enactment by the City Commission.

7. Members of the Municipal Museum Board may be removed by the Mayor for inefficiency, neglect of duty, malfunction in office or for the good of the Board; vacancies occurring

other than through the expiration of a term shall be filled only for the unexpired term by the Mayor.

8. The Mayor shall appoint one (1) of their number as Chairman; in addition, the Municipal Museum Board may create and fill such other offices as it may deem necessary. The term of all such offices shall be one (1) year, with eligibility for re- appointment/re-election.

### **Section 1-63. Municipal Civic Center Board**

1. There is hereby created a Municipal Civic Center Board for the City of Elk City, to be composed of not less than five (5) members appointed by the Mayor and confirmed by the City Commission. One member of the City Commission shall serve as ex- officio member of said Board, with voting privileges.

2. All appointments of members shall be for a three (3) year term or until their successor are appointed and qualified. The members of the Municipal Civic Center Board shall be appointed from members of the community, and shall serve without salary.

3. Members of the Municipal Civic Center Board may be removed by the Mayor for inefficiency, neglect of duty, malfunction in office or for the good of the Board; vacancies occurring other than through the expiration of a term shall be filled only for the unexpired term by the Mayor.

4. The Mayor shall appoint one (1) of their number as Chairman; in addition, the Municipal Civic Center Board may create and fill such other offices as it may deem necessary. The term of all such offices shall be one (1) year, with eligibility for re-appointment/re-election.

5. The President, Executive Vice President and Treasurer of the Elk City Chamber of Commerce shall serve as ex-officio members of the Municipal Civic Center Board.

6. The Municipal Civic Center Board shall have advisory responsibilities for the management of all Civic Center facilities in the City of Elk City, Oklahoma.

7. The Municipal Civic Center Board may make all necessary rules and regulations for its operation and for the care and management of Civic Center facilities supported by the City of Elk City, Oklahoma, subject to approval and enactment by the City Commission.

### **Section 1-64. Municipal Airport Board.**

1. There is hereby created a Municipal Airport Board for the City of Elk City, to be composed of not less than seven (7) members appointed by the Mayor and confirmed by the City Commission. One member of the City Commission shall serve as ex- officio member of said Board,

with voting privileges.

2. All appointments of members shall be for a three (3) year term or until their successors are appointed and qualified. The members of the Municipal Airport Board shall be appointed from members of the community, and shall serve without salary.

3. Members of the Municipal Airport Board may be removed by the Mayor for inefficiency, neglect of duty, malfunction in office or for the good of the Board; vacancies occurring other than through the expiration of a term shall be filled only for the unexpired term by the Mayor.

4. The Mayor shall appoint one (1) of their number as Chairman; in addition, the Municipal Airport Board may create and fill such other offices as it may deem necessary. The term of all such offices shall be one (1) year, with eligibility for re- appointment/re-election.

### **Section 1-65. Department of Health.**

1. The County-City Co-operative Health Department established in this County as provided in 63 O.S. 1951 #516-516c, shall serve as the Health Department of this City, and be under the administrative supervision and control of the City Manager for City purposes, insofar as permitted by law.

2. The phrases "City Superintendent of Public Health", "Superintendent of Health", "Superintendent of Public Health", "Health Officer", and other phrases of the same meaning, wherever they occur in the Ordinances of the City, shall mean the administrative head, or director, of the Co-operative Health Department, unless otherwise clearly indicated by the context. He shall have the status of director, or superintendent, of a City Department of Health insofar as this is permitted by law (due recognition being given to his larger responsibilities.)

3. The Co-operative Department of Health shall perform such duties, and have such powers, as may be prescribed by ordinance, law, and the rules and regulations of the State Department of Health.

### **Sections 1-66 through 1-74. (Reserved for future use.)**

## **Article 5. Financial and Business Procedures**

### **Section 1-75. Purchasing and Sales Procedures.**

1. The City Manager shall contract for and purchase, or issue purchase authorizations for, all supplies, materials and equipment for the operation of the municipal government. Before the

purchase of, or contract for, any supplies, materials or equipment, or the sale of any surplus or obsolete supplies, materials or equipment, ample opportunity for competitive bidding, under such regulations and with such exceptions as said City Manger may prescribe, shall be given.

2. "Contractual service," for the purposes of this Chapter, shall mean services performed for the City by persons not in the employ of the City and may include the use of equipment or the furnishing of commodities in connection with such services under express or implied contract. "Contractual service" shall include travel, freight, express, parcel post, postage, telephone, telegraph, utilities, rents, printing and binding, repairs, alterations and maintenance of buildings, equipment, streets, bridges and other physical facilities of the City.

3. Subject to the provisions of this Section, surplus or obsolete supplies, materials or equipment belonging to the City may be sold by the City Manager.

4. No sale shall be made under this Section until the City Manager has declared the supplies, materials or equipment involved to be surplus or obsolete.

5. Except as may otherwise be provided, the City Manager shall advertise any sale under this Section in a newspaper of general circulation in the City of Elk City, or in such other manner as deemed necessary to adequately reach prospective buyers to give them an opportunity to make bids. All bids shall be sealed and opened in public at a designated time and place, except when the sale is by auction. The City Manager may repeatedly reject all bids and advertise again. The City Manager shall sell such supplies, materials and equipment to the highest responsible bidder and, if necessary, shall cast lots in case of a tie to determine to whom to sell.

6. The City Manager may sell surplus or obsolete supplies, materials or equipment, the total value of which does not exceed two hundred dollars (\$200.00) in a single transaction, without giving an opportunity for competitive bidding.

7. The City Manager, subject to any regulations which the City Commission or Charter may prescribe, shall contract for and purchase, or issue purchase authorization for, all supplies, materials and equipment for the offices, departments and agencies of the municipal government. Every such contract or purchase exceeding Ten thousand dollars (\$10,000.00), shall require the prior approval of the City Commission. The City Manager may also transfer to or between offices, departments and agencies, or sell, surplus or obsolete supplies, materials and equipment, subject to such regulations as the City Commission may prescribe.

**Section 1-76. Competitive Bidding.**

1. Except as otherwise provided in Subsection 2 (below), before the City Manager makes any purchase of, or contract for, supplies, materials, equipment or contractual services, he shall submit to at least three (3) persons, firms or corporations dealing in and able to supply the same, or to a smaller number if there are not three (3) dealing in and able to supply the same, a request for quotation or invitation to bid and specifications, to give them opportunity to bid. As an alternative, said City Manager may publish notice of the proposed purchase in a newspaper of general circulation within the City or County. The City Manager shall favor a person, firm or

corporation in the City when this can be done without additional cost to the City, but they shall submit requests for quotation to those outside the City when necessary to secure bids or to create competitive conditions, or when they think that they can make a saving for the City. All bids shall be sealed and opened in public at a designated time and place. The City Commission may repeatedly reject all bids and may again submit to the same or other persons, firms or corporations, the request for quotations or invitation to bid, or again publish notice of the proposed purchase. The City Commission shall purchase from the bidder whose bid is most advantageous to the City, considering price, quality, date of delivery and the like; in the event of a tie, said City may cast lots to determine from whom to make a purchase, or may divide the purchase among those tying, always accepting the bid or bids most advantageous to the City.

2. The City Manager may purchase, or authorize the purchase of the following without giving an opportunity for competitive bidding:

- a. Supplies, materials, equipment or contractual services, the cost of which does not exceed the applicable dollar amount established by current State Law in a single transaction;
- b. Supplies, materials, equipment or contractual services which can be furnished only by a single dealer, or which has a uniform price wherever bought;
- c. Supplies, materials, equipment or contractual services purchased from another unit of government at a price deemed below that obtainable from private dealers (including war surplus);
- d. Contractual services (gas, electricity, telephone services, etc.) purchased from a public utility corporation at a price or rate determined by the State Corporation Commission or other government authority; or
- e. Contractual services of a professional nature such as engineering, legal, architectural and medical services.

### **Section 1-77. Insurance.**

1. The City Manager may insure municipal property, as authorized by Oklahoma Statutes. Any money received as a result of destruction, damages or loss of such insured property shall be accounted for, and used as provided by, said Statutes.

2. The City Manager may purchase insurance to pay damages to persons sustaining injuries or damages to property as a result of negligent operation of motor vehicles or motorized equipment of the City of Elk City, Oklahoma.

3. The City Manager is hereby directed to procure and maintain liability insurance as

follows:

- a. Comprehensive General Liability, including bodily injury and property damage for all functions, facilities and services of the municipality, \$1,000,000 per occurrence.
- b. Errors and Omissions (public official liability for wrongful acts), \$1,000,000.
- c. Personal Injury and police professional liability (including assault and battery), civil rights and other risks, \$1,000,000.

**Section 1-78. Law Enforcement Officers Training Reimbursement.**

1. The City of Elk City, Oklahoma, shall reimburse the "Law Enforcement Officer's Training Fund" of the Oklahoma State Treasury as required by 20 O.S. Supplement 1982, Section 1313.1, amended 1983. The reimbursement shall be an amount equal to two dollars (\$2.00) times the number of fines collected by the City for violations of municipal offenses in the amount of ten dollars (\$10.00) or more.

2. The Clerk, or other individual designated by the City Manager, shall deposit this amount into the Law Enforcement Officer's Training Fund (Subsection 1, above) on a quarterly basis after January 1, 1984.

**Sections 1-79 through 1-84. (Reserved for future use.)**

**Article 6. Sales Tax**

**Section 1-85. Citation.**

This Article constitutes, shall be known and may be cited as the "Elk City, Oklahoma, Sales Tax Ordinance."

**Section 1-86. Definitions.**

1. The definitions of words, terms, and phrases contained in the Oklahoma Sales Tax Code, Section 1352 of Title 68 of the Oklahoma Statutes are hereby adopted by reference and made a part of this Ordinance.

2. The total retail sale price received for the sale, preparation or service of mixed beverages, ice and non-alcoholic beverages to be mixed with alcoholic beverages for consumption on the premises where such sale, preparation and service occurs, shall constitute the gross receipts from such transaction.

**Section 1-87. Tax Collector Defined.**

The term "tax collector" as used herein means the department of the municipal government or the official agency of the State duly designated according to law, or contract authorized by law, to administer the collection of the tax herein levied.

**Section 1-88. Classification of Taxpayers.**

For the purpose of this Article, the classification of taxpayers hereunder shall be as prescribed by State Statutes for purposes of the Oklahoma Sales Tax Code.

**Section 1-89. Subsisting State Permits.**

All valid and subsisting permits to do business issued by the Oklahoma Tax Commission pursuant to the Oklahoma Sales Tax Code are, for the purpose of this Article, hereby ratified, confirmed and adopted in lieu of any requirement for an additional municipal permit for the same purpose.

**Section 1-90. Effective Date.**

This Ordinance shall become and be effective on and after September 1, 1981 subject to approval of a majority of the registered voters of the City of Elk City, Oklahoma voting on the same in the manner prescribed by Oklahoma Statutes.

**Section 1-91. Purpose of Revenues.**

It is hereby declared to be the purposes of this Sales Tax Ordinance to provide revenues for the support of the function of the municipal government of the City of Elk City, Oklahoma.

**Section 1-92. Tax Rate: Sales Subject to Tax.**

There is hereby levied an excise tax of four percent (4%) upon the gross proceeds or gross

receipts derived from all sales taxable under the Sales Tax Law of Oklahoma (68 O.S. 1981 1350, et seq. as amended.) In addition, sales subject to the excise tax shall include the sale, preparation or service of ice or nonalcoholic beverages that are sold, prepared or served for the purpose of being mixed with alcoholic beverages for consumption on the premises where such sale, preparation or service occurs.

**Section 1-93. Exemptions.**

There is hereby specifically exempted from the tax levied by this Article, the gross receipts or gross proceeds exempted from the Sale Tax Law of Oklahoma, (68 O.S. 1981, 1350, et. seq. as amended.)

**Section 1-94. Other Exempt Transfers.**

Also, there is hereby specifically exempted from the tax herein levied, the transfer of tangible personal property exempted from the Oklahoma Sales Tax Law (68 O.S. 1981, 1350 et. seq. as amended.)

**Section 1-95. Tax Due When: Returns; Records.**

The tax levied hereunder shall be due and payable at the time and in the manner and form prescribed for payment of the State Sales Tax under the Sales Tax Law of the State of Oklahoma.

**Section 1-96. Payment of Tax: Brackets.**

1. The tax herein levied shall be paid to the Tax Collector at the time and in the manner and form provided for payment of the States Sales Tax under the Sales Tax Law of Oklahoma.

2. The bracket system for the collection of the four percent (4%) municipal sales tax by the tax collector, shall be as the same as hereafter adopted by the agreement of the City of Elk City, Oklahoma, and the tax collector in the collection of both the four percent (4%) municipal sales tax and the four and one-half percent (4.50%) State Sales Tax.

**Section 1-97. Tax Constitutes Debt.**

Such taxes, penalty and interest due hereunder shall at all times constitute a prior, superior and paramount claim as against the claims of unsecured creditors, and may be collected by suit as any other debt.

**Section 1-98. Vendor's Duty to Collect Tax.**

1. The tax levied hereunder shall be paid by the consumer or user to the vendor and it



shall be the duty of each and every vendor in this City to collect from the consumer or user, the full amount of the tax levied by this Article, or an amount equal as nearly as possible or practicable to the average equivalent thereof.

2. Vendors shall add the tax imposed hereunder or the average equivalent thereof, to the sales price or charge, and, when added, such tax shall constitute a part of such price or charge, shall be debt from the consumer or user to the vendor until paid and shall be recoverable by law in the same manner as other debts.

3. A vendor, as defined herein, who willfully or intentionally fails, neglects, or refuses to collect the full amount of the tax levied by this Article, or willfully or intentionally fails, neglects or refuses to comply with the provisions or remits or rebates to a consumer or user, either directly or indirectly and by whatsoever means, all or any part of the tax herein levied, or makes in any form of advertising (verbally or otherwise) any statement which infers that he is absorbing the tax, or paying the tax for the consumer or user by an adjustment of prices, at a price including the tax or in any manner whatsoever, shall be deemed guilty of an offense, and upon conviction thereof shall be fined not more than one hundred dollars (\$100.00), including court costs.

**Section 1-99. Returns and Remittances; Discounts.**

Returns and remittances of the tax herein levied and collected shall be made to the tax collector at the time and in the manner, form and amount as prescribed for returns and remittances required by the State Sales Tax Code; remittances of tax collected hereunder shall be subject to the same discount as may be allowed by said Code for collection of State Sales Taxes.

**Section 1-100. Interest and Penalties; Delinquency.**

Section 217 of Title 68 O.S. 1981, as amended, is hereby adopted and made a part of this Article, and interest and penalties at the rate and in the amounts as therein specified are hereby levied and shall be applicable in cases of delinquency in reporting and paying the tax levied by this Article. The failure or refusal of any taxpayer to make and transmit the report and remittances of tax in the time and manner required by this Article shall cause such tax to be delinquent. In addition, if such delinquency continues for a period of five (5) days, the taxpayer shall forfeit his claim to any discount allowed under this Article.

**Section 1-101. Waiver of Interest and Penalties.**

The interest, penalty or any portion thereof, accruing by reason of a taxpayer's failure to pay the municipal tax herein levied, may be waived, as applied in the administration of the Sales Tax provided in Title 68 O.S. 1981, Section 220; to accomplish the purposes of this Section, the applicable provisions of said Section 220 are hereby adopted by reference and made a part of this Article.

**Section 1-102. Erroneous Payment; Claim for Refund.**

Refund of erroneous payment of the municipal sales tax herein levied may be made to any taxpayer making such erroneous payment, in the same manner and under the same limitations of time, as provided for administration of the State Sales Tax as set forth in Title 68, O.S. 1981, Section 227 and, to accomplish the purposes of this Section, the applicable provisions of said Section 227 are hereby adopted by reference and made a part of this Article.

**Section 1-103. Fraudulent Returns.**

In addition to all civil penalties provided by this Article, the willful failure or refusal of any taxpayer to make reports and remittances herein required, or the making of any false and fraudulent report for the purpose of avoiding or escaping payment or any tax, or portion thereof, rightfully due under this Article, shall be an offense and, upon conviction thereof, the offending taxpayer shall be subject to a fine of not more than one hundred dollars (\$100.00), including court costs.

**Section 1-104. Records Confidential.**

The confidential and privileged nature of the records and files concerning the administration of the municipal sales tax is legislatively recognized and declared, and to protect the same, the provisions of Title 68, O.S. 1981, (as amended), Section 205 of the State Sales Tax Code and each Subsection thereof, is hereby adopted by reference and made fully effective and applicable to administration of the municipal sales tax as if set forth herein in full.

**Section 1-105. Amendments.**

The people of the City of Elk City, Oklahoma, by their approval of this Ordinance at the election hereinbefore provided, have authorized the City, by Ordinances duly enacted, to make such administrative and technical changes or additions in the method and manner of administration and enforcing this Article as may be necessary or proper for efficiency and fairness; provided that the rate of the tax herein provided shall not be changed without approval of the qualified electors of the municipality, as provided by law.

**Section 1-106. Provisions Cumulative.**

The provisions hereof shall be cumulative and in addition to any and all other taxing provisions of municipal Ordinances.

**Section 1-107. Provisions Severable.**

The provisions hereof are hereby declared to be severable, and if any Section, paragraph, sentence or clause of this Article is for any reason held invalid or inoperative by any court of competent jurisdiction, such decision shall not affect any other Section, paragraph, sentence or clause hereof.

**Section 1-108 through 1-114. (Reserved for future use.)**

**Article 7. Firemen's Pensions.**

**Section 1-115. Participation in State Firemen's Relief and Pension Fund.**

1. The Volunteer Fire Department of the City of Elk City, Oklahoma, shall be subject to all of the provisions of the Oklahoma State Fireman's Relief Pension Act, all of the provisions of which are hereby accepted by the City of Elk City, Oklahoma, for the use and benefit of its Volunteer Fire Department, which shall also be subject to all of the obligations hereunder.

2. From and after the effective date of this Code of Ordinances, it shall be the duty of the City Treasurer to deduct, or have deducted, from salaries or wages of each member of the Fire Department an amount equal to eight percent (8%) of the annual salaries or compensation paid to such members. The deductions shall be made at the time such firemen are paid and, when so deducted, shall be deposited with the Oklahoma Firefighters Pension and Retirement Board.

**Section 1-116 through 1-124. (Reserved for future use.)**

**Article 8. Policemen's Pensions.**

**Section 1-125. Participation in State Police Pension and Retirement System.**

1. The Police Department of the City of Elk City, Oklahoma, shall be subject to all the provisions of the Oklahoma Police Pension and Retirement System Act, all of the provisions of which are hereby accepted by the City of Elk City, Oklahoma, for the use and benefit of its Police Department, which shall also be subject to all of the obligations hereunder.

2. From and after the effective date of this Code of Ordinances, it shall be the duty of the City Treasurer to deduct, or have deducted, from salaries or wages of each member of the Police Department an amount equal to eight percent (8%) of the annual salaries or compensation paid to such members. The deductions shall be made at the time such police officers are paid and, when so deducted, shall be deposited with the Oklahoma Police Pension and Retirement System.

**Sections 1-126 through 1-130. (Reserved for future use.)**

## **Article 9. Social Security.**

### **Section 1-131. Extension of Benefits.**

It is hereby declared to be policy and purpose of the City of Elk City, Oklahoma, to extend to the employees and officials thereof not excluded by law or this Article, and whether employed in connection with a governmental or proprietary function, the benefits of the system of Federal Old-Age and Survivors Insurance, as authorized by the Federal Social Security Act and amendments thereto, including Public Law 734 -- 81st Congress. In pursuance of such policy and for that purpose, said municipality shall take such action as may be required by applicable State or Federal Laws or regulations.

### **Section 1-132. Execution of Agreements.**

The City Manager of the City of Elk City, Oklahoma, is hereby authorized and directed to execute all necessary agreements and amendments thereto, with the State Department of Public Welfare as agent or agency, to secure coverage of employees and officials as provided in Section 1-131 (above).

### **Section 1-133. Withholdings from Salaries.**

Withholdings from salaries or wages of employees and officials for the purpose provided in Section 1-131 (above) are hereby authorized to be made in the amounts and at such times as may be required by applicable State or Federal Laws or regulations, and shall be paid over to the State or Federal agency designated by such Laws and regulations.

### **Section 1-134. Contributions by City.**

There shall be appropriated by the City of Elk City, Oklahoma, from available funds, such amounts at such times as may be required by applicable State or Federal Laws or regulations for employer's contributions to the system of Federal Old-Age and Survivors Insurance. Such funds shall be paid over to the State or Federal agency designated by said Laws or regulations.

### **Section 1-135. Records and Reports.**

The City of Elk City, Oklahoma, shall keep such records and make such reports, relative to the system of Federal Old-Age and Survivors Insurance, as may be required by applicable State or Federal Laws or regulations.

**Section 1-136. Excluded Officers and Employees.**

1. There is hereby excluded from this Article and the benefits established hereunder, any authority to make any agreement with respect to any position or any employee or official now covered or authorized to be covered by any other Ordinance creating any retirement system for any employee or official of the City of Elk City, Oklahoma.

2. There is hereby excluded from this Article and the benefits established hereunder, and authority to make any agreement with respect to any position, employee or official, compensation for which is on a fee basis, or any position, employee or official not authorized to be covered by applicable State or Federal Laws or regulations.

**Section 1-137 through 1-144. (Reserved for future use.)**

**Article 10. Telephone Inspection Fee.**

**Section 1-145. Inspection Fee.**

There is hereby levied an annual inspection fee and service charge upon every person, firm or corporation operating a telephone exchange or rendering telephone service in the City of Elk City, Oklahoma, in amount equal to two percent (2%) of the gross revenues for each current year, for exchange telephone transmission service rendered wholly within the corporate limits of the City of Elk City, Oklahoma, to compensate the municipality for the expenses incurred and services rendered incident to the exercise of its police power, supervision, police regulations and control during construction and operation of lines and equipment of said telephone company in said municipality. Said fee shall be due and payable on or before the 1st day of March of each year and shall be paid into, and expended from, the General Fund of the City of Elk City, Oklahoma.

**Section 1-146. Fee in Lieu of Taxes.**

During continued substantial compliance with the terms of this Article by the owner, the telephone exchange (or company rendering telephone service within the limits of said municipality), the charge levied hereby shall be and continue to be in lieu of all concessions, charges, excises, franchises, license, privileges and permit fees, taxes or assessments except ad valorem taxes; provided, however, that it is not intended hereby to extinguish or abrogate all existing arrangements whereby said municipality is permitted to use underground conduits, duct space or pole contracts of said company.

**Section 1-147. Failure to Pay Inspection Fee.**

Should any person, firm or corporation fail or refuse to pay such fee when levied, action may be taken against such person, firm or corporation for the amount of such fees; all expenses for collection of the same, including a reasonable attorney's fee, shall be paid by the party or parties that said action is taken against.

**Sections 1-148 through 1-154. (Reserved for future use.)**

**Article 11. Cable Television; Licenses; Fees.**

**Sections 1-155 through 1-169. (Reserved for future use.)**

**Article 12. Gross Receipts Tax.**

**Section 1-170. Power to Levy and Assess Tax; Tax in Lieu of Other taxes.**

The City of Elk City, being vested with power so to do, does hereby levy and assess an annual tax upon the gross receipts from residential and commercial sales of power, light, heat, electricity, water or both natural and liquefied petroleum gas in the City of Elk City, Oklahoma, in the amount of two percent (2%) of the gross receipts from said residential and commercial sales; this tax shall be in lieu of any other franchise, license, occupation or excise tax levied by the City of Elk City, Oklahoma, provided, however, that any franchise may provide.

**Section 1-171. Application of Tax.**

The tax authorized to be levied under Section 1-170 (above) of this Article shall be levied at the time this Article shall take effect and shall apply to all persons, firms, associations or corporations engaged in the business of furnishing power, light, heat, electricity, water or both natural and liquefied petroleum gas in the City of Elk City, Oklahoma; it shall not apply to any person, firm, association or corporation operating under a valid franchise from the City of Elk City, Oklahoma, and said exception shall be so stated in said valid franchise.

**Section 1-172. Tax Levied for One (1) Year; Payable Quarterly; Disposition.**

This tax that is now levied under Section 1-170 of this Article shall be levied for a term of not less than one (1) year and shall continue in effect until further amended or repealed; it shall be payable quarterly to the Clerk of the City of Elk City, Oklahoma and placed in the General Fund of

said City.

**Section 1-173. Penalties; Failure to Pay Tax.**

Should any person, firm or corporation fail or refuse to pay such tax when levied, action may be taken against such person, firm or corporation for the amount of such tax; all expenses for collection of the same, including reasonable attorney fees, shall be paid by the party or parties that said action is taken against.

**Section 1-174. Lien for Tax.**

The Tax so imposed shall constitute a first and prior lien on all assets located within the City of Elk City, Oklahoma, of any person, firm or corporation engaged in the business of selling power, light, heat, electricity, water or natural and liquefied petroleum gas.

**Section 1-175 through 1-185. (Reserved for future use.)**

**Article 13. Municipal Use Tax.**

**Section 1-186. Excise Tax on Storage, Use or Other Consumption of Intangible, Personal Property Levied.**

There is hereby levied and there shall be paid by every person storing, using or otherwise consuming within the municipality tangible, personal property purchased or brought into this municipality, an excise tax on storage, use or other consuming within the municipality of such property at the rate of three percent (3%) of the purchase price on such property. Such tax shall be paid by every person storing, using or otherwise consuming, within the municipality, tangible, personal property purchased or brought into the municipality. The additional tax levied hereunder shall be paid at the time of importation or storage of the property within the municipality and shall be assessed to only property purchased outside Oklahoma; provided, that the tax levied herein shall not be levied against tangible, personal property intended solely for use outside the municipality, but which is stored in the municipality pending shipment outside the municipality or which is temporarily retained in the municipality for the purpose of fabrication, repair, testing, alteration, maintenance or other service. Any person liable for payment of the tax authorized herein, may deduct from such tax any local or municipal sale tax previously paid on such goods or services; provided, that the amount deducted shall not exceed the amount that would have been due if the taxes imposed by the municipality had been levied on the sale of such goods or services.

## **Section 1-187. Exemptions.**

The provisions of this Article shall not apply:

- (a) in respect to the use of an article of tangible, personal property brought into the municipality by a nonresident individual visiting in this municipality for his or her personal use or enjoyment while within the municipality;
- (b) in respect to the use of tangible, personal property purchased for resale before being used;
- (c) in respect to the use of any article of tangible, personal property on which a tax, equal to or in excess of that levied by both the Oklahoma Use Tax Code and the City of Elk City Use Tax Ordinance, has been paid by the person using such tangible, personal property in the municipality, whether such tax was levied under the laws of Oklahoma or some other state or municipality of the United States. If any article of tangible, personal property has already been subjected to a tax by Oklahoma or any other state or municipality in respect to its sale or use, in an amount less than the tax imposed by both the Oklahoma Use Tax Code and the City of Elk City Use Tax Ordinance, the provisions of this Article shall also apply to it by a rate measured by the difference only between the rate provided by both the Oklahoma Use Tax Code and the City of Elk City Use Tax Ordinance, and the rate by which the previous tax upon the sale or use was computed. Provided, that no credit shall be given for taxes paid in another state or municipality, if that state or municipality does not grant like credit for taxes paid in Oklahoma and the municipality;
- (d) in respect to the use of machinery and equipment purchased and used by persons establishing new manufacturing or processing plants in the municipality, and machinery and equipment purchased and used by persons to the operation of manufacturing plants already established in the municipality. Provided, this exemption shall not apply unless such machinery and equipment is incorporated into, and is directly used in, the process of manufacturing property subject to taxation under the Sales Tax Code of the municipality. The term "manufacturing plants" shall mean those establishments primarily engaged in manufacturing or processing operations, and generally recognized as such;
- (e) in respect to the use of tangible, personal property now specifically exempted from taxation under the Sale Tax Code of the municipality;
- (f) in respect to the use of any article of tangible, personal property brought into



the municipality by an individual with the intent become a resident of this Municipality where such personal property is for such individual's personal use or enjoyment;

- (g) in respect to the use of any article of tangible personal property used or to be used by commercial airlines or railroads;
- (h) in respect to livestock purchased outside Oklahoma and brought into this municipality for feeding and breeding purposes, and which is later resold.

**Section 1-188. Time When Due--Returns--Payment.**

The tax levied by this Article is due and payable at the time and in the manner and form prescribed for payment of the State Use Tax under the Use Tax Code of the State of Oklahoma.

**Section 1-189. Tax Constitutes Debt.**

Such taxes, penalty and interest due hereunder shall at all times constitute a prior, superior and paramount claim as against the claims of unsecured creditors, and may be collected by suit as any other debt.

**Section 1-190. Collection of Tax by Retailer or Vendor.**

Every retailer or vendor maintaining places of business both within and without the State of Oklahoma, and making sales of tangible, personal property from a place of business outside this state for use in this municipality shall at the time of making such sales collect the use tax levied by this Article from the purchaser and give to the purchaser a receipt therefore in the manner and form prescribed by the Tax Commission, if the Tax Commission shall, by regulation, require such receipt. Each retailer or vendor shall list with the Tax Commission the name and address of all his agents operating in this municipality and location of any and all distribution or sales houses or offices or other places of business in this City.

**Section 1-191. Collection of Tax by Retailer or Vendor not  
Maintaining a Place of Business within  
State Both within and without State--Permits.**

The Tax Commission may, in its discretion, upon application, authorize the collection of the tax herein levied by any retailer or vendor not maintaining a place of business within this state but who makes sales of tangible personal property for use in this municipality and by the out-of-state place of business both within and without Oklahoma and making sales of tangible, personal property at such out-of-state place of business for use in this municipality. Such retailer or vendor may be issued, without charge, a permit to collect such taxes, by the Tax Commission in such manner and

subject to such regulations and agreements as it shall prescribe. When so authorized, it shall be the duty of such retailer or vendor to collect the tax upon all tangible, personal property sold to his knowledge for use within this municipality. Such authority and permit may be canceled when at any time the Tax Commission considered that such tax can more effectively be collected from the person using such property in this municipality. Provided, however, that in all instances where such sales are made or completed by delivery to the purchaser within this municipality by the retailer or vendor in such retailer's or vendor's vehicle, whether owned or leased (not by common carrier), such sales or transactions shall continue to be subject to applicable municipality sales tax at the point of delivery and the tax shall be collected and reported under taxpayer's sales tax permit number accordingly.

**Section 1-192. Revoking Permits.**

Whenever any retailer or vendor not maintaining a place of business in this state, or both within and without this state, and authorized to collect the tax herein levied, fails to comply with any of the provisions of this Article or the Oklahoma Use Tax Code or any order, rules or regulations of the Tax Commission, the Tax Commission may, upon notice and hearing as provided for in 68 O.S. 1981, Section 1408, by order revoke the use tax permit, if any, issued to such retailer or vendor, and if any such retailer or vendor is a corporation authorized to do business in this state may, after notice and hearing above provided, cancel said corporation's license to do business in this state and shall issue a new license only when such corporation has complied with the obligations under this Article, the Oklahoma Use Tax Code, or any other, rules or regulations of the Tax Commission.

**Section 1-193. Renumerative Deductions Allowed Vendors or Retailers of Other States.**

Returns or remittances of the tax herein levied and collected shall be made to the Tax Commission at the time and in the manner, form and amount as prescribed for returns and remittances required by the Oklahoma Use Tax Code; and remittances of tax collected hereunder shall be subject to the same discount as may be allowed by said Code for the Collection of State Use Taxes.

**Section 1-194. Interest and Penalties--Delinquency.**

Section 217 of Title 68 O.S. 1981 is hereby adopted and made a part of this Article, and interest and penalties at the rate and in amounts as therein specified are hereby levied and shall be applicable in cases of delinquency in reporting and paying the tax levied in this Article. Provided, that the failure or refusal of any retailer or vendor to make and transmit the reports and remittances of tax in the time and manner required by this Article shall cause such tax to be delinquent. In addition, if such delinquency continues for a period of five (5) days, the retailer or vendor shall forfeit his claim to any discount allowed under this Article.

**Section 1-195. Waiver or Interest and Penalties.**

The interest or penalty or any portion thereof accruing by reason of a retailer's or vendor's failure to pay the municipality tax herein levied may be waived or remitted in the same manner as provided for said waiver or remittance as applied in administration of the State Use Tax provided in 68 O.S. 1981, Section 227, and to accomplish the purposes of this section and the applicable provisions of said Section 220 are hereby adopted by reference and made a part of this Article.

**Section 1-196. Erroneous Payments--Claim for Refund.**

Refund of erroneous payment of the Municipality Use Tax herein levied may be made to any taxpayer making such erroneous payment in the same manner and procedure, and under the same limitations of time, as provided for administration of the State Use Tax as set forth in 68 O.S. 1981, Section 227, and to accomplish the purpose of this section, the applicable provisions of said Section 227 are hereby adopted by reference and made a part of this Article.

**Section 1-197. Fraudulent Returns.**

In addition to all civil penalties provided by this Article, the willful failure or refusal of any taxpayer to make reports and remittances herein required or the making of any false and fraudulent report for the purpose of avoiding or escaping payment of any tax or portion thereof rightfully due under this Article shall be offense, and upon conviction thereof the offending taxpayer shall be punished by a fine of not more than one hundred dollars (\$100.00) and costs. Each day of noncompliance with this Article shall constitute a separate offense.

**Section 1-198. Records Confidential.**

The confidential and privileged nature of the records and files concerning the administration of the Municipality Use Tax is legislatively recognized and declared, and to protect the same provisions of 68 O.S. 1981, Section 205, of the State Use Tax Code, and each subsection thereof, is hereby adopted by reference and made fully effective and applicable to administration of the Municipality Use Tax as herein set forth in full.

**Section 1-199. Provisions Cumulative.**

The provisions hereof shall be cumulative, and in addition to any and all other taxing provisions or the municipality ordinances.

**Section 1-200. Provisions Severable.**

The provisions hereof are hereby declared to be severable, and if any section, paragraph, sentence or clause of this Article is for any reason held invalid or inoperative by any court of competent jurisdiction, such decision shall not effect any other section, paragraph, sentence or clause thereof.

**Section 1-201. Definitions.**

The definitions of words, terms and phrases defined in the Oklahoma Use Tax Code, Section 1401, 68 O.S. 1981, are hereby adopted by reference and made a part of this Article. In addition, thereto, the following words and terms shall be defined as follows:

1. City shall mean the City of Elk City, Oklahoma.
2. Transaction shall mean sale.

**Section 1-202. Tax Collector Defined.**

The term "tax collector" as used herein means the department of the municipality government or the official agency of the state, duly designated according to law or contract authorized by law, to administer the collection of the tax herein levied.

**Section 1-203. Classification of Taxpayers.**

For the purpose of this Article, the classification of taxpayers hereunder shall be prescribed by state law for purposes of the Oklahoma Use Tax Code.

**Section 1-204. Subsisting State Permits.**

All valid and subsisting permits to do business issued by the Tax Commission pursuant to the Oklahoma Use Tax Code are for the purpose of this Article hereby ratified, confirmed and adopted in lieu of any requirement for an additional municipality permit for the same purpose.

**Section 1-205. Purposes of Revenues.**

It is hereby declared to be the purpose of this Article to provide revenues for the support of the functions of the municipal government of the municipality, and any and all revenues derived hereunder may be expended by the governing body of the municipality for any purposes for which funds may be lawfully expended as authorized.

**Section 1-206. Citation and Codification.**

This Article shall be known and may be cited as "City of Elk City Use Tax Ordinance".

**Section 1-207 through 1-217 (Reserved for future use.)**

## **Article 14. Miscellaneous Provisions.**

### **Section 1-218. Officers to give Bonds.**

The City Manager, the City Treasurer, the City Clerk and such other personnel as the Commission may require, shall provide bonds for the faithful performance of their respective duties, payable to the City, in such amounts as the Commission may prescribe by motion or resolution, with a surety company authorized to operate within the State. The City shall pay the premium on all such bonds. Provided also that the Commission may also place personnel under a blanket bond.

### **Section 1-219. Salaries and Wages.**

The City Manager and the City Treasurer shall be paid such salaries as the Commission may determine from time to time by motion or resolution.

All officers and employees appointed by the City Manager shall be paid such compensation as may be determined by the City Manager with the approval of the Commission.

Note: As regards compensation of officers and employees, see the Charter, Sections 18 and 19(b).

### **Section 1-220. Succession in Government.**

1. All Ordinances, insofar as they are not inconsistent with this Code of Ordinances, shall continue in effect until they are repealed or until they expire by their own limitations.

2. All officers and employees of the City of Elk City, Oklahoma, under any and all previous Ordinances, shall continue in the offices and employments which they respectively hold, after this Code of Ordinances goes into effect.

3. All books, vouchers, monies or other property belonging to the City of Elk City, Oklahoma, and in charge or possession of any officer of the City, shall be delivered to his successor.

### **Section 1-221. Nepotism: Compatibility of Offices.**

1. No member of the City Commission nor any other authority of the municipal government, may appoint, or vote for the appointment of, any person related to himself by affinity or consanguinity within the 3rd degree, to any office or position of profit in the municipal government.

2. Except as may be otherwise provided by Ordinance, the same person may hold more

than one (1) office or position in the municipal government.

**Section 1-222. Ordinances.**

1. The enacting clause of all Ordinances passed by the City Commission shall be: "Be it ordained by the City Commission of the City of Elk City, Oklahoma," and of all Ordinances proposed by the voters under their power of initiative, "Be it ordained by the people of the City of Elk City, Oklahoma."

2. Every proposed Ordinance shall be read and a vote of a majority of all the Commissioners shall be required for its final passage.

3. The Mayor shall have no power to veto any Ordinance.

4. Every Ordinance, except those excepted by State Law, shall be published by title or in full, within ten (10) days after its passage, in a newspaper of general circulation within the City or County, or posted in ten (10) public places within the City.

5. Every Ordinance, except an emergency Ordinance, shall become effective thirty (30) days after its final passage, unless it specifies a later date.

6. An emergency Ordinance is an Ordinance which, in the judgment of the City Commission, is necessary for the immediate preservation of the peace, health or safety, and which should become effective prior to the time when a regular Ordinance would become effective. Every such Ordinance shall contain, as a part of its title, the words "and declaring an emergency" and, in a separate Section (herein called the emergency Section), shall declare the emergency. The City Commission shall vote on the emergency Section separately and must adopt the emergency Section by a vote of at least three-fourth (3/4) of all the members of said City Commission. An emergency Ordinance shall take effect upon passage, unless it specifies a later date.

**Section 1-223. Ordinances: Adoption by Reference.**

The City Commission, by Ordinance, may adopt by reference Codes, Ordinances and standards relating to building, plumbing, electrical installations and other matters which it has the power to regulate. Such a Code, Ordinance or standard so adopted need not be enrolled in this Code of Ordinances; provided that three (3) copies are filed and kept in the Office of the Clerk.

**Section 1-224. Ordinances: Compilation.**

1. Every ten (10) years, the City of Elk City, Oklahoma, shall compile and publish its

effective penal Ordinances in a permanent form.

2. One (1) copy of the compilation of Ordinances shall be deposited by the City in the County Law Library.

3. Every two (2) years the City of Elk City, Oklahoma, shall publish supplements to its compiled penal Ordinances, and no Ordinance shall be enforced if it is not reflected in such compilation or supplement, if such Ordinance was adopted more than one (1) year prior to the latest compilation or supplement.

4. When the City has compiled and published its Ordinances, the City Commission, shall adopt a Resolution notifying the public of such compliance and cause certified copies of the Resolution to be filed in the Office of the Beckham County Clerk and in the Office of the Clerk of the State Supreme Court.

### **Section 1-225. Amendments or Additions to the Code of Ordinances.**

1. The City Commission shall have the power to repeal, alter or amend this Code of Ordinances.

2. All Ordinances passed subsequent to this Code of Ordinances which amends, repeal, or in any way affect said Code, may be numbered in accordance with the numbering system of this Code of Ordinances and printed for inclusion therein. When subsequent Ordinances repeal any Chapter, Section or Subsection, or any portion thereof, such repealed portions may be excluded from this Code of Ordinances by omission thereof from reprinted pages. Such inclusion of Ordinances passed subsequent to this Code of Ordinances which amend or add to this Code (except in the case of repeal), shall be prima facie evidence of such evidence of such subsequent Ordinances until such time that this Code of Ordinances and subsequent Ordinances numbered or omitted, are readopted as a new Code of Ordinance by the City Commission.

3. Amendments to any of the provisions of this Code of Ordinances shall be made by amending such provisions by specific reference to the Chapter, Article and Section numbers of this Code in the following language: "That Section \_\_\_\_\_ of Article \_\_\_\_\_, Chapter \_\_\_\_\_, of the Code of Ordinances, of \_\_\_\_\_, Oklahoma, is hereby amended to read as follows: ` \_\_\_\_\_ .'" The new provisions shall then be set out in full as desired.

4. In the event a new Section not heretofore existing in the Code of Ordinances is to be added, the following language shall be used: "That the Code of Ordinances, of \_\_\_\_\_, Oklahoma, is hereby amended by adding a Section Article \_\_\_\_\_ of Chapter \_\_\_\_\_, to be numbered \_\_\_\_\_, which said Section reads as follows: ' \_\_\_\_\_ .'" The new Section shall then be set out in full as desired.





## CHAPTER 2

### ALCOHOLIC BEVERAGES

- Article 1. Oklahoma Alcoholic Beverage Control Act
- Article 2. Alcoholic or Intoxicating Beverages
- Article 3. Beer
- Article 4. Private Clubs
- Article 5. Miscellaneous Provisions
- Article 6. Penalty

#### **Article 1. Oklahoma Alcoholic Beverage Control Act**

##### **Section 2-1. Oklahoma Alcoholic Beverage Control Act Adopted.**

The Oklahoma Alcoholic Beverage Control Act (37 O.S. Section 501 et seq) is hereby adopted and incorporated by reference in the Code of Ordinances of the City of Elk City, Oklahoma. Applicable provisions of the Act are hereby declared to be in full force, as if included herein in complete detail.

##### **Section 2-2. Definitions and Interpretations.**

1. All words, phrases and terms used in this and other Chapters relating to the use of alcoholic beverages, and not defined herein, shall be interpreted and construed in conformity with the definitions of the same set forth in the Oklahoma Alcoholic Beverage Control Act, *as amended*.

##### **Sections 2-3 through 2-4. (Reserved for future use).**

#### **Article 2. Alcoholic or Intoxicating Beverages**

##### **Section 2-5. Occupation Tax.**

1. There is hereby levied and assessed an annual occupation tax on every business or occupation relating to alcoholic beverages as specifically enumerated herein and in the amount herein stated:

a.	Brewer	\$1,250.00
b.	Oklahoma Brewer	\$125.00
c.	Distiller	\$3,125.00
d.	Winemaker	\$625.00
e.	Oklahoma Winemaker	\$75.00
f.	Wholesaler	\$3,500.00
g.	Class B Wholesaler	\$625.00
h.	Rectifier	\$3,125.00
i.	Package Store Retailer	\$905.00
j.	Mixed Beverage	\$905.00
k.	On premise Beer & Wine	\$500.00
l.	Special Event/Day	\$55.00
m.	Brew Pub	\$905.00
n.	Caterer	\$905.00
o.	Mixed Beverage/Caterer Combo	\$1,250.00
p.	On Premise Beer	\$50.00
q.	Retail Wine	\$500.00
r.	Retail Beer	\$500.00

2. The occupation tax for those service organizations which are exempt under Section 501(c)(19) of the Internal Revenue Code for mixed beverage license shall be five hundred dollars (\$500.00) per year.

3. If a brewer or Class B wholesaler also holds a license from the state to manufacture or wholesale any nonintoxicating malt beverage, then the occupation tax for such brewer or Class B wholesaler shall be reduced by seventy-five percent (75%).

**Section 2-6. Payment Required; Penalty.**

1. Any State license originally entering upon any occupation herein listed shall pay the tax therefore at the office of the City Clerk on or before the date upon which he enters upon such occupation. Said licensee shall provide a copy of his current State license before payment of an occupation tax will be accepted. Thereafter, the licensee shall pay the tax annually on or before the first day of April.

2. The occupation tax subject to this ordinance shall be prorated on a monthly basis for the year in which an occupation begins operations.

3. Upon payment of the said occupation tax, the City Clerk shall issue a receipt to said State licensee, which said licensee shall post in a conspicuous place on the premises wherein he carries on his occupation.

4. Any person who engages in any of the occupations taxed by this chapter without paying said occupation tax imposed therefore in advance of such operation, is guilty of an offense against the City of Elk City, Oklahoma, and upon conviction thereof shall be punished by fine and costs as provided for in Section 1-40 of this Code. Each day of such violation shall constitute a separate offense.

### **Section 2-7. Annual Report.**

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

### **Section 2-8. Application for Certificate; Investigations.**

1. Every applicant for a certificate of compliance with the zoning, fire, health and safety code of the City of Elk City required by Title 37 of the Oklahoma Statutes shall apply at the office of the City Clerk by:

- a. filing a written application on forms prescribed by that office, and
- b. paying a verification and certification fee in the amount of twenty-five dollars (\$25.00) at the time of filing.

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

3. The City Clerk shall act on all such applications within twenty (20) days of receipt thereof.

### **Section 2-9. Issuance of Certificate of Compliance.**

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

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

3. The above certificate of compliance shall be signed by the Mayor or by the City

Manager.

**Section 2-10. Retail Package Stores.**

1. The location of a retail package store is specifically prohibited within three hundred (300) feet of a public school, or any church property primarily and regularly used for worship services and religious activities; provided that, if any such church or school shall be established within three hundred (300) feet of any licensed retail premises after such premises have been licensed, this shall not be a bar to the renewal of such license so long as it has been in continuous force and effect. The distance indicated in this Section shall be measured from the nearest property line of such church or school to the nearest public entrance door of the premises of such package store, along the street right-of-way line providing the nearest direct route usually traveled by pedestrians between such points. For the purpose of determining measured distance, property situated on the opposite side of the street from such church or school shall be considered as if it were located on the same side of the street with such church or school. A license shall not be issued for a location on any block where a school or church is located.

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

3. It shall be unlawful for any person holding a license for retail package store, or any employee or agent thereof, to keep the premises of the retail package store open for the purpose of selling, or to sell, any alcoholic beverage at any hour other than between the hours of 10:00 o'clock a.m. and 9:00 o'clock p.m., Monday through Saturday; or to keep such premises open for such purposes on the day of any general, primary, runoff primary or special election; or on New Year's Day, Memorial Day, the Fourth of July, Labor Day, Veteran's Day, Thanksgiving Day or Christmas.

4. Retail package stores may sell alcoholic beverages (a) only in retail containers in the original package for consumption off the premises and (b) only at ordinary room temperature.

5. It shall be unlawful for any person holding a license for a retail package store, or any employee or agent thereof, to:

- a. Knowingly sell, deliver or furnish any alcoholic beverage to any person under twenty-one (21) years of age, an intoxicated person or any person who has been adjudged insane or mentally deficient;
- b. Employ any person under twenty-one (21) years of age in the selling or handling of alcoholic beverages;

- c. Permit any person under twenty-one (21) years of age to enter into, remain within or loiter about a licensed premises; or
- d. Permit any person to open a retail container or consume alcoholic beverages on the premises of a retail package store.

**Section 2-11 through 2-14. (Reserved for future use.)**

**Article 3. Beer**

**Section 2-15. Definitions.**

"Retail Dealer", as used in this Article, means any person, firm, corporation, association or concessionaire who sells, distributes or dispenses, at retail, any beer within the corporate limits of the City of Elk City, Oklahoma, without regard as to the place where such beverage may be consumed or used.

**Section 2-16. License.**

1. There is hereby levied upon each retail dealer of beer for consumption on or off the premises, licensed after October 1, 2018, an annual municipal occupation license fee of one hundred dollars (\$100.00).

2. It shall be unlawful for any retail dealer, whether permanent or temporary, to sell, distribute or dispense any beer without having first received a municipal occupation tax, as herein required.

3. No municipal occupation license shall be issued to any retail dealer by the City Clerk, until the applicant has obtained all required State and County permits, and has, in all other respects, complied with the Oklahoma Alcoholic Beverage Control Act. All such licenses shall expire on June 30th of the year following reissuance. License fees shall be paid to the City Clerk and no license shall be transferable.

4. The City Commission shall have the power, after public hearing, to revoke any license granted hereunder, for violation of law or ordinance by the license holder.

**Section 2-17. Retail Dealers in Beer.**

It shall be unlawful for any person, firm or corporation operating or maintaining a place of

business where beer is sold for consumption on the premises, for any person in charge thereof, to:

1. Sell, offer for sale, give away, procure for, or otherwise dispense to, any person under twenty-one (21) years of age any beer;
2. Permit any person under twenty-one (21) years of age to loiter or remain in or around such place of business, except where such business is an eating place where the service of such beverages is incidental to the main business of serving food;
3. Employ any person under twenty-one (21) years of age to work in such a place, except where said is an eating place where the service of such beverages is incidental to the main business of serving food.
4. Sell, deliver or knowingly furnish beer to an intoxicated person or to any person who has been adjudged insane or mentally deficient;
5. Permit therein gambling, betting or operation of a lottery except where allowed by state law;
6. Permit sale, furnishing or drinking of intoxicating liquor; or
7. Permit disorderly conduct, loud or disturbing language or any other violation of State Law or of the Code of Ordinances of the City of Elk City, Oklahoma.

**Section 2-18. Unobstructed Windows.**

Any business selling beer for consumption on the premises, shall maintain unobstructed windows during all hours that the establishment is open for business, or at any time that beer is being consumed upon the premises.

**Section 2-19. Hours of Sale.**

1. It shall be unlawful and an offense for beer to be sold, given away or otherwise dispensed for consumption on the premises between the hours of 2:00 o'clock a.m. and 7:00 o'clock a.m. on any day, except Sunday.
2. It shall be unlawful and an offense for beer to be sold, given away or otherwise dispensed for consumption on the premises between the hours of 2:00 o'clock a.m. Sunday and 12:00 o'clock noon Sunday.
3. It shall be unlawful and an offense for beer to be sold, given away or otherwise dispensed for consumption off the premises between the hours of 2:00 o'clock a.m. and 6:00 a.m. of the same day.

**Sections 2-20 through 2-24.** (Reserved for future use.)

**Article 4. Private Clubs**

**Sections 2-25 through 2-39.** (Reserved for future use.)

**Article 5. Miscellaneous Provisions**

**Sections 2-40 through 2-49.** (Reserved for future use.)

**Article 6. Penalty**

**Section 2-50. Penalty.**

Any person, firm or corporation who shall violate any provision of this Chapter shall be guilty of any offense and, upon conviction thereof, shall be punished by fine and costs as provided for in Section 1-40 of this Code, unless a separate and distinct penalty is otherwise specifically set forth in this Chapter. Each day's continuation of any such violation shall constitute a separate offense.

## CHAPTER 3

### ANIMALS

- Article 1. General Provisions
- Article 2. License and Permit Requirements
- Article 3. Municipal Pound
- Article 4. Penalty

#### **Article 1. General Provisions**

##### **Section 3-1. Definitions.**

The following words and phrases, when used in this Chapter, shall have the meanings prescribed in this Section, except in those cases where the context clearly indicates, or specifically provides for, a different meaning:

1. **Animal.** The word "animal" shall mean all vertebrate and invertebrate animals, whether domesticated or wild, including, but not limited to, bees, birds, and fowl (including parakeets), cattle, cats, chickens, dogs, ducks, geese, goats, horses, livestock of all types, mammals (including elephants), rabbits, all reptiles, rodents, sheep, swine and turkeys.
2. **Animal Control Officer.** The term "Animal Control Officer" shall mean the person(s) responsible for enforcement of the City of Elk City, Oklahoma's Ordinances and regulations pertaining to animal control in said community.
3. **Animal Shelter or Municipal Pound.** The terms "animal shelter" or "municipal pound" shall mean any premises formally designated by the City commission for the purpose of impounding and caring for animals held under the authority of this Chapter, regardless of whether said premises are within or without the municipality's corporate boundaries, and regardless of whether said premises are under actual municipal ownership or provided for under a contractual arrangement between the City of Elk City, Oklahoma, and private owner(s).
4. **At Large.** The term "at large" shall mean not securely confined by a fence or other means, on premises under the control of, or occupied by, the owner, and not under the control of the owner, a member of his immediate family over twelve (12) years of age or agent of the owner, by leash or otherwise whether on the owner's premises or not.
5. **Collar.** The term "collar" shall mean any collar constructed of nylon, leather, chain, rope or similar material specifically designed to be used for a dog.
6. **Dangerous Birds.** The term "dangerous bird" shall mean any warm-blood, feathered vertebrate which may constitute a physical threat to human beings.



7. Dangerous Snakes. The term "dangerous snakes" shall mean any snake which can cause injury or death to any person by means of constriction or poisonous bite.

8. Harboring. The word "harboring", when used in this Chapter, shall mean allowing any animal to habitually remain, or be fed, on premises under his control.

9. Kennel. The word "kennel" shall mean any structure or place where three (3) or more dogs, over six (6) months of age, are kept, bred or trained, at any single time, or any facility designed or built to accommodate the temporary boarding of more than three (3) dogs over six (6) months of age.

10. Livestock. The word "livestock" shall mean all animals, other than dogs, cats, small caged birds or small aquatic or amphibian animals.

11. Microchip. The word "microchip" shall mean a passive electronic device that is injected into an animal by means of a pre-packaged sterilized implanting device for the purposes of identification and/or recovery of the animal.

12. Owner. The word "owner" shall mean any person, firm or corporation owning, harboring or keeping an animal; occupants of any premises to which a domesticated or tamed animal customarily return for a period of ten (10) days or more, shall be deemed to be harboring or keeping the animal, and thereby considered to be an "owner" of said animal.

13. Pet. The word "pet" shall mean any animal kept for pleasure, rather than utility.

14. Restraint. The term "restraint" shall mean a chain, rope, tether, cable or other device that attaches a dog to a stationary object or trolley system.

15. Vicious Dog or Animal. The term "vicious dog or animal" shall refer to any dog or animal which has bitten or attempted to bite any person without undue provocation, or which attacks, barks or growls at and acts if it intended to attack or bite, any person or persons when not unduly provoked.

16. Wild Animal. The term "wild animal" shall mean any animal which can normally be found living in a naturally wild state and is not ordinarily tamed or domesticated; term shall include such animals (hereinabove described) which may be owned by a circus or wild animal show or exhibition.

### **Section 3-2. Animals Not to be At Large.**

1. It shall be unlawful and an offense for the owner of any animal, domestic or wild (including dogs), to permit the same to be, run at large or trespass upon the premises of another person, or to be unlawfully at large at any time within the corporate limits of the City of Elk City,

Oklahoma.

2. It shall be unlawful and an offense for any person to:
  - a. Keep, own, harbor or possess any dog within the corporate limits of the City of Elk City, Oklahoma, without providing a substantial and secure pen in which said dog shall be confined (which pen shall be sufficient in size that no sanitation or health problem shall be involved); or to
  - b. Allow a dog to be placed on an adequately-sized leash so that it can reach or bite any person who may be using the public thoroughfares of the City, so the dog can reach beyond the limits of the lot or premises upon which said dog is kept and confined, or so the dog may reach any person who may be rendering necessary services to the house of such owner, upon the premises where said dog may be kept, harbored or possessed.

3. Any person who finds an animal which he does not own on property that he owns or exercises control over or on public property, may take control of said animal if it is running at large and may deliver the animal to an Animal Control Officer, the animal shelter or a veterinary hospital. If the animal is not delivered to an Animal Control Officer, the animal shelter or veterinary hospital, the person must report that he has taken control of the animal to an Animal Control Officer or to the animal shelter within 72 hours. If the animal is wearing a tag of any kind or has a tattoo brand, microchip or other identifying mark, that information shall be included in the report to the Animal Control Officer or to the animal shelter.

### **Section 3-3. Disturbances by Animals; Public Nuisance Abatement.**

1. It shall be a public nuisance for any person to keep a dog or other animal which, by barking, howling or otherwise, disturbs the peace and quiet of, or creates a nuisance for, any person or persons.

2. It shall also be a public nuisance for any person to keep any dog or other animal which attacks other animals or damages private or public property.

3. Abatement of such public nuisances shall be handled in accordance with the provisions of the "Nuisances" Chapter in this Code of Ordinances.

### **Section 3-4. Keeping Animals.**

1. It shall be unlawful and an offense for any person to keep any animals within the corporate limits of the City of Elk City, Oklahoma, except under those conditions and provisions which may hereinafter specifically regulate the keeping of certain types of animals.

2. If no specific provisions are listed in this Code of Ordinances for keeping of a particular type of animal, said animal shall not be kept at all within the corporate limits of the City of Elk City, Oklahoma.

3. No swine shall be kept within the corporate limits of the City of Elk City, Oklahoma, with the exception of FFA and/or 4-H projects kept on public school property, in appropriately-zoned areas, or as provided for in Section 3-5 of this Code.

4. Every structure wherein any authorized animal is kept within the corporate limits of the City of Elk City, Oklahoma, shall be constructed of such material and in such a manner that it can be kept clean and sanitary at all times, and it shall be maintained in said condition, devoid of rodents and vermin and free from objectionable odors, in order to avert the creation of a nuisance to the public health. Every such structure, if located within two hundred (200) feet of any tenement, apartment house, hotel, restaurant, boarding house, retail food store, building used for educational, religious or hospital purposes, or residence (other than that occupied by the owner or occupant of the premises upon which such animal is kept), shall be provided with a watertight and fly tight receptacle for manure of such size as to hold all accumulations of manure. Such receptacle shall be emptied sufficiently often and in such a manner as to prevent it from being or becoming a nuisance, and shall be kept covered at all times, except when open during the deposit or removal of manure or refuse. No manure shall be allowed to accumulate on such premises except in such receptacle.

5. The keeping or raising of bees within the corporate limits of the City of Elk City, Oklahoma, shall be permitted in compliance with the following regulations:

- a. Each beekeeper shall register his beekeeping operation with the Oklahoma State Board of Agriculture as required by state law;
- b. Each beekeeper will comply with the provisions of the Oklahoma Apiary Act and Rules;
- c. Each beekeeper shall locate all hives to ensure that a convenient source of water is available to the bees at all times during the year so that the bees will not congregate at swimming pools, pet watering bowls, bird baths or other water sources where they may cause human, bird or domestic pet contact;
- d. Hives shall be placed at least five (5) feet from any property line and six (6) inches above the ground, as measured from the ground to the lowest portion of the hive.
- e. A hive shall be placed on property so the general flight pattern of bees is in a direction that will deter bee contact with humans and domesticated animals. If any portion of a hive is located within fifteen (15) feet from an area which provides public access or from a property line on the lot where an apiary is located, as measured from the nearest point on the hive to the

property line, a flyaway barrier at least six (6) feet in height shall be established and maintained around the hive except as needed to allow access. Such flyaway, if located along the property line or within five (5) feet of the property line, shall consist of a solid wall, fence dense vegetation, or a combination thereof, which extends at least ten (10) feet beyond the hive in each direction so that bees are forced to fly to an elevation of at least six (6) feet above ground level over property lines in the vicinity of apiary;

- f. Each beekeeper shall enclose their property with a latching fence;
- g. Hives must be given enough space not to swarm;
- h. The density of colonies on any lot may not exceed two colonies of bees for each 10,000 square feet of lot area;
- i. Hives must be on the rear 1/3<sup>rd</sup> of a lot with a five (5) foot setback from side or rear lot lines.

6. The keeping or raising of horses, sheep, cattle and chickens (or similar fowl), shall be permitted throughout the City of Elk City, Oklahoma, as long as the premises are in accordance with the provisions of Section 3-5 (below) and State and County Health Department requirements and standards. Addition restrictions on the raising and/or keeping of horses, sheep, cattle and chickens may be imposed by the Zoning Ordinance without conflicting with this Subsection.

7. The raising or keeping of dangerous birds shall be permitted, in accordance with the provisions of Subsection 4 (above) and the license and permit requirements outlined in Article 2 of this Chapter, as well as any applicable provisions of the adopted Zoning Ordinance.

8. The raising or keeping of rodents, for any purpose, shall be permitted, in accordance of Subsection 4 (above) and the license and permit requirements outlined in Article 2 of this Chapter, as well as any applicable provisions of the adopted Zoning Ordinance.

9. The raising or keeping of rabbits shall be permitted, in accordance with the provisions of Subsection 4 (above), as well as any applicable provisions of the adopted Zoning Ordinance.

10. The keeping or raising of any wild animals shall be prohibited within the City of Elk City, Oklahoma, except for those wild animals which may be under the care of traveling shows or circuses, and for which the license requirements of Article 2 of this Chapter are met and a permit obtained.

11. The keeping of other animals not specifically mentioned or regulated within this Chapter as pets, shall be subject only to such generally applicable provisions which may exist to require the maintenance of sanitary conditions and the avoidance of nuisance creation.

12. No snakes which are poisonous in their natural state, may be kept within the corporate limits of the City of Elk City, Oklahoma, except under the conditions and provisions of the license required for such snakes in Article 2 of this Chapter; it shall be unlawful for any person, firm or corporation to keep or raise such snakes within said City, without having met permit requirements and obtained a permit.

### **Section 3-5. Responsibilities of Owners.**

In addition to any duties previously outlined, the owner of any animal shall have the following additional responsibilities:

1. Owners shall exercise proper care and control of their animals to prevent them from becoming a public nuisance.

2. Owners shall provide proper care and treatment of their animals.

3. Owners shall not abandon their animals.

4. It shall be unlawful for any person to keep any animal for breeding purposes within the corporate limits of the City of Elk City, Oklahoma, except in private, enclosed locations, entirely out of the public view, or to permit any such animals to have sexual intercourse in any place except a private, enclosed place. (This shall not be construed as permitting the conditional keeping of any animals otherwise prohibited or regulated by this Code of Ordinances.)

5. Owners of a dog or cat four (4) months old or older living within the corporate limits of the City of Elk City, Oklahoma must have a microchip implanted in the dog or cat. The identifying microchip number must be registered with the City's Animal Control Department within thirty (30) days of the animal being brought into Elk City or within thirty (30) days of the animal reaching four (4) months of age. At all times, the owner of a dog or cat living in the City must maintain up-to-date contact information, including address and telephone number, with the City Animal Control Department.

### **Section 3-6. Cruelty to Animals.**

1. It shall be unlawful for any person knowingly, willfully or maliciously to:
  - a. Pour on or apply to an animal, any drug or other thing which inflicts pain;
  - b. Treat an animal in a cruel or inhumane manner;
  - c. Neglect an animal belonging to him or his custody, in a cruel or inhumane manner; or

- d. Poison, or expose to poison, any dog or other animal, except a noxious, non-domesticated animal.
2. It shall be unlawful for any person to instigate or encourage a fight between animals, or to keep a house, pit or other place used for fights between animals.
  3. It shall be unlawful for an owner to leave a dog outside and unattended using a restraint:
    - a. for extended, unreasonable periods of time;
    - b. within 500 feet of school premises;
    - c. in case of extreme weather conditions for extended periods of subfreezing temperatures or high heat conditions.
  4. It shall be unlawful for an owner to leave a dog outside and unattended using a restraint that unreasonably limits movement of a dog if the restraint:
    - a. uses a collar that is pinch-type, prong-type or choke type or that does not properly fit the dog;
    - b. is shorter than 10 feet in length; or
    - c. weighs more than 1/8 of the weight of the dog
    - d. violates state or local law regarding animal conditions or welfare.
  5. The restraint provisions this section shall not apply to:
    - a. a dog restrained to a running line, pulley, or trolley system and that is not restrained to the running line, pulley or trolley system by means of a pinch-type, prong-type, choke-type or improperly fitted collar;
    - b. a dog restrained in compliance with the requirements of a camping or recreational area as defined by a federal, state or local authority or jurisdiction;
    - c. a dog restrained while the owner is engaged in, or actively training for, an activity that is conducted pursuant to a valid license issued by this state, if the activity for which the license is issued is associated with the use or presence of a dog;
    - d. a dog restrained while the owner is engaged in conduct directly related to the business of shepherding or herding cattle or livestock;

or

- e. a dog restrained while the owner is engaged in conduct directly related to the business of cultivating agricultural products, if the restraint is reasonably necessary for the safety of the dog.

6. The fine imposed for an offense under this Section shall not be less than Sixty Dollars (\$60.00) for the first offense, Seventy Five Dollars (\$75.00) for the second offense and One Hundred Fifty Dollars (\$150.00) for the third and any subsequent offenses.

### **Section 3-7. Turning Confined Animals At Large Unlawful.**

It shall be unlawful for any person to open any enclosure in which an animal is confined (as required by Ordinance), so as to turn such animal at large, or to in any other manner turn such animal at large.

### **Section 3-8. Pasturing in Public Areas Unlawful.**

It shall be unlawful for any person to stake, confine or pasture any animal on any public property (Federal, State, municipal or other), or on any railroad right-of-way, without the consent of the person owning or controlling such property.

### **Section 3-9. Dogs/Cats/Ferrets/Etc; Rabies Vaccination, License, Fee.**

1. Any warm blooded animal, capable of transmitting the virus rabies, maintained or harbored at any time in the City of Elk City, Oklahoma, shall be vaccinated against rabies with an approved vaccine administered by a veterinarian who shall maintain a record of vaccination for a period of at least three (3) years, and who shall issue the owner of such animal a vaccination certificate (which shall be retained by said owner until it expires and is renewed.) The failure to procure such certificate when so requested by the Animal Control Officer shall be prima facie evidence that such animal has not been so vaccinated.

2. The identity and address of the owner of any animal that bites a person shall be promptly furnished to the Animal Control Officer and County Health Department. The Animal Control Officer shall securely quarantine such animal until reasonable determination has been made that the animal is not infected with rabies. At the discretion of the Animal Control Officer, such quarantine may be on the premises of the owner, at a veterinary hospital of the owner's choice (at the owner's expense), or at the Municipal Pound or Animal Shelter. In case of animals

whose ownership is unknown, such quarantine shall be at the Municipal Pound or Animal Shelter. Said animal may be reclaimed by the owner, if adjudged free of rabies; such owner shall then pay any related charges for confinement.

3. The Owner of an animal having rabies or showing signs of rabies, an Animal bitten by a rabid animal or an animal that has been exposed to rabies shall immediately isolate the animal at a veterinary clinic where it cannot possibly come into contact with any other animal or humans other than the Owner and veterinary staff. Any Person who has knowledge of an animal infected by or exposed to rabies shall immediately notify the Animal Control Officer of the location of the affected animal. The animal may be held under home quarantine under the supervision of a licensed veterinarian, or upon demand, be surrendered to the Animal Control Officer and dealt with in accordance with local law.

4. When an animal under quarantine has been diagnosed as being rabid, or is suspected of having rabies by a licensed veterinarian, and dies while under such observation, the Animal Control Officer, veterinarian or other designated person, shall immediately send the necessary part of such animal to the State Health Department for pathological examination and shall notify the proper health officer of any reports of human contact.

5. When a report gives a positive diagnosis of rabies and the County Health Director feels that a rabies crisis may be imminent, the Health Department may recommend to the City Commission a city wide quarantine; upon invoking of quarantine by the City Commission, no animal shall be taken into the streets or permitted to be in the streets, except for short periods of exercise (under leash and control of a competent adult). During such quarantine, no animal may be taken or removed from the City of Elk City, Oklahoma, without written permission of the Animal Control Officer.

6. During such periods of rabies quarantine, every animal bitten by an animal adjudged to be rabid shall be forthwith destroyed; or, at the owner's expense and option, shall be quarantined by a licensed veterinarian or evaluated by a licensed veterinarian and held under home quarantine as provided by local law.

7. No person shall remove from the City of Elk City, Oklahoma, any animal suspected of having been exposed to rabies, or any animal which has bitten a human, except as herein provided. The carcass of any dead animal exposed to rabies shall be surrendered to the Animal Control Officer upon demand; the Animal Control Officer shall direct disposition of said animal. No person shall refuse to surrender any animal for quarantine or destruction when such demand is lawfully made by the Animal Control Officer.



8. It shall be the duty of every person owning or harboring any dog/cat/ferret which is four (4) months old or older within the corporate limits of the City of Elk City, Oklahoma, to procure a rabies vaccination certificate from a licensed veterinarian showing that the vaccination has been made, date of vaccination, by whom and the date when such vaccination shall expire. Vaccination certificate shall be kept current.

9. It shall be unlawful to not abide by the municipal vaccination requirements after fifteen (15) days of residency.

10. The fine imposed for an offense under this Section shall not be less than One Hundred Dollars (\$100.00) for the first offense, One Hundred Fifty Dollars (\$150.00) for the second offense and Three Hundred Dollars (\$300.00) for the third and any subsequent offenses.

### **Section 3-10. Confining Female Dogs and Cats.**

Every female dog or cat in heat shall be confined, in a building or secure enclosure; in such manner that such animal cannot come into contact with another animal, except for planned breeding.

### **Section 3-11. Certain Dogs Running Loose to be Killed.**

The Animal Control Officer, his designated representative or any law enforcement officer of the City of Elk City, Oklahoma, shall be required to kill any dog running loose within the corporate limits of the City of Elk City, Oklahoma, which is determined by the Animal Control Officer or law enforcement officer to be vicious or crazed and a threat to the public health and safety, and which dog is found running at large without being restrained in a pen or on a leash (as provided by this Chapter), without keeping said dog in the Municipal Pound for any period of time.

### **Section 3-12. Pet Shops, Catteries and Kennels.**

1. It shall be unlawful for any person or persons to maintain a pet shop, cattery or kennel for business, unless such owner shall first pay to the City of Elk City, Oklahoma, an annual license fee of twenty-five dollars (\$25.00). Upon a signed petition of all property owners within six hundred (600) feet of a property line, approval of a special use permit and payment to the City Clerk, a license will be furnished which must be posted at all times. This license shall be in lieu of all other registration fees prescribed, provided that all dogs or cats in such kennel shall at all times be confined on the premises. Should such dog or cat belonging to such owner or keeper be allowed off the premises, the owner or keeper shall pay the same tax and registration fee as required for all dogs not kept by such a provision.

2. Such kennel shall be maintained at all times in a clean and sanitary condition and

shall be subject to inspection by the Animal Control Officer at any reasonable time.

3. All pet shops, catteries and kennels shall:
  - a. Maintain records and retain such records for a two (2) year period on all dogs and cats maintained in such facility. Such records shall show breed, color, markings, sex, age, date and source of the animal, period for which the animal is maintained, date and disposition of the animal (including name and address of new owner), and disease prevention and/or treatment and by whom;
  - b. Provide general environmental conditions to assure adequate physical space for each animal, control of parasites, clean food and water, weather protection and clean and sanitary facilities; and
  - c. Provide cages and pens of easily cleanable materials, if used for confinement, and keep such cages and pens clean and sanitary.

### **Section 3-13. Private Boarding Kennels.**

1. No person, firm or corporation shall own, maintain or operate a boarding kennel within the corporate limits of the City of Elk City, Oklahoma, unless such kennel is licensed as herein provided.

2. Application for such license shall be made to the City Clerk, and shall state the name and address of the owner or operator of said kennel, with the street address and legal description of the property upon which the kennel is located.

3. The kennel license annual fee shall be ten dollars (\$10.00) and such license shall be exhibited in a conspicuous place on the premises.

4. A kennel owner must show proof of rabies vaccination on all animals over four (4) months of age when applying for a license.

5. Licenses shall be issued for a period of one (1) year beginning on the 1st day of July of each year. Licenses may be issued starting thirty (30) days before July 1, and for thirty (30) days thereafter.

6. Any person, firm or corporation operating a kennel, shall maintain such kennel in a sanitary condition and shall be subject to the provisions of this Code of Ordinances and any present or future Zoning Ordinance. Non-conforming kennels shall be deemed a public nuisance.

7. No dog kennel or other establishment wherein animals are kept shall be maintained

closer than forty (40) feet to any tenement or apartment house, hotel, restaurant, boarding house, retail food store, building used for educational, religious or hospital purposes, or residence, other than that occupied by the owner or occupant of the premises upon which such animal is kept.

**Section 3-14. Bird Sanctuary.**

1. The entire area embraced within the corporate limits of the City of Elk City, Oklahoma, is hereby designated as a bird sanctuary.

2. It shall be unlawful to trap, hunt, shoot or attempt to shoot or molest in any manner any bird or wild fowl or to rob any bird nest or wild fowl nest; provided, however, if starlings or other similar birds are found to be congregating in such numbers that they constitute a nuisance or a menace to health or property in the opinion of the city health officer, then and in such event the City shall abate the nuisance or health hazard in such manner as is deemed advisable by the said health officer under the supervision of the City Manager.

**Section 3-15. Inspections to Enforce Chapter.**

1. The local or County Health Officer, or Personnel of the City, upon complaint of any person or on his own initiative, shall inspect any structure or place wherein an animal is kept.

2. The local or County Health Officer may issue any such reasonable order as he may deem necessary to the owner of such animal, to cause such animal to be kept as provided in this Chapter or in a manner so as not to constitute a nuisance.

3. The local or County Health Officer may make a complaint before the Municipal Judge against any person for violation of any provision of this chapter or for any such reasonable order, but this shall not abridge the rights of others to make such complaints.

**Section 3-16. Zoning Ordinance to Prevail.**

In case of conflict between this Chapter and the present or any future Zoning Ordinance, the provisions of the Zoning Ordinance shall prevail and supersede the provisions of this Chapter.

**Sections 3-17 through 3-24. (Reserved for future use.)**

**Article 2. License and Permit Requirements**

**Section 3-25. City Pet Licensing Fees.**

1. No person, without first obtaining a written license from the Municipal Court Clerk, shall own, keep, harbor or have custody of any dogs/cats/ferrets over four (4) months of age.

2. The owner of the dog/cat/ferret shall, at the time of paying the license fee, register the dog/cat/ferret by giving the Municipal Court Clerk the name and address of the owner, the name, breed, color and sex of the dog/cat/ferret and such other reasonable information as said Municipal Clerk may request. The owner must show proof of vaccinations and micro chipping.

3. The license required pursuant to this Article shall be sold and due in the same month that such license was purchased in the previous one-year or three-year licensing period. The tag shall indicate the year when the license expires.

4. The Municipal Court Clerk shall provide an appropriate tag for the dog/cat/ferret, in addition to the written receipt.

5. The owner shall cause the tag received from the Municipal Court Clerk to be affixed to the collar or harness of the dog/cat/ferret upon which the license fee has been paid and the owner shall see that the tag is so worn at all times.

6. The dog/cat/ferret license shall not be transferable, from one (1) dog/cat/ferret to another. No refunds shall be made for any dog/cat/ferret license fee because of the death of the dog/cat/ferret or the owner's departure from the community.

7. No person shall counterfeit, or attempt to counterfeit, any license issued for a dog/cat/ferret, as provided in this Chapter.

8. All license fees shall be paid to the Municipal Court Clerk. The owner or harborer of any dog/cat/ferret four (4) months old or older living in the City must have a microchip implanted in their dog/cat/ferret. The microchip number must be registered with the City's Animal Services. The identifying microchip number must be registered with the Municipal Court Clerk within thirty (30) days of the dog/cat/ferret being brought into the City or within thirty (30) days of the dog/cat/ferret living in the City must maintain up-to-date contact information, including address and telephone number, with the Municipal Court Clerk.

9. In the event of loss of the tag before the end of the year which it was issued, and the owner may secure another for the dog/cat/ferret by presenting the original receipt to the Municipal Court Clerk and paying a replacement fee.

10. The fine imposed for an offense under this Section shall not be less than Sixty Dollars (\$60.00) for the first offense, Seventy Five Dollars (\$75.00) for the second offense and One Hundred Fifty Dollars (\$150.00) for the third and any subsequent offenses.

**Section 3-26. Licenses for Wild Circus Animals.**

1. All wild animals owned by a circus or traveling animal show, shall not be permitted within the corporate limits of the City of Elk City, Oklahoma, unless the owner or person in charge of said circus show, or his designated representative, has first obtained a license for said animals from the City Clerk.

2. Said license shall be issued by the City Clerk upon submission of a written, signed statement by the applicant that he has provided ample safeguards to protect the public health, safety and welfare.

3. To cover issuance and enforcement costs, the applicant shall pay a fee of one hundred dollars (\$100.00) to the City Clerk; the written receipt may constitute the license.

4. Said license, so issued, shall be valid for a term of one (1) month.

**Section 3-27. Licenses for Dangerous Birds.**

1. No person shall keep, raise or bring into the City of Elk City, Oklahoma, any bird which may be defined as a "dangerous bird," without first having obtained a license to handle said bird from the City Clerk.

2. Said license shall be issued by the City Clerk only after the applicant has provided a written, signed statement outlining the safeguards he has provided to protect the public health, safety and welfare.

3. The fee for said license shall be fifteen dollars (\$15.00).

4. Said license, so issued, shall be valid for a period of one (1) year.

**Section 3-28. Permits for Rodents.**

1. No person shall keep, raise or bring into the City of Elk City, Oklahoma, any rodent(s), without first having a permit from the City Clerk.

2. In order to protect the public health, safety and welfare, no permits shall be issued for raising more than one (1) rodent on a single premise, unless the City Commission has first met with the applicant and assured themselves that no potential problems will be created. Permits will be

issued by the City Clerk for individual rodents, kept and/or raised as pets, upon submission of a written, signed application.

3. The fee for a permit to keep one (1) rodent only shall be Three dollars (\$3.00); the fee for permits for keeping and/or raising more than one (1) rodent, shall be seventy five dollars (\$75.00).

4. In both cases (Subsection 3, above), permits shall be valid for a period of one (1) year.

### **Section 3-29. License Requirements for Kennels; Pet Shops.**

1. No person, firm or corporation shall own, maintain or operate a kennel within the corporate limits of the City of Elk City, Oklahoma, unless such kennel is licensed as hereinafter provided.

2. Application for such license shall be made to the City Clerk and shall state the name and address of the owner or operator of said kennel, with the street address and legal description of the property upon which the kennel is located; said kennel must be in compliance with any applicable portions of any present or future Zoning Ordinance adopted by the City of Elk City, Oklahoma.

3. The annual kennel license fee shall be thirty five dollars (\$35.00) and such license shall be exhibited in a conspicuous place on the premises.

4. Licenses shall be issued for a period of one (1) year beginning on the 1st day of July of each year. Licenses may be issued starting thirty (30) days before July 1, and for thirty (30) days thereafter.

5. A kennel owner must show proof of rabies vaccination on all animals over four (4) months of age when applying for a license.

6. Any person, firm or corporation maintaining a kennel, whether for profit or not, shall maintain such kennel in a sanitary condition and shall be subject to the provisions of this Code of Ordinances and any present or future Zoning Ordinance. Non-conforming kennels shall be deemed a public nuisance.

7. No kennel or other establishment wherein animals are kept shall be maintained closer than forty (40) feet to any tenement or apartment house, hotel, restaurant, boarding house, retail food store, building used for educational, religious or hospital purposes, or residence, other than that occupied by the owner or occupant of the premises upon which such animal is kept.

8. Pet shops shall be subject to the same requirements for licensing as kennels; in addition, any other requirements of this Code of Ordinances or of the adopted Zoning Ordinance which may involve specific animals sold in a pet shop, shall also be included in those regulations applicable to pet shops.

**Sections 3-30 through 3-39. (Reserved for future use.)**

**Article 3. Municipal Pound**

**Section 3-40. Municipal Pound Authorized.**

1. The City Commission is hereby authorized to establish a Municipal Pound, under the jurisdiction of the Chief of Police or the Animal Control Officer. He shall provide proper sustenance for all animals impounded and shall treat them in a humane manner.

2. The Municipal Pound may be established on a shared or contractual basis with other units of government or with a private individual or firm, and need not be physically located within the City of Elk City, Oklahoma.

**Section 3-41. Impoundment of Animals.**

1. It shall be the duty of the Animal Control Officer (or any other designated officer or employee of the City), to take into custody and impound any animal running at large in violation of the provisions of this Chapter.

2. The Animal Control Officer shall also proceed to impound any dog that is running at large within the corporate limits of the City of Elk City, Oklahoma, that is not confined with a secure and suitable-sized leash (as provided in this Chapter), regardless of whether or not the owner may have a permit, the dog has been vaccinated and the dog bears a tag.

3. The Animal Control Officer shall immediately pick up and impound any and all dogs which are kept, owned, possessed or harbored in violation of any of the terms and provisions of this Code of Ordinances.

4. Any person appearing at the Municipal Pound who shall satisfy the keeper of the same of the fact of ownership or the right to the possession of any dog therein impounded, shall have such dog returned to him, upon the payment of the charges due, as authorized by the provisions of this Chapter.

5. Animals which are taken into custody as provided in this Chapter, shall be destroyed in a humane manner by the Animal Control Officer, provided that no animal taken into custody shall be destroyed until such animal shall have been impounded at least three (3) days. During such time, the owner may reclaim the animal or a proper home be established for such animal by any person desiring the animal as a pet and willing to pay applicable license fees and expenses incurred

in the dog's detention.

6. It shall be unlawful for any person to, in any manner, obstruct the duties and activities of the municipal official or employee responsible for impounding animals.

**Section 3-42. Fees for Impounding and Keeping.**

1. The fees for impounding and keeping an animal, to be paid upon redemption, shall be determined by the City Manager.

2. All fees shall be paid at the Animal Shelter or Police Department. Receipt for payment of fees on an impounded animal shall be presented to the Animal Control Officer before the animal shall be released.

**Section 3-43. Claiming of Impounded Animals.**

1. An owner of an impounded animal, or his agent, may claim or redeem the animal prior to its sale or destruction, by paying the required fees against the animal and meeting any requirements prescribed by this Chapter.

2. Any person claiming an unlicensed dog/cat shall pay the required license fee to the Municipal Court Clerk and present the receipt to the Animal Control Officer before the latter releases the animal

**Section 3-44. Adoption of Impounded Animals.**

1. After three (3) days any impounded animal that has not been claimed by the owner, may be adopted by anyone wanting to adopt an animal. The Animal Control Officer or his agent will determine the suitability of animals to be put up for adoption and will also determine the suitability of the new owner to humanely care for the animal.

2. Any impounded animal that is licensed at the time of impoundment may be adopted only after seven (7) days by anyone wanting to adopt an animal. The Animal Control Officer or his agent will determine the suitability of animals to be put up for adoption and will also determine the suitability of the new owner to humanely care for the animal.

3.. Any person adopting an impounded dog/cat shall pay the required license fee to the Municipal Court Clerk and present the receipt to the Animal Control Officer before the latter releases the animal.

4. Charges for an adoption and related fees will be determined by the City Manager.

**Section 3-45. Vicious Dogs and Animals.**



1. It shall be unlawful and an offense for any owner as herein defined, within the corporate limits of the City of Elk City, to harbor, keep or have possession of any vicious dog or animal as herein defined.

2. It shall be the duty of the Animal Control Officer, Chief of Police or person authorized by them, to seize and impound any dog or animal by him found to be vicious, and in such an event to cause proceeding to be instituted in the Municipal Court against the owner of said dog or animal for violation of this Section. If such seized and impounded dog or animal shall have bitten a human being one or more times before such seizure or impounding, then and in that event, the procedure set out in Section 3.9 herein shall apply, provided that said procedures shall be subject to the ultimate decision of the Municipal Court. In any event, if the Court shall find that the dog or animal so seized and impounded is not a vicious dog or animal, then the Court shall order, and it shall be the duty of the Chief of Police to cause the surrender and return of said dog or animal to the owner thereof, but in the event that such dog or animal is found by the Court to be a vicious dog or animal, the Court shall order the Chief of Police or person designated by him to destroy said vicious dog immediately.

**Section 3-46 through 3-54.** (Reserved for future use.)

#### **Article 4. Penalty**

##### **Section 3-55. Penalty.**

Any person, firm or corporation who shall violate any provision of this Chapter shall be guilty of any offense and, upon conviction thereof, shall be punished by fine and costs as provided for in Section 1-40 of this Code, unless a separate and distinct penalty is otherwise specifically set forth in this Chapter. Each day's continuation of any such violation shall constitute a separate offense.

## CHAPTER 4

### BUILDING AND CONSTRUCTION

- Article 1. Codes and Code Administration.
- Article 2. Municipal Permits.
- Article 3. Flood Damage Prevention.
- Article 4. Miscellaneous Provisions.
- Article 5. Penalty.

#### **Article 1. Codes and Code Administration**

##### **Section 4-1. Codes Adopted.**

The particular Codes listed below (with revisions as may be hereinafter) set forth are hereby adopted and incorporated in this Code of Ordinances, as fully as if set out at length herein, for the purposes of establishing rules and regulations for the following activities carried on within the corporate limits of the City of Elk City, Oklahoma:

1. (Building Code) The construction, alteration, removal, demolition, equipment, use, occupancy, location and maintenance of buildings and structures:

International Building Code, Current Edition;

2. (Plumbing Code) The installation or alteration of plumbing and drainage systems for buildings and structures:

International Plumbing Code , Current Edition;

3. (Electrical Code) The installation or alteration of electrical equipment for buildings or structures:

N.F.P.A. 70 National Electrical Code, Current Edition;

International Electrical Code, Current Edition;

4. (Fire Prevention Code) The provision of basic safeguard to property from the hazards of fire and explosion:

International Fire Code, Current Edition;

5. (Life Safety Code) The provision of basic safeguards to life from the hazards of fire and explosion:

Life Safety Code (recommended by the National Fire Protection Association), Current Edition;

6. (Mechanical Code) The installation of mechanical systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings and/or appurtenances thereto:

International Mechanical Code , Current Edition;

7. (Housing Code) For the control of buildings and structures hereto:

International Property Maintenance Code, Current Edition;

8. (Traffic Control Devices Code) The installation or alteration of Traffic Control Devices:

Manual on Uniform Traffic Control Devices, 1988 and subsequent editions;

9. One and Two Family Dwelling. The fabrication, erection, construction, enlargement, alteration, repair, location and use of detached One and Two Family Dwelling, there appurtenances and accessory structures;

International Residential Code, Current Edition;

10. (Fuel Gas Code) regulating and governing fuel gas systems and gas-fired appliances:  
International Fuel Gas Code, Current Edition;

11. (Energy Conservation Code) regulating and governing energy efficient building envelopes and installation of energy efficient mechanical, lighting and power systems;

International Energy Conservation Code, Current Edition;

12. (Private Sewage Disposal Code) regulating and governing the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of individual sewage disposal systems;

International Private Sewage Disposal Code, Current Edition;

13. (Urban-Wildland Interface Code) regulating and governing the mitigation of hazard to life and property from the intrusion of fire from wildland exposures, fire from adjacent structure fires from spreading to wildland fuels;

International Urban-Wildland Interface Code, Current Edition;

14. (Fuel Storage Code) regulating flammable and combustible liquids, more specifically, the construction and installation of above ground and below ground fuel storage tanks:

NFPA 30 (National Fire Protection Association), Current Edition;

15. (Swimming Pool Code) for the installation or alteration of swimming pools, spas, hot tubs and aquatic facilities:

International Swimming Pool and Spa Code, Current Edition

**Section 4-2. Modification of Adopted Codes.**

1. Whenever the words "City", "Town", or "Municipality" are used in those Codes adopted, it shall mean the City of Elk City, Oklahoma.

2. Wherever the words "Inspector", "Building Inspector" or "Administrative Official" are used in those Codes adopted, it shall mean the municipal official currently assuming the duties and responsibilities of Municipal Building Inspector for the City Of Elk City, Oklahoma.

3. All official titles used in those Codes adopted shall be interpreted as define in this Code of Ordinance.

4. Maximum penalties for violation of provisions of those Codes adopted shall be as provided in the "Penalty" Section of this Chapter.

5. Notwithstanding any provisions of any of those Codes adopted by this Chapter, wood shingles may be used for roofing.

6. All limits referred to in any of those Codes adopted by this Chapter are hereby established as the corporate limits of the City of Elk City, Oklahoma.

**Section 4-3. Adopted Codes on File.**

Three (3) copies of those Codes adopted by the City of Elk City, Oklahoma, are on file in the Office of the City Clerk.

**Section 4-4. Codes in Effect.**

From the date on which this Chapter shall take effect, the provisions of said Codes, as herein modified, shall be controlling in those areas set forth hereinabove, within the corporate limits of the City of Elk City, Oklahoma.

**Section 4-5. Conflicts with Code of Ordinances.**

Whenever any provision of any of those Codes adopted by this Chapter conflict with the Code of Ordinances of the City of Elk City, Oklahoma, the latter provisions shall govern.

**Section 4-6. Building Inspector to Enforce Codes.**

Any Municipal Official or other employee designated by the City Commission shall be responsible for enforcing the Codes adopted by these ordinances. Said persons may bear such titles as "Building Inspector", "Gas Inspector", "Plumbing Inspector", "Electrical Inspector", etc., as may be deemed appropriate to indicate their respective areas of concern, and shall be appointed or designated by the City Manager.

**Sections 4-7 through 4-14. (Reserved for future use.)**

**Article 2. Permits**

**Section 4-15. Building Permits.**

1. No person shall erect, enlarge, construct, relocate, substantially improve, repair, place, alter, move, demolish or engage in plumbing, electrical or mechanical activities upon any building, structure, mobile or modular home, or other construction without first obtaining a separate Building Permit for each such building or structure from the Office of the City Clerk.

2. No man-made change to improved or unimproved real estate located within a designated "Flood Hazard Area", including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, shall be initiated until a separate Building Permit has been obtained for each operation from the office of the City Clerk.

3. No mobile or modular home shall be placed on improved or unimproved real estate without first obtaining a separate Building Permit for each mobile home from the Office of the City Clerk.

4. Ordinary repairs of buildings or structures, the cost of which shall not exceed one thousand dollars (\$1,000.00), may be made without obtaining a Building Permit.

5. All applications for Building Permits shall be signed and in writing, upon an official blank form supplied by the Office of the City Clerk or the Municipal Building Inspector, and shall be submitted to either said officials, along with the required fee.

6. Building Permit fees shall be as determined by motion of the City Commission, and shall be based primarily upon the municipal costs incurred in the administration of the Municipal Building Permit System.

7. The Office of the City Clerk shall be responsible for the administration of the Building Permit process within said community; provided, that the building permit application forms may be obtained from, and submitted to, the Municipal Building Inspector.

8. Applications for Building Permits shall contain all applicable information required on the Building Permit form, and shall be accompanied by drawings of the proposed work (drawn to scale), showing floor plans, structural details, computations and such additional information as may be required of the applicant by the Office of the City Clerk, the Municipal Building Inspector, this Code of Ordinances or the City Commission.

9. Upon receipt of a complete Building Permit application and the required fee, the City Clerk shall immediately turn the application over to the Municipal Building Inspector, who shall review the application to ensure that:

- a. The involved land is properly zoned for the proposed use;
- b. Applicable Zoning District provisions (including Floodway Damage Prevention provisions as provided for in Article 3 this Chapter) have been met;
- c. Roadway access is available;
- d. Adequate and sanitary provisions have been made for utilities;
- e. All easements provided in the recorded plat, if any, are not encroached upon;
- f. All other required Municipal Permits have been obtained.

10. If the Municipal Building Inspector is satisfied that the proposed work described in the application and attached materials conform to the requirements of the adopted Zoning Ordinance, Building Code and other regulations and requirements, he shall authorize the issuance of the Building Permit by signing the application and forwarding it to the City Clerk, who shall return a copy to the applicant.

11. If the application or attached materials do not conform to pertinent municipal regulations, the Municipal Building Inspector shall not approve said application, but shall return the application to the City Clerk, along with written reason(s) for disapproval. The City Clerk shall return the application, with written reason(s) attached, to the applicant. The applicant may subsequently amend his application, if possible, and re-submit it, or initiate other action to correct the deficiencies.

12. The Municipal Building Inspector and the Office of the City Clerk shall complete all required review processes in an efficient and effective manner, without unreasonable or unnecessary delay.

13. A building Permit, once approved and issued, shall be construed as a permit to proceed with the work and shall not be construed as authority to violate, cancel, alter or set aside

any municipal regulations, nor shall such issuance prevent the Municipal Building Inspector from thereafter requiring a correction of errors in plans, construction or a violation of this Ordinance.

14. If the work allowed under an issued Building Permit has not been initiated within six (6) months from the issuance day of said permit, such permit shall become null and void unless a request for an extension is submitted to, and approved by, the Building Inspector. If said permit becomes null and void, a new permit must be obtained and the regular fee incident thereto collected, in order for the work to be initiated or resumed.

15. The Municipal Building Inspector shall keep a permanent and accurate accounting of all building permits and shall transmit copies of each permit issued to the Chairperson of the Municipal Planning Board, for information purposes. The City Clerk shall keep a permanent and accurate record of all building permit fee payments.

16. The City Clerk may revoke a building permit in case there has been any false statement or misrepresentation as to a material fact in the application or attached materials on which the building permit approval was based.

17. Building permits shall be conspicuously displayed on the project or site, in a manner visible from the street.

18. The City Clerk and the Municipal Building Inspector shall monitor municipal utility hook-up requests and shall not allow municipal utilities to be turned on to any unit, structure or project for which a building permit has not been issued.

19. Appeals from any aggrieved person concerning a decision of the City Clerk or the Municipal Building Inspector relative to the granting of building permits, shall be taken to the Municipal Planning Board, who shall act as the Permit Board of Appeals for the City of Elk City, Oklahoma.

20. In the event of any conflict between these building permit provisions delineated herein and any provision(s) of the Building Code adopted by the City Commission, the provisions of this Chapter shall prevail.

#### **Section 4-16. House Moving Permit.**

1. Before any person shall move any house, building or heavy structure on or over any street within or through the City of Elk City, Oklahoma, it shall first be necessary to obtain a permit to do so from the office of the City Clerk; said permit shall first be approved by the City Manager.

2. The fee for a permit to move such house or structure shall be fifty dollars (\$50.00). In the event it is necessary to move utility lines, poles, signs or other structures to facilitate the move, the cost therefore will be paid by the applicant, in addition to the normal fee.

3. No permit shall be issued to any person to move a house or structure unless the person has in effect a bond in the sum of five thousand dollars (\$5,000.00), conditioned that the mover will indemnify the owners of any property (public or private, including pavement, curbs, etc.) for any damage thereto resulting from the moving of any house or structure by him or by his agents or employees, and holding the City of Elk City, Oklahoma, harmless from liability for any such damages.

4. It shall be the duty of the City Manager to approve or determine the route that may be used and the potential for damages, if any, to any property. He may prescribe such rules and regulations as are necessary to promote an effective move and protection of person and property. The mover shall erect all necessary danger signals during the operation of moving.

5. Any person moving any house or any other structure on or over any street or alley, shall be liable personally and upon his bond for any damages to trees, public property, persons or any matter whatsoever resulting from such moving. This shall not be construed to authorize any person to cut or trim any trees, or commit any injury to any public or private property which cannot immediately restored to its former condition, and no permit shall authorize any moving under any conditions which will promote such damage.

#### **Section 4-17. Pavement Cutting Permits.**

1. It shall be unlawful for any person to cut any pavement on any street or alley within the City of Elk City, Oklahoma, without a permit from the Office of the City Clerk; said permit shall first be approved by the City Manager or his designated agent.

2. An estimate of the cost of cutting such pavement shall be made by the City Manager, and a deposit equal to the amount of the estimate shall be made by the applicant.

3. The City may, at its option, either make repairs of the pavement which has been cut under the provisions of this Section, and charge the costs of such repairs to the deposit herein provided, or require that the person cutting the pavement make the repairs; in the latter case, the person's deposit shall be returned, upon satisfactory repair of the pavement. Any balance remaining after all such costs are paid shall be returned to the person making said deposit.

4. Any person cutting such pavement shall maintain proper safeguards, with suitable lights, during the night hours and sufficient in number to give warning of danger to all persons.

#### **Section 4-18. Ditching Permits.**

1. It shall be unlawful for any person, firm or corporation to initiate any ditching



operation involving any public easement, right-of-way, place, area or building within the City of Elk City, Oklahoma, without first obtaining a permit from the Office of the City Clerk; said permit shall first be approved by the City Manager or his designated agent.

2. Such permit shall be issued only if the applicant meets the following conditions:
  - a. The applicant shall provide a map of the proposed project to the City Manager prior to initiating work; said map shall show, or have placed upon it by the City Manager, all municipal utility line locations in the project area, and all areas of public easement, right-of-way, places, areas or buildings potentially affected by the proposed project.
  - b. The applicant shall provide written proof that he has coordinated his project with all other applicable utility companies (telephone, electric, gas and CATV) and is aware of the locations of all such lines.
  - c. The applicant shall provide a surety bond (or cash deposit), suitable to the City of Elk City, Oklahoma, as to dollar amount and form, to insure that any damages will be repaired; upon completion of the project, the City of Elk City, Oklahoma, will review any damage claims and make appropriate arrangements.
  - d. The applicant shall agree, in writing, to maintain proper safeguards, particularly at night.
3. Violation of any of these provisions shall be grounds for revocation of the applicant's permit at any time.
4. The fee for such permit shall be as determined by the City Manager.

**Section 4-19. Permits for Pipes Across Streets.**

1. Oil and gas companies, and other persons, firms and corporation not operating pursuant to a franchise granted by the municipality or not operating pursuant to a permit or permit granted by the State Corporation Commission, shall secure a permit from the Office of the City Clerk before placing, installing, laying, constructing, operating or maintaining any pipe, cable, wire, conduit or line across, over, under, along, through or upon any street, alley, public way or public place within the corporate limits of the City of Elk City, Oklahoma; said permit shall first be approved by the City Manager or his designated agent.

2. The application for the permit shall specify:
  - a. The location of the pipe, cable, wire conduit or line; and
  - b. The privileges and proposed terms which the applicant desires to secure from the City and to exercise.

3. The City Manager, if he sees fit to grant the permit, will grant it on written terms which are mutually agreeable. The City Manager may revoke said permit after adequate opportunity for a public hearing, for any of the following reasons:

- a. Failure to abide by the terms on which the permit was granted:
- b. Violation of State Law or Municipal Ordinances; or
- c. Protection of public peace, health, safety or welfare.

4. The applicant shall pay such fees for such permit and for its periodic renewal as the City Commission may establish by motion.

5. The City Manager may refuse to renew a permit.

6. The City Manager may require an applicant to provide a bond for the protection of the City and/or the public in such sum and with such terms as said City Manager deems desirable. When the City Manager requires such a bond, a permit shall have no effect unless the required bond is also in effect.

#### **Section 4-20. Construction of Fences; Permits.**

It shall be unlawful and an offense for any person to construct, build, erect or alter any fence within the corporate limits of the City of Elk City, Oklahoma, except as provided herein.

1. For the purposes of this Section, the term "Fence" shall mean any structure or wall made of any material, including live plants, which is commonly used to border, envelope, decorate or to limit or exclude ingress or egress in an area.

2. Fences may be erected within the City only after the property owner has obtained a building permit through the office of the City Building Inspector and upon all payment of required fees. Fees for said permit shall be established by the City Manager.

3. Fences may be erected in yards or along the edge of yards; provided that no fence or wall shall be located in front of the front building line. NO fence or wall shall exceed six (6) feet in height, unless extraordinary circumstances require it, and, in no instances, shall a fence or wall exceed eight (8) feet in height.

4. If the property for which a fence permit is sought is on a corner lot on which a front and side yard setback are established, no fence which obstructs site lines at elevations between two (2) feet and six (6) feet above any portion of the crown of the adjacent roadway shall be maintained in a triangle form by measuring the distance of thirty (30) feet along said front and side lot lines and connecting the points so established to form a sight triangle on the area of the lot adjacent to the street intersection. No permit shall be issued in such event.

**Section 4-21. Liquefied Petroleum Gas State Permits.**

It shall be unlawful for any person, firm or corporation to manufacture, fabricate, assemble, install or repair any system, container, apparatus or appliance to be used for the transportation, storage, dispensing or utilization of liquefied petroleum gas, or to transport, handle or store such gas, unless such person has complied and complies with, all provisions of the State Law and local Ordinances relating thereto, and has any permit which may be required by State Law and local Ordinances relating thereto.

**Section 4-23. Hospitals and Ambulatory Surgical Care Facilities.**

Hospitals.

1. *No new hospital shall be developed, either through construction or conversion of existing space, in the City unless a permit therefore has been issued by the City Clerk. The City Commission shall reconsider the merit of Section 4-23 not later than 30 days before July 18, 2012.*

2. "Hospital" means any institution, place, building or agency, public or private, whether organized as a for-profit or not-for-profit entity, licensed by the State and devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment or care of patients admitted for overnight stay, or longer in order to obtain medical care, surgical care, obstetrical care, or nursing care for illness, disease, injury, infirmity, or deformity.

3 Before developing a facility for use as a newly licensed hospital, the person proposing to operate the hospital shall apply to the City Clerk for a permit for the facility in addition to any other required approvals. The application for a permit shall be in such form as the City Clerk shall prescribe and shall include a demonstration of the hospital's probable impact on any existing hospital and surgical services in the City, including permitted facilities not yet completed.

4. The application for a permit shall be accompanied by a filing fee equal to one percent (1%) of the capital cost of the proposed facility to be utilized as the newly licensed hospital, with a minimum fee of one thousand dollars (\$1,000.00) and a maximum fee chargeable hereunder of thirty thousand dollars (\$30,000.00). It is intended that the fee charged herein shall be used to cover the costs of the application evaluation, including the engagement of a reorganized health care industry consulting firm to perform a feasibility study on the development of the facility in the City. Any excess of fees collected over costs incurred over one thousand dollars (\$1,000.00) but less than thirty thousand dollars (\$30,000.00) shall be refunded to the applicant.

5. Within thirty (30) days after receiving a completed application for a permit, the City Clerk shall cause a paid public notice to be published in a newspaper of general circulation in the area where the hospital is to be located and in a newspaper of general circulation in the area where the application is available for inspection. The notice shall include the name and

proposed location of the facility, a brief description of the proposal relating to the facility, information on where the original application can be viewed, and an explanation of how parties may file materials to be considered along with the application.

6. Any person may submit written evidence and argument regarding the proposed hospital to the City Clerk to be reviewed by City Staff. Written materials shall be submitted to the City Clerk within thirty (30) days after publication of the paid notice. The applicant shall have forty-five (45) days after publication of the paid notice to respond in writing to materials timely filed by other persons.

7. No permit to establish a hospital shall be issued by the City Clerk unless, after reviewing the application, the feasibility study and all other timely filed written materials and responses, the City Council makes the following findings:

- a. The proposed hospital will contribute to the orderly development of hospital and surgical services in the City;
- b. The proposed hospital will not cause an undue financial or staffing hardship on any existing provider of essential hospital or surgical services in the City, including permitted facilities not yet completed;
- c. The proposed hospital can be adequately served by the City's existing utility systems and/or infrastructure;
- d. The proposed hospital will qualify for and enter into a participating hospital provider agreement with the Federal Medicare program and Oklahoma Medicaid program;
- e. The proposed hospital will qualify for and maintain a license to operate a hospital from the State Commissioner of Health;
- f. The proposed hospital will operated and staff an emergency department where emergency services will be available to all without regard to race, sex, national origin, religious affiliation, insurance status or ability to pay on a twenty-four-hour per day, three hundred sixty-five-day per year basis;
- g. The proposed hospital will fulfill a demonstrated need in the community as described on the feasibility study for the hospital and its development is in the best interest of the health and welfare of the community.

8. The City Clerk shall schedule the application for a permit for consideration by the City Council within one hundred twenty (120) days after publication of the paid notice. A permit shall be effective for thirty-six (36) months from the date of issue, during which time an applicant shall start construction or conversion work on the facility to be used as the newly

licensed hospital. If construction or conversion work is not started within the time required by this section, the permit shall be null and void and a new application must be filed.

9. The City Staff may establish standards for review and approval of detailed building plans and specifications that are in addition to the requirements for a permit under this section.

10. For the purposes of this section, the word "hospital" does not include a long-term care facility where the average patient stay is greater than twenty-five (25) days and no operating suite and no public emergency room treatment is available.

11. Should an objection be filed by any interested party or governmental entity to the granting of a permit under this section, the City Clerk shall schedule a hearing before an administrative law judge appointed by the City Council within one hundred twenty (120) days after the publication of the paid notice. A permit shall be effective for thirty-six (36) months from the date of issue, during which time an applicant shall start construction or conversion work on the hospital. If construction or conversion work is not started within the time required by this section, the permit shall be null and void. Should construction or conversion work be completed within the thirty-six-month period as provided, then the permit shall remain valid so long as the hospital is in compliance with the state regulatory requirements and the requirements as set forth in this Section.

12. Any person or governmental entity aggrieved by the decision of the administrative law judge may appeal said decision by filing an action in the district court within thirty (30) days from the issuance of the decision by the administrative law judge.

13. Permits shall not be effective until or unless all appeals permitted by this subsection have been exhausted or resolved.

14. Upon the completed filing of all documents required herein, providing that no protests are filed during the protest period the City Staff shall issue the permit administratively. The issuance of such permit will be subject to all other zoning, building, and code requirements being met.

15. The City Staff may establish standards for review and approval of detailed building plans and specifications that are in addition to the requirements for a permit under this Section.

#### AMBULATORY SURGICAL FACILITIES.

*1. No new ambulatory surgical care facility shall be developed, either through construction or conversion of existing space, in the City unless a permit therefore has been issued by the City Clerk. The City Commission shall reconsider the merit of Section 4-23 not later than 30 days before July 18, 2012.*

2. "Ambulatory surgical care facility" means an establishment licensed by the State as an ambulatory surgical care facility with an organized medical staff of physicians, with permanent facilities that are equipped and operated primarily for the purpose of performing surgical procedures, with continuous physician services available on call, and registered professional nurse services on site, whenever a patient is in the facility, which provides services or other accommodations for patients to recover for a period not to exceed twenty-three (23) hours after surgery.

3. Before developing a facility for use as a newly licensed ambulatory surgical care facility, the person proposing to operate the ambulatory surgical care facility shall file a completed application with the City Clerk for a permit for the facility in addition to any other required approvals. The application for a permit shall be in such form as the City Staff shall prescribe and shall provide an impact study including a demonstration of the ambulatory surgical care facility's probable impact on the existing surgical services in the City. All necessary studies shall be provided by the applicant.

4. The application for a permit shall be accompanied by a filing fee equal to one (1) percent of the capital cost of the proposed facility, with a minimum fee of one thousand dollars (\$1,000.00) and a maximum fee chargeable hereunder of fifteen thousand dollars (\$15,000.00). It is intended that the fee charged herein shall be used to cover the costs of the application evaluation. Any excess of fees collected over costs incurred over one thousand dollars (\$1,000.00) but less than fifteen thousand dollars (\$15,000.00) shall be refunded to the applicant.

5. Within thirty (30) days after receiving a completed application for a permit, the City Clerk shall cause a paid public notice to be published in a newspaper of general circulation in the area where the ambulatory surgical care facility is to be located and in a newspaper of general circulation in the area where the application is available for inspection. The notice shall include the name and proposed location of the facility, a brief description of the proposal relating to the facility, information on where the original application can be viewed, and an explanation of how parties may file materials to be considered along with the application.

6. Any person may submit written evidence and argument regarding the proposed ambulatory surgical care facility to the City Clerk to be reviewed by City Staff. Written materials shall be submitted to the City Clerk within thirty (30) days after publication of the paid notice. The applicant shall have forty-five (45) days after publication of the paid notice to respond in writing to materials timely filed by other persons.

7. No permit to establish an ambulatory surgical care facility shall be issued by the City Clerk unless, after reviewing the application and timely filed written materials and responses, the City Staff makes the following findings:

- a. The proposed ambulatory surgical care facility will fulfill a demonstrated need in the community for the facility and its development is in the best interest of the health and welfare of the community;

- b. The proposed ambulatory surgical care facility will serve and be in the interest of the health and welfare of the community;
- c. The proposed ambulatory surgical care facility can be adequately served by the City's existing utility systems and/or infrastructure;
- d. The applicant must obtain and hold in good standing during its operation a transfer agreement with an accredited acute care facility within the corporate limits of the City of Elk City;
- e. Doctors practicing at the proposed center must be credentialed and on staff in good standing with an accredited acute care facility within the corporate limits of the City of Elk City;
- f. The applicant has obtained a license from the State Commissioner of Health as required under Title 63 of the Oklahoma Statutes.

8. Should an objection be filed by any interested party or governmental entity to the granting of said permit, the City Clerk shall schedule the application for hearing before an administrative law judge appointed by the City Council within one hundred twenty (120) days after publication of the paid notice. A permit shall be effective for thirty six (36) months from the date of issue, during which time an application shall start construction or conversion work on the ambulatory surgical care facility. If construction or conversion work is not started within the time required by this section, the permit shall be null and void. Should construction or conversion work be completed within the thirty-six-month period as provided, then the permit shall remain valid so long as the center is in compliance with the state regulatory requirements and the requirements as set forth in this article.

9. Any person or governmental entity aggrieved by a decision of the administrative law judge shall appeal by filing an action in the district court within thirty (30) days from the issuance of the decision by the administrative law judge.

10. Upon the completed filing of all documents required herein, providing that no protests are filed during the protest period the City Staff shall issue the permit administratively. The issuance of such permit will be subject to all other zoning, building, and code requirements being met.

11. The City Staff may establish standards for review and approval of detailed building plans and specifications that are in addition to the requirements for a permit under this section.

#### IMAGING AND ENDOSCOPY FACILITIES.

1. No new Imaging or Endoscopy Facility shall be developed, either through construction or conversion of existing space, in the City unless a permit therefore has been issued by the City Clerk. The City Commission shall reconsider the merit of Section 4-23 not later than 30 days before July 18, 2012.

2. "Imaging facility" means an establishment licensed by the State with permanent facilities that are equipped and operated primarily for the purpose of performing the following procedures: i) Diagnostic – radiography, ii) Fluoroscopy, iii) Screening and diagnostic mammography iv) Diagnostic ultrasound procedures, v) Computerized axial tomography, vi) Magnetic resonance imaging, vii) Positron emission tomography, viii) Bone densitometry, ix) Diagnostic and therapeutic nuclear medicine including, but limited to, nuclear cardiology, x) Interventional radiology procedures, xi) Angiography, xii) other related imaging procedures, with continuous physician services available on call, and registered professional nurse services on site, whenever a patient is in the facility.

3. "Endoscopy Facility" means an establishment licensed by the state with permanent facilities that are equipped and operated primarily for the purpose of performing out-patient endoscopy, gastroscopy and colonoscopy, with continuous physician services available on call, and registered professional nurse services on site, whenever a patient is in the facility.

4. Before developing a facility for use as a newly Imaging or Endoscopy Facility, the person proposing to operate the Imaging or Endoscopy Facility shall file a completed application with the City Clerk for a permit for the facility in addition to any other required approvals. The application for a permit shall be in such form as the City Staff shall prescribe and shall provide an impact study including a demonstration of the facility's probable impact on the existing services in the City. All necessary studies shall be provided by the applicant.

5. The application for a permit shall be accompanied by a filing fee equal to one (1) percent of the capital cost of the proposed facility, with a minimum fee of one thousand dollars (\$1,000.00) and a maximum fee chargeable hereunder of fifteen thousand dollars (\$15,000.00). It is intended that the fee charged herein shall be used to cover the costs of the application evaluation. Any excess of fees collected over costs incurred over one thousand dollars (\$1,000.00) but less than fifteen thousand dollars (\$15,000.00) shall be refunded to the applicant.

6. Within thirty (30) days after receiving a completed application for a permit, the City Clerk shall cause a paid public notice to be published in a newspaper of general circulation in the area where the facility is to be located and in a newspaper of general circulation in the area where the application is available for inspection. The notice shall include the name and proposed location of the facility, a brief description of the proposal relating to the facility, information on where the original application can be viewed, and an explanation of how parties may file materials to be considered along with the application.

7. Any person may submit written evidence and argument regarding the proposed Imaging or Endoscopy Facility to the City Clerk to be reviewed by City Staff. Written materials shall be submitted to the City Clerk within thirty (30) days after publication of the paid notice.



The applicant shall have forty-five (45) days after publication of the paid notice to respond in writing to materials timely filed by other persons.

8. No permit to establish an Imaging or Endoscopy Facility shall be issued by the City Clerk unless, after reviewing the application and timely filed written materials and responses, the City Staff makes the following findings:

- a. The proposed Imaging or Endoscopy Facility will fulfill a demonstrated need in the community for the facility and its development is in the best interest of the health and welfare of the community;
- b. The proposed Imaging or Endoscopy Facility will serve and be in the interest of the health and welfare of the community;
- c. The proposed Imaging or Endoscopy Facility can be adequately served by the City's existing utility systems and/or infrastructure;
- d. The applicant must obtain and hold in good standing during its operation a transfer agreement with an accredited acute care facility within the corporate limits of the City of Elk City;
- e. Doctors practicing at the proposed center must be credentialed and on staff in good standing with an accredited acute care facility within the corporate limits of the City of Elk City;
- f. The applicant has obtained a license from the State Commissioner of Health as required under the Oklahoma Statutes.

9. Should an objection be filed by any interested party or governmental entity to the granting of said permit, the City Clerk shall schedule the application for hearing before an administrative law judge appointed by the City Council within one hundred twenty (120) days after publication of the paid notice. A permit shall be effective for thirty six (36) months from the date of issue, during which time an application shall start construction or conversion work on the Imaging or Endoscopy Facility. If construction or conversion work is not started within the time required by this section, the permit shall be null and void. Should construction or conversion work be completed within the thirty-six-month period as provided, then the permit shall remain valid so long as the center is in compliance with the state regulatory requirements and the requirements as set forth in this article.

10. Any person or governmental entity aggrieved by a decision of the administrative law judge shall appeal by filing an action in the district court within thirty (30) days from the issuance of the decision by the administrative law judge.

11. Upon the completed filing of all documents required herein, providing that no protests are filed during the protest period the City Staff shall issue the permit administratively.

The issuance of such permit will be subject to all other zoning, building, and code requirements being met.

12. The City Staff may establish standards for review and approval of detailed building plans and specifications that are in addition to the requirements for a permit under this section.

**Sections 4-24. (Reserved for future use.)**

**Article 3. Flood Damage Prevention**

**Section 4-25. Statutory Authorization and Findings of Fact.**

The Legislature of the State of Oklahoma has in O.S. 82 §1601-1619 Chapter 23 delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the City Commission of Elk City, Oklahoma, does ordain as follows:

1. The flood hazard areas of the City of Elk City are subject to periodic inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.

2. These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazards areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, flood proofed or otherwise protected from flood damage.

**Section 4-26. Statement of Purpose.**

It is the purpose of this ordinance to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

1. Protect human life and health;
2. Minimize expenditure of public money for costly flood control projects;
3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. Minimize prolonged business interruptions;

5. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
6. Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and
7. Insure that potential buyers are notified that property is in a flood area.

#### **Section 4-27. Methods of Reducing Flood Losses.**

In order to accomplish its purposes, this ordinance uses the following methods:

1. Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;
2. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
3. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;
4. Control filling, grading, dredging and other development which may increase flood damage;
5. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

#### **Section 4-28. Definitions.**

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted to give them the meaning they have in common usage and to give this ordinance it's most reasonable application.

**Alluvial Fan Flooding** - means flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.

**Apex** - means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

**Area of Shallow Flooding** - means a designated AO, AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a one percent chance or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist,

where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**Area of Special Flood Hazard** - is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Hazard Boundary Map (FHBM). After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AE, AH, AO, A1-99, VO, V1-30, VE or V.

**Base Flood** - means the flood having a one percent chance of being equaled or exceeded in any given year.

**Basement** - means any area of the building having its floor sub-grade (below ground level) on all sides.

**Critical Feature** - means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

**Development** - means any man-made change in improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

**Elevated Building** - means a non-basement building (i) built, in the case of a building in Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, to have the top of the elevated floor, or in the case of a building in Zones V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the floor of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zones V1-30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building," even though the lower area is enclosed by means of breakaway walls if the breakaway walls met the standards of Section 60.3(e)(5) of the National Flood Insurance Program regulations.

**Existing Construction** - means for the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."

**Existing Manufactured Home Park or Subdivision** - means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed

before the effective date of the floodplain management regulations adopted by a community.

**Expansion to an Existing Manufactured Home Park or Subdivision** - means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**Flood or Flooding** - means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (i.) The overflow of inland or tidal waters.
- (ii.) The unusual and rapid accumulation or runoff of surface waters from any source.

**Flood Insurance Rate Map (FIRM)** - means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

**Flood Insurance Study** - is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, water surface elevation of the base flood, as well as the Flood Boundary-Floodway Map.

**Floodplain or Flood-Prone Area** - means any land area susceptible to being inundated by water from any source (see definition of flooding).

**Floodplain Management** - means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

**Floodplain Management Regulations** - means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

**Flood Protection System** - means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the areas within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

**Flood Proofing** - means any combination of structural and non-structural additions,

changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

**Floodway (Regulatory Floodway)** - means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

**Functionally Dependent Use** - means a use, which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

**Highest Adjacent Grade** - means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**Historic Structure** - means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
4. Individually listed on a local inventory or historic places in communities with historic preservation programs that have been certified either:
  - a) By an approved state program as determined by the Secretary of the Interior or;
  - b) Directly by the Secretary of the Interior in states without approved programs.

**Levee** - means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow

of water so as to provide protection from temporary flooding.

**Levee System** - means a flood protection system, which consists of a levee, or levees, and associated structures, such as closure, and drainage devices, which are constructed and operated in accordance with sound engineering practices.

**Lowest Floor** - means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking or vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood Insurance Program regulations.

**Manufactured Home** - means a structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

**Manufactured Home Park or Subdivision** - means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**Mean Sea Level** - means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

**New Construction** - means, for the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

**New Manufactured Home Park or Subdivision** - means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

**Recreational Vehicle** - means a vehicle which is:

1. Built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projections;
3. Designed to be self-propelled or permanently towable by a light duty truck; and
4. Designed primarily not for use as a permanent dwelling but as temporary living

quarters for recreational, camping, travel, or seasonal use

**Start of Construction** - (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**Structure** - means a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

**Substantial Damage** - means damage of any origin sustained by a structure whereby the cost of restoring the structure to it before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**Substantial Improvement** - means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This includes structures, which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary conditions or
2. Any alteration of a "historic structure" provided that the alteration would not preclude the structure's continued designation as a "historic structure."

**Variance** - is a grant of relief to a person from the requirement of this ordinance when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this ordinance. (For full requirements see Section 60.6 of the National Flood Insurance Program regulations.)

**Violation** - means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development



without the elevation certificate, other certifications, or other evidence of compliance required in Section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

**Water Surface Elevation** - means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

**Section 4-29. Lands to which this Ordinance Applies.**

The ordinance shall apply to all areas of special flood hazard with the jurisdiction of Elk City, Oklahoma.

**Section 4-30. Basis for Establishing the Areas of Special Flood Hazard.**

The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, "The Flood Insurance Study for the City of Elk City", dated December 16, 2003, with accompanying Flood Insurance Rate Maps (FIRM) are hereby adopted by reference and declared to be a part of this ordinance.

**Section 4-31. Establishment of Development Permit.**

A Development Permit shall be required to ensure conformance with the provisions of this ordinance.

**Section 4-32. Compliance.**

No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this ordinance and other applicable regulations.

**Section 4-33. Abrogation and Greater Restrictions.**

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

**Section 4-34. Interpretation.**

In the interpretation and application of this ordinance, all provisions shall be; (1) considered

as minimum requirements; (2) liberally construed in favor of the governing body; and (3) deemed neither to limit nor repeal any other powers granted under State Statutes.

#### **Section 4-35. Warning and Disclaimer or Liability.**

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

#### **Section 4-36. Designation of the Flood Plain Administrator**

The City Manager is hereby appointed the Floodplain Administrator to administer and implement the provisions of this ordinance and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management.

#### **Section 4-37. Duties and Responsibilities of the Flood Plain Administrator.**

Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:

1. Maintain and hold open for public inspection all records pertaining to the provisions of this ordinance.
2. Review permit application to determine whether proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.
3. Review, approve or deny all applications for development permits required by adoption of this ordinance.
4. Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval are required.
5. Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation.

6. Notify, in riverine situations, adjacent communities and the State Coordinating Agency, which is the Oklahoma Water Resources Board, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
  7. Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
  8. When base flood elevation data has not been provided in accordance with Section 4-30, the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a Federal, State or other source, in order to administer the provisions of Section 4.
  9. When a regulatory floodway has not been designated, the Floodplain Administrator must require that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.
  10. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in Zones A1-30, AE, AH, on the community's FIRM which increases the surface elevation of the base flood by more than one foot, provided that the community first applies for a conditional FIRM revision through FEMA (Conditional Letter of Map Revision).
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#### **Section 4-38. Permit Procedures.**

1. Application for a Development Permit shall be presented to the Floodplain Administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:

- a. Elevation (in relation to mean sea level) of the lowest floor (including basement) of all new and substantially improved structures.
- b. Elevation (in relation to mean sea level) to which any nonresidential structure shall be flood proofed;
- c. A certificate from a registered professional engineer or architect that the nonresidential flood proofed structure shall meet the flood proofing

criteria of Section 4-41 (2);

- d. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.
- e. Maintain a record of all such information in accordance with Section 4-37 (1).

2. Approval or denial of a Development Permit by the Floodplain Administrator shall be based on all of the provisions of this ordinance and the following relevant factors:

- a. The danger to life and property due to flooding or erosion damage;
- b. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- c. The danger that materials may be swept onto other lands to the injury of others;
- d. The compatibility of the proposed use with existing and anticipated development;
- e. The safety of access to the property in times of flood for ordinary and emergency vehicles;
- f. The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
- g. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
- h. The necessity to the facility of a waterfront location, where applicable;
- i. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
- j. The relationship of the proposed use to the comprehensive plan for that area.

#### **Section 4-39. Variance Procedures.**

- 1. The appeal Board as established by the community shall hear and render

judgment on requests for variances from the requirements of this ordinance.

2. The Appeal Board shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this ordinance.

3. Any person or persons aggrieved by the decision of the Appeal Board may appeal such decision in the courts of competent jurisdiction.

4. The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.

5. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this ordinance.

6. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in Section 4-38 (a) of this Article have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

7. Upon consideration of the factors noted above and the intent of this ordinance, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this ordinance (Section 4-26).

8. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

9. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

10. Prerequisites for granting variances:

- a. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- b. Variances shall only be issued upon: (i) showing a good and sufficient cause; (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) and a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

- c. Any application to which a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

11. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that: (i) the criteria outlined in Section 4-39 are met, and (ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

#### **Section 4-40. General Standards for Flood Hazard Reduction**

In all areas of special flood hazards the following provisions are required for all new construction and substantial improvements:

1. All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
2. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
3. All new construction or substantial improvements shall be constructed with materials resistant to flood damage;
4. All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
5. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
6. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and,
7. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

## **Section 4-41. Specific Standards.**

In all areas of special flood hazards where base flood elevation data has been provided as set forth in (i) Section 4-30, (ii) Section 4-37, or (iii) Section 4-42, sub. 4, the following provisions are required:

**1. Residential Construction** - new construction and substantial improvement of any residential structure shall have the lowest floor (including basement), elevated two (2) feet above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the Floodplain Administrator that the standard of this subsection as proposed in Section 4-38 (1) 1, is satisfied.

**2. Nonresidential Construction** - new construction and substantial improvements of any commercial, industrial or other nonresidential structure shall have the lowest floor (including basement) elevated two (2) feet above the base flood level.

**3. Enclosures** - new construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

- a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
- b. The bottom of all openings shall be no higher than one foot above grade.
- c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

**4. Manufactured Homes -**

- a. Require that all manufactured homes to be placed within Zone A on the Elk City FIRM shall be installed using methods and practices, which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.
- b. Require that manufactured homes that are placed or substantially

improved within Zones A1-30, AH, and AE on the community's FIRM on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated two feet (2) above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

- c. Require that manufactured homes be placed or substantially improved on sites in an existing manufactured home park or subdivision with Zones A1-30, AH and AE on the community's FIRM that are not subject to the provisions of paragraph (4) of this section be elevated so that the lowest floor of the manufactured home is two (2) feet above the base flood elevation, is supported by reinforced piers or other foundation elements of at least equivalent strength and is securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

**4. Recreational Vehicles** - Require that recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM either:

- a. Be on the site for fewer than 180 consecutive days,
- b. Be fully licensed and ready for highway use, or
- c. Meet the permit requirements of Section 4-38 (a), and the elevation and anchoring requirements for "manufactured homes" in paragraph (4) of this section. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

**Section 4-42. Standards for Subdivision Proposals.**

1. All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with Sections 4-25, 4-26, and 4-27 of this ordinance.

2. All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet Development Permit requirements of Section 4-31 ; Section 4-38; and the provisions of Section 4-40 of this ordinance.

3. Base flood elevation data shall be generated for subdivision proposals and other



proposed development including the placement of manufactured home parks and subdivisions which is greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided pursuant to Section 4-30 or Section 4-37 (8) of this ordinance.

4. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.

5. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

#### **Section 4-43. Flood-Prone Areas.**

Located within the areas of special flood hazard established in Section 4-30, are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of 1 to 3 feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity flows may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

1. All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified).
2. All new construction and substantial improvements of non-residential structures together with attendant utility facilities have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet above if no depth number is specified).
3. A registered professional engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Section, as proposed in Section 4-38 (1) a., are satisfied.
4. Require within Zones AH or AO adequate drainage paths around structures on slopes, to guide floodwaters around and away from proposed structures.

#### **Section 4-44. Floodways.**

Floodways - located within areas of special flood hazard established in Section 4-30, are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles and erosion potential, the

following provisions shall apply:

1. Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway *unless* it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
2. If Section 4-44 (1) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 4-40.
3. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community first applies for a conditional FIRM and floodway revision through FEMA.

#### **Section 4-45. Penalties for Noncompliance.**

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violation of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$ 200.00 or imprisoned for not more than 30 days, or both, for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the City of Elk City from taking such other lawful action as is necessary to prevent or remedy any violation.

### **Article 4. Miscellaneous Provisions**

#### **Section 4-46. House Numbering System.**

1. All buildings and houses in the City of Elk City, Oklahoma, shall be numbered. The City Manager or his designated agent shall be responsible for designating the proper numbers for houses and buildings.
2. The numbering of houses or commercial establishments on the North-South Streets will be divided by Broadway Avenue, with any street leading South of Broadway Avenue to begin

the 100 Block South and any street leading North of Broadway Avenue to begin the 100 Block North. On the North-South Streets, the even numbers will be on the East side of any given street and the odd numbering on the West side.

3. The numbering of houses or commercial establishments on the East-West Streets will be divided by Main Street, with any street leading East of Main Street to begin the 100 Block East and any street leading West of Main Street to begin the 100 Block West. On the East-West Streets, the even numbers will be on the South side of any given street and the odd numbering on the North side.

4. There shall be one hundred (100) numbers applicable to each block, commencing with "one" (1) on the odd side and "zero" (0) in the even side of the street.

5. Each twenty-five (25) feet of frontage on each block shall be entitled to a separate number.

6. The 1st block from the base line in either direction shall be given numbers from one hundred (100) to two hundred (200), and the 2nd block shall be given numbers from one hundred (200) to three hundred (300) and so on in consecutive order by one hundred's (100's) to each block in succession.

7. The affix "one-half" (1/2) shall be added to the last preceding number in designating stairways or garage apartments.

8. It shall be the duty of the owner of any house or building in the City of Elk City, Oklahoma to have such house or building numbered in accordance with this Section.

9. In situations where the plat or pattern of the area does not fit this numbering system, the Planning Board shall study the area and recommend to the Commission, for adoption, a numbering system to be filed on the final plat with the intent of maintaining an orderly numbering system within the City of Elk City, Oklahoma.

#### **Section 4-47. Fire Limits.**

1. The fire limits within The City of Elk City, Oklahoma shall be delineated and described on a map of the City of Elk City. The map shall be known as the "Fire Limits" map of the City of Elk City, Oklahoma and it shall be kept on file in the Office of the City Clerk.

2. It shall hereafter be unlawful for any person, firm or corporation to build, erect, construct or cause to be built, erected or constructed, or placed or moved within the territory described on the "Fire Limits Map" of the City of Elk City, Oklahoma, any building or addition thereto, unless the walls of such building or addition shall be built or constructed of stone, brick or other noncombustible material; it shall be also be unlawful to rebuild any building which has been more than fifty percent (50%) destroyed by fire, except as herein stated.

**Section 4-48. Movement of Frame Buildings.**

No frame building shall be moved from without to within the corporate limits of the City of Elk City, Oklahoma, which by reason of its age, state of repair, condition of wiring or which, for any other reason, is unfit for human habitation or which might endanger the public peace, safety, health or welfare.

**Section 4-49. Plumbing License Required.**

1. Any persons, firms, partnerships, corporations or other legal entities desiring to engage in the business of plumbing in the City of Elk City, Oklahoma, shall obtain a license from the City Clerk.

2. The fee of said license shall be as follows:

a. Annual Fee - Contractor- \$150.00

3. No license shall be issued for longer than one (1) year and all permits shall expire on June 30 of each year. License fees shall be prorated in the following manner: Applications filed more than six (6) months prior to the last day of June of any year shall pay the permit fee in full; applications filed less than six (6) months prior to the last day of June of any year shall pay one-half (1/2) of the fee prescribed herein. No license shall be returned or transferred from person to person or place to place. Licenses shall be signed by the City Clerk and the Clerk shall affix the corporate seal of the City thereto.

4. No municipal license shall be granted or renewed until and unless the applicant has received a valid license from the State of Oklahoma Board of Health for the same period of time as to be licensed by the City of Elk City, Oklahoma.

5. No person shall do any gas fitting, extensions, connection of fixtures or repairs to any gas fitting except a licensed plumber, as provided in this Code of Ordinances.

**Section 4-50. Plumbing Bond.**

1. In addition to the above license fee, and before said license is issued, the applicant shall file with the City Clerk a performance bond in the sum of five thousand dollars (\$5,000.00).

2. The conditions of said bond are that the principal in such bond will save the City of Elk City, Oklahoma, harmless from all damage to all persons or property resulting from, or in any way growing out of, any opening or excavation made by himself, his agents, servants or employees in any alley, street, public highway, sidewalk or curb; and further, that the principal shall pay any

and all loss and damage occasioned by himself, his agent, servant or employee, and that he will comply with all ordinances of the city.

3. All such licenses issued shall be valid only while the aforesaid bond is in effect.

#### **Section 4-51. Electrical License Required.**

1. All persons, firms, partnerships, corporations or other legal entities desiring to engage in the business of installing electrical fixtures, wiring or apparatus in or on any building within the corporate limits of the City of Elk City, Oklahoma, shall obtain a license from the City Clerk.

2. The fee for said license shall be as follows:

- a. Annual Fee - Contractor - \$150.00

3. No license shall be issued for longer than one (1) year and all permits shall expire on June 30 of each year. License fees shall be prorated in the following manner: Applications filed more than six (6) months prior to the last day of June of any year shall pay the license fee in full; applications filed less than six (6) months prior to the last day of June of any year shall pay one-half (1/2) of the fee prescribed herein. No license shall be returned or transferred from person to person or place to place. Licenses shall be signed by the City Clerk and the Clerk shall affix the corporate seal of the City thereto.

4. No municipal license shall be granted or renewed until and unless the applicant has received a valid license from the State of Oklahoma Board of Health for the same period of time as to be licensed by the City of Elk City, Oklahoma.

#### **Section 4-52. Electrical Contractor's Bond.**

1. Every person receiving a license as any electrical contractor shall file with the City Clerk a performance bond in the sum of five thousand dollars (\$5,000.00), executed with a surety company authorized to do business in the State of Oklahoma; and conditioned that the principal will install all electrical wiring, fixtures, appliances and equipment in accordance with State Law and other provisions of this Code of Ordinances; that the principal shall, without further cost to the person for whom the work was done, remedy and defective or faulty work caused by poor workmanship or inferior (or non-standard) material; and that the City of Elk City, Oklahoma, will be fully indemnified and held harmless from any and all costs, expenses or damages resulting from the performance of his work as an electrical contractor.

2. No license shall be issued to any such person until the said bond shall have been filed.

3. All such licenses issued shall be valid only while the aforesaid bond is in effect.

**Section 4-53. Officers and Employees not Liable.**

1. Any officer or employee of the City of Elk City, Oklahoma, charged with the enforcement of this Chapter and acting in good faith and without malice, for the City of Elk City, Oklahoma, in the discharge of his duties, shall not thereby render himself liable personally and he is hereby relieved from all personal liability for any damages that may accrue to persons or property as a result of any act or omission required or permitted in the discharge of such duties.

2. Any suit brought against any officer or employee because of such act or omission performed by him in the enforcement of any provisions of such Codes may be defended by the City Attorney until the final termination of the proceedings.

**Section 4-54. Mechanical License Required.**

1. All persons, firms, partnerships, corporations or other legal entities desiring to engage in the business of installing mechanical fixtures (heat and air), in or on any building within the corporate limits of the City of Elk City, Oklahoma, shall obtain a license from the City Clerk.

2. The fee for said license shall be as follows:

- a. Annual Fee - Contractor - \$150.00

3. No license shall be issued for more than one (1) year and all licenses shall expire on June 30 of each year. License fees shall be prorated in the following manner: Applications filed more than six (6) months prior to the last day of June on any year shall pay the license fee in full; applications filed less than six (6) months prior to the last day of June of any year shall pay one-half (1/2) of the fee prescribed herein. No license shall be returned or transferred from person to person or place to place. Licenses shall be signed by the City Clerk and the Clerk shall affix the corporate seal of the City thereto.

4. No municipal license shall be granted or renewed until and unless the applicant has received a valid license from the State of Oklahoma Board of Health for the same period of time as to be licensed by the City of Elk City, Oklahoma.

**Section 4-55. Mechanical Contractor's Bond.**

1. Every person receiving a license as a mechanical contractor shall file with the City Clerk a bond in the sum of five thousand dollars (\$5,000.00), executed with a surety company authorized to do business in the State of Oklahoma; and conditioned that the principal will install all mechanical fixtures in accordance with State Law and other provisions of this Code of Ordinances;

that the principal shall, without further cost to the person for whom the work was done, remedy any defective or faulty work caused by poor workmanship or inferior (or non-standard) material; and that the City of Elk City, Oklahoma, will be fully indemnified and held harmless from any and all costs, expenses or damages resulting from the performances or his work as a mechanical contractor.

2. No license shall be issued to any such person until the said bond shall have been filed.

3. All such licenses issued shall be valid only while the aforesaid bond is in effect.

**Section 4-56. The Board of Building Code Appeals; Creation.**

1. Membership. The Board of Building Code Appeals shall consist of nine (9) members appointed by the Mayor and confirmed by the City Commission and one (1) ex-officio member designated by the administrative authority who shall serve as secretary to the Board.

2. Compensation. Appointed members shall serve without compensation.

3. Qualifications. The members of the Board shall be persons who are citizens of the City of Elk City with the qualification of an elector. Each member shall have had ten (10) years or more experience in his field unless otherwise provided below and shall be familiar with the adopted Building Codes of the City.

4. Composition. The Board shall consist of the following:

- a. One member who is a licensed electrical contractor in the City of Elk City;
- b. One member who is a licensed mechanical contractor in the City of Elk City;
- c. One member who is a licensed plumbing contractor in the City of Elk City;
- d. One member who is an employee of Public Service Company or Oklahoma Natural Gas Company;
- e. One member who is a licensed professional architect or engineer;
- f. One member who is a general commercial contractor;
- g. One member with fire protection experience or training;
- h. One member who is a residential home owner of the City of Elk City for at least two (2) years immediately preceding such appointment;
- i. One representative of the property/casualty insurance;
- j. Ex-officio member designated by the City Manager.

5. Composition of the Board will vary according to the availability of qualified personnel and the need to keep the size of the Board commensurate with the size and complexity of the jurisdiction. To the extent that is feasible, appointments to membership on the Board shall be selected from the above categories so that the Board will not be dominated by a single or by collusive interests.

6. Tenure of Board members. The tenure of the Board members shall be as follows:

- a. The ex-officio member shall be designated by the City Manager to act as the secretary to the Board and shall serve until relieved by the administrative authority. The ex-officio member has no vote in any proceeding or matter before the Board.
- b. Original appointments to the Board, after the effective date of this code, shall be:
  1. Members from the electrical contractor, the employee of Public Service Company or Oklahoma Natural Gas and the member with fire protection experience or training shall serve for a period of three (3) years.
  2. Members from the mechanical contractor, the licensed professional architect or engineer and the residential homeowner shall serve for a period of two (2) years.
  3. Members from the licensed plumbing contractor, the general commercial contractor, and the representative of the property/casualty insurance industry shall serve for a period of one (1) year.
- c. Upon expiration of the original appointments, appointments shall be made for two (2) year terms or until a successor is appointed. In the event of a vacancy during a term, the appointing authority may appoint a replacement to fulfill the unexpired portion of the term.
- d. Members shall serve at the pleasure of the Mayor and City Commission and may be removed for cause at anytime by the Mayor and City Commission.

7. Rules.

- a. The Board shall adopt reasonable rules that establish procedures for carrying out its official duties in addition to any rules provided for in this code.



- b. The Mayor shall appoint one (1) of their number, as chairman and members of the Board of Building Code Appeals shall elect one (1) member to serve as vice-chairman.
- c. There shall be at least five (5) members present at meeting in order to form a quorum for holding an official meeting. And a majority of the members present shall be required to affirm, modify, or reverse the decision of the Code official or to decide in favor of an appellant of any matter, which it may pass upon.
- d. A member shall disqualify himself and shall not hear an appeal in which that member has any personal, professional or financial interest on any matter on appeal.
- e. The procedures established by the Board shall not require compliance with strict rules of evidence but shall mandate that only relevant information is received.
- f. The decision of the Board shall be formalized in a resolution executed by the Chairman and the Code official. Copies shall be furnished to the appellant.

8. Meetings.

- a. All meetings before the Board shall be open to the public at a reasonable time and place.
- b. All notices of the hearing or meeting of the Board shall be in strict compliance with the State Statutes relating to public meetings.
- c. The Board shall meet upon notice from the Chairman within ten (10) working days from the filing of an appeal, or stated at periodic meetings, or as called by the Chairman.

9. The Board of Building Code Appeals shall have the following duties:

- a. The Board of Building Code Appeals shall hear appeals of any person from the decision of the City Building Inspector refusing to grant a modification to the provisions of the building code in question concerning the manner of construction or material to be used in the erection, alteration or repair of a building or structure. An application for appeal shall be based on a claim that the true intent of the building codes or the rules legally adopted hereunder have been incorrectly interpreted, the provisions of the code do not fully apply, or that an equivalent form of construction can be used. The term "building code" shall include the codes adopted by the City of Elk City,

Oklahoma set forth in Section 4-1 of the Code of Ordinances of the City of Elk City, Oklahoma. The application for appeal shall be filed with the City Clerk on a form provided by the City Building Inspector, and shall be filed within twenty (20) calendar days after receipt of the written notice of denial of the City Building Inspector.

- b. The Board of Building Code Appeals shall hear persons aggrieved by the City Building Inspector relating to registration certificates of apprentices, journeyman, or contractors. The Board of Building Code Appeals shall have the power to revoke any registration certificate of any apprentice, journeyman or contractor if such person shows incompetence or lack of knowledge in matters relevant to such certificate wherein the certificate was obtained by fraud or if the license issued to that person by the Oklahoma State Department of Health is revoked.
- c. The Board of Building Code Appeals shall, at a minimum of once a year, review the building codes and procedure and provide recommendations to the City Building Inspector for review and action.
- d. The Board of Building Code Appeals shall consist of not less than five (5) citizens of Elk City, appointed by the Mayor, subject to approval and confirmation by the City Commission, to serve at will of the City Commission.

10. Any person aggrieved by the decision of the Board of Building Code Appeals shall have the right to appeal to the City Commission. Any appeal to the City Commission shall be made within thirty (30) days of the decision of the Board and filed with the City Clerk. The application of an appeal to the City Commission shall state relevant information on how the Board incorrectly acted or erred.

11. The fee for appeals shall be provided in the fee schedule of this code.

**Sections 4-56 through 4-59. (Reserved for future use.)**

**Article 5. Penalty**

**Section 4-60. Penalty.**

Any person, firm or corporation who shall violate any provision of this Chapter shall be guilty of any offense and, upon conviction thereof, shall be punished by fine and costs as provided for in Section 1-40 of this Code, unless a separate and distinct penalty is otherwise specifically set forth in this Chapter. Each day's continuation of any such violation shall constitute a separate offense.

## CHAPTER 5

### BUSINESS AND OCCUPATIONS

Article 1. Itinerant Occupations.

Article 2. Fair Housing.

Article 3. Miscellaneous Provisions.

Article 4. Penalty.

#### **Article 1. Itinerant Occupations**

##### **Section 5-1. "Itinerant Occupations" Defined.**

"Itinerant occupations, trades, businesses or solicitations" shall mean those occupations, trades, businesses and solicitations having no permanent warehouse, building, structure, residence or place of business within the City of Elk City, Oklahoma, at which a permanent business is carried on throughout the year or usual production season in good faith (and not for the purpose of evading the provisions of this chapter), and shall include occupations, trades, business and solicitations housed in temporary stands or quarters (including permanent quarters occupied pursuant to any temporary arrangement), or carried on by means of house-to-house solicitation or upon the streets and sidewalks of the City of Elk City, Oklahoma; provided however, that no occupation, trade, or business engaged in by a charitable, educational or religious organization, association or club, having a membership duly enrolled in accordance with the rules, regulations, and by-laws of said organization, association or club and by the majority of said members being residents of the City of Elk City, Oklahoma, shall be considered an "itinerant occupation, trade, business or solicitation".

##### **Section 5-2. Itinerant Occupation Licenses; Fees.**

1. It shall be an offense for any person to engage in any kind of itinerant occupation in the City of Elk City without first having obtained a permit from the Oklahoma Tax Commission, which shall be presented at the time of application for a city license, and having obtained an Itinerant Occupation License from the Office of the City Clerk.

2. There is hereby levied an itinerant occupation tax in the amount of one hundred dollars (\$100.00) per person, per day, against persons, firms, associations and corporations, engaged in itinerant occupations, trades, businesses or solicitations within the City of Elk City, Oklahoma.

##### **Section 5-3. Itinerant Occupation License Provisions.**

1. Every person, firm, association or corporation who engages in an occupation or business for which an Itinerant Occupation License is required, shall pay the fee and secure a separate license for each business or occupation.

2. Every holder of a license to engage in, exercise or pursue a business, profession, trade, occupation or privilege, shall carry the license and shall display it in an open and conspicuous site for the general public to see from the road and to any person who requests to see it.

3. Assignment or transfer of licenses shall not be permitted.

4. Whenever an Itinerant Occupation License has been lost or destroyed without any wrongful act or connivance by the holder, the City Clerk, on application, may issue a duplicate license for the unexpired time. Before the duplicate is issued, the holder shall make and file with said City Clerk an affidavit that the license has not been transferred, that it has been lost or destroyed without any wrongful act or connivance by the holder, and that, if believed lost, he has made diligent search for it and has not been able to find it. The fee for every duplicate license issued, payable to said City Clerk, shall be ten dollars (\$10.00).

5. An Itinerant Occupation License issued to any person, firm, association or corporation may be temporarily suspended by the City Manager or appropriate designated official, prohibiting the continuance of any business allowed by the license, for any one (1) of the following reasons: (1) that the licensee is engaging in, exercising or pursuing the business or occupation in such a manner that he has created or is creating a public nuisance; or (2) serious or repeated violation of the law or ordinances. Any Itinerant Occupation licensee that has been suspended will be afforded an adequate opportunity for a hearing before the City Commission.

6. The City Commission shall receive the complaint, investigate its allegations and set a date for a hearing to be held on the complaint; said hearing shall be held within thirty (30) days of the date of receipt of the complaint.

At least ten (10) days prior to the hearing, the licensee shall be notified, in writing, of the time and place of such hearing.

The City Commission shall take, and may allow, such actions at the hearing, as may be necessary to ensure that all parties are afforded the opportunity to fairly present their cases.

If the City Commission, by majority vote at the conclusion of the hearing, finds that the licensee has not violated one (1) of the above reasons, the licensee may use the unexpired time on the issued license.

If the City Commission, by majority vote at said hearing, finds that the licensee has violated one (1) of the above reasons, the issued license shall be revoked and no part of the fee for the Itinerant Occupation License shall be refunded.

7. No person, firm, association or corporation to whom an Itinerant Occupation

License has been issued, shall conduct, exercise or pursue the business or occupation for which such issued, between the hours of 7:00 o'clock p.m. and 7:00 o'clock a.m. on any day.

**Sections 5-4 through 5-9. (Reserved for future use.)**

**Article 2. Fair Housing.**

**Section 5-10. Certain Act Prohibited.**

It shall be unlawful for any person, firm or corporation, or the authorized agents or representatives of said person, firm or corporation to:

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

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

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

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

**Section 5-11. Certain Acts Exempted.**

Nothing herein shall apply to:

1. Prohibit persons from giving preference to prospective buyers or tenants for any reason other than race, color, religion, age or national origin;

2. The sale of a dwelling which is, or was at the time when first offered for sale, the

residence of its owner;

3. The rental of rooms in an owner-occupied residence or in a dwelling used exclusively as a rooming house;

4. The rental or leasing of a housing unit in a building containing not more than eight (8) housing units; or

5. The rental or leasing of a dwelling or housing unit owned by any religious or fraternal organization, or private club used and occupied for such organizational purposes.

**Section 5-12. Fair Housing Board Created.**

(See Chapter 1, Section 1-59, this Code of Ordinances.)

**Section 5-13. Grievance Procedures.**

1. Any person aggrieved by a discriminatory housing practice prohibited by municipal ordinance, may file a written signed complaint with the Fair Housing Board.

2. Said complaint shall state the name and address of the person alleged to have violated the provisions of this Article, or any other municipal ordinance, and set forth the particulars of said violation.

3. The Fair Housing Board shall receive such complaint, investigate its allegations and set a date for a hearing to be held on the complaint; said hearing shall be held within sixty (60) days of the date of receipt of the complaint.

4. At least ten (10) days prior to the hearing, the person named in the complaint shall be notified, in writing, of the time and place of such hearing.

5. The Fair Housing Board shall take, and may allow, such actions at the hearing as may be necessary to ensure that all parties are afforded the opportunity to fairly present their cases.

6. If the Fair Housing Board, by majority vote at the conclusion of the hearing, finds that the person has not engaged in any discriminatory housing practice, it shall state its findings and dismiss the case.

7. If the Fair Housing Board, by majority vote at said hearing, finds that a person has engaged in discriminatory housing practices, it shall state its findings in writing and submit them to the respondent and the City Attorney for consideration. Unless the complaint is withdrawn or the City Attorney finds that there is insufficient information upon which to base a charge, the charge shall be filed in the City of Elk City, Oklahoma, Municipal Court within twenty (20) days of said

hearing.

**Sections 5-14 through 5-19. (Reserved for future use.)**

**Article 3. Miscellaneous Provisions**

**Section 5-20. Sale of Merchandise on Vacant Property.**

It shall be unlawful for any person, firm or corporation to sell, trade or transfer any merchandise of any kind on or in any vacant property, without the consent of the owner or person in control of said property.

**Section 5-21. Shooting Galleries.**

Every shooting gallery constructed, established, set up or operated hereafter within the corporate limits of the City of Elk City, Oklahoma, shall be constructed, established, set up and operated in accordance with the standards, specifications and requirements of Title 63, Oklahoma Statutes, 1981, Sections 701- 708, as amended, and shall comply with all the requirements required by this Code of Ordinances have been secured therefore.

**Section 5-22. Short Weights and Measures Prohibited.**

It shall be unlawful for any person, firm or corporation to sell or offer for sale, any food, fuel, clothing or any other commodity which does not weigh or measure fully as much, according to standard weights or measures of the State of Oklahoma, as the weight or measure for which it is sold or offered for sale.

**Section 5-23. Coin-Operated Amusement Devices, Licenses Required.**

1. The following words and phrases, when used in this Section, have the following meanings:

- a. The term "person" means any individual, partnership, association, or corporation;
- b. "Music devices" means any and all mechanical devices which render, cause to sound or release music where the same may be heard by one or more public patrons and each separate loudspeaker, phonograph, juke box, or outlet from which such music emits shall be construed to be a separate

"music device" as herein defined; except in the case where the music emits-producing mechanism, in which case the several outlets or speakers in each place of business shall be collectively considered one such music device;

- c. "Coin-operated music device" means any such music device which is operated, motivated, released, or played by or upon the payment or insertion of a coin, token or similar object, whether there is one or more boxes or devices in the premises for the reception of such coin, tokens, or similar objects; coin-operated radio or television receiving sets in hotels, motels or tourist cabins for the use and benefit of the guests and visitors of such hotels, motels, or tourist rooms or cabins shall be included in such definitions;
- d. "Coin-operated amusement device" means any and all nongambling mechanical or electronic machines which, upon the payment or insertion of a coin, token, or similar object, provide music, amusement or entertainment, including, but not limited to, such games as pool, phonographs, video television, shooting galleries, pinball, foosball, bowling, shuffle board, or any other amusement device with or without a replay feature which can be legally shipped interstate according to federal law. It shall not mean vending machines used exclusively for the purpose of selling tangible personal property, such as cold drinks, tobacco products, candies, postage stamps, or other merchandise; or services such as pay telephone booths, parking meters, gas and electric meters or other distribution of needful services.

2. Coin-operated music and amusement devices are hereby classified for the purpose of taxation and an annual license tax as hereinafter set out is hereby levied with respect to each such device.

3. Every person who owns and has available to any of the public for operation, or who permits to be operated in or on his place of business, any coin-operated music or amusement device shall pay for such privilege an annual license fee of ten dollars (\$10.00). Said fee shall be levied on each coin-operated music or amusement device, as defined herein, excluding (a) any coin-operated radio or television receiving set in a hotel, motel, or tourist cabin, and (b) any coin-operated music or amusement device that may be operated by penny coins only.

4. Every person subject to the license provisions of this Section shall make application for said license(s) to the City Clerk. Said license(s) shall be issued annually, beginning July 1 of each year. In the event a license is issued for less than one (1) year, the fee shall be based on the current and remaining quarters of said year.

**Section 5-24. Pool, Billiard and Other Recreational Halls.**



1. It shall be unlawful for any owner, manager or operator to employ or permit any minor (as defined by current State Law) to work in a pool, billiard, domino or card hall or parlor; it shall be unlawful for any minor (as defined by current State Law) to work in such a hall or parlor.

2. It shall be unlawful for any person in charge of any hall or parlor mentioned in Subsection 1 (above) to permit any minor (as defined by current State Law) to resort to or loiter in, such a hall or parlor, or to play games therein, unless he is accompanied by a parent or guardian; it shall be unlawful for such person to resort to or loiter in, such a hall or parlor, or to play games therein, unless he is accompanied by a parent or guardian.

3. It shall be unlawful for the owner, manager or operator of a pool, snooker, billiard, domino or card hall or parlor, or bowling alley to permit therein gambling, betting, operation of a lottery, sale, furnishing or drinking of intoxicating liquor, disorderly conduct, loud or disturbing language, noise, loud music, profane language or any other violation of State Laws or this Code of Ordinances.

4. Subsections 1 through 3 (above) shall not, however, apply to establishments created as family entertainment and recreation centers for the use and enjoyment of the entire family (regardless of age). It shall be unlawful for the owner, manager or operator of such a family center to permit the sale, furnishing or drinking of alcoholic beverages of any type.

#### **Section 5-25. Pawnbrokers.**

1. Every pawnbroker shall keep at his place of business a register, in which he shall record an adequate description of all property purchased, taken or received by him, including any number that may be thereon. The following information shall be recorded in the register:

- a. The date when all property is received;
- b. The name of the person leaving the property;
- c. The address of said person;
- d. The amount loaned; and
- e. The time when the loan is to become due.

2. The pawnbroker shall give, without charge to the person leaving or pledging property, a legible ticket containing a true copy of all entries made in the register concerning the property left or pledged.

3. The register herein required to be kept, shall be subject to the inspection at any time by the Chief of Police, any policeman, the County Sheriff, any Deputy Sheriff of the County, the

City Attorney, the District Attorney, or any person authorized in writing to make inspection by the Chief of Police. Upon request, the pawnbroker shall show to such officer or person for inspection, any article or articles purchased, taken or received, unless such article or articles have already been disposed of.

#### **Article 4. Marijuana**

##### **Section 5-27. Retail Marijuana Establishments.**

1. All operators of Retail Marijuana Establishments are required to obtain a Retail Marijuana Establishment permit from the Municipal Clerk. Retail Marijuana Establishments is defined as any retail marijuana establishment licensed by the State of Oklahoma.

2. An applicant for a Retail Marijuana Establishment Permit shall pay a permit fee of \$2,500.00 to the City of Elk City. The fee shall be used to offset municipal expenses covering costs related to licensing, inspection, administration and enforcement of retail marijuana establishments.

3. A Retail Marijuana Establishment Permit will not be granted to any applicants where the proposed location is on or adjacent to Old Route 66 or Main Street ending at the municipal boundary of Elk City, Oklahoma.

4. A Retail Marijuana Establishment Permit will not be granted to any applicants where the proposed location would be located within one thousand three hundred twenty (1,320') feet of any of the following uses:

- a. private or public preschool, elementary, secondary, vocational or trade school, college or university;
- b. any library or museum;
- c. any public playground;
- d. any child care center;
- e. any place of worship or religious assembly;
- f. any public park, pool, or recreation facility;
- g. any juvenile or adult halfway house, correctional facility or substance abuse
- h. rehabilitation or treatment center;
- i. any residentially zoned district; or
- j. within one-thousand three hundred twenty (1,320') feet of another medical marijuana or retail marijuana store.

5. For the distance requirements outlined in this ordinance, the distances described shall be computed by direct measurement in a straight line from the nearest property line of the parcel of land on which the use described in paragraph 3 is located to the nearest property line of the building or unit in which the proposed retail marijuana establishment would be located.

6. Buildings where marijuana is stored or dispensed must be equipped with ventilation/air filtration systems so that no odors are detectable off premises.

7. Any violations of this section will result in the revocation of the Retail Marijuana Establishments permit.

8. It is the intent of the City of Elk City, Oklahoma that nothing in the Retail Marijuana Establishment Ordinance be construed to: 1) allow persons to engage in conduct that endangers or causes a public nuisance; 2) allow the use of marijuana for non-medical purposes; or 3) allow any activity that is otherwise illegal and not permitted by state law.

**Section 5-28. Prohibited.**

1. Commercial Marijuana Growth Facilities are hereby prohibited within the municipal boundaries of Elk City, Oklahoma.

2. Wholesale Marijuana Facilities are hereby prohibited within the municipal boundaries of Elk City, Oklahoma.

3. Marijuana Storage Facilities other than in a retail outlet are hereby prohibited within the municipal boundaries of Elk City, Oklahoma.

4. Marijuana Processing Facilities are hereby prohibited within the municipal boundaries of Elk City, Oklahoma

**Section 5-29. Inspection.**

1. All permits outlined in this ordinance will be subject to inspection by an authorized municipal inspector prior to issuance.

2. The inspection prior to a permit decision will occur at a time scheduled and approved by both the applicant and the municipal inspector.

3. The applicant will be required to be present during the inspection.

**Section 5-30. Marijuana Facilities for Personal Medical Use; Security.**

1. All owners of Marijuana Growing Facilities for Personal Medical Use are required to obtain a permit from the Municipal Clerk.

2. An applicant for a Marijuana Facilities for Personal Medical Use Permit shall pay a permit fee of \$2,500.00 to the City of Elk City.

3. All Marijuana Growing Facilities for Personal Medical Use shall be subject to security provisions as stated herein prior to the granting of a permit. Failing to comply with security provisions as stated herein will result in revocation of the permit.

4. Any access or entry point to residential facilities used for marijuana cultivation for personal medical use must be secured by lock and key or equivalent, at all times except when the residential facility is actively being supervised in person by the permit holder.

5. Growing marijuana for personal medical use shall be limited to the interior of a single private residence.

6. Growing marijuana at a Marijuana Growing Facility shall not be visible from the public right of way or adjacent property.

7. The growing area at a Marijuana Growing Facility, including any lighting, plumbing or electrical components used shall comply with municipal building and fire codes. The growing area must be properly ventilated so as not to create humidity, mold or other related problems. Lighting shall not exceed 1000 watts per light. The use of gas products (CO<sub>2</sub>, butane, etc.) or CO<sub>2</sub> and ozone generators in the growing area is prohibited.

8. Growing marijuana at a Marijuana Growing Facility shall not be conducted in a manner that constitutes a public nuisance. A public nuisance may be deemed to exist if growing marijuana produces light, glare, heat, noise, odor or vibration that is detrimental to public health, safety or welfare or interferes with the reasonable enjoyment of life and property.

### **Section 5-31. Growing Marijuana for Personal Medical Use.**

1. Marijuana legally grows in a residential property shall not be visible from a public right of way or alley or adjacent property.

2. The primary use of a residential property in which marijuana is legally grown or possessed shall remain at all times a residence with legal and functioning cooking, eating, sleeping and sanitation/bathing facilities with proper ingress and egress. No room shall be used for growing marijuana where such cultivation or possession will impair or prevent the primary uses of cooking, eating, sleeping, recreating or sanitation/bathing.

3. If the residential property is rented, the written consent of the property owner shall be obtained prior to any cultivation, possession or use of marijuana in any part of the property.

### **Section 5-32. Smell or Noxious Odor.**

The smell or noxious odor emitted from smoking or consumption of marijuana by a person possessing a valid state issued medical marijuana license shall be treated as a public nuisance.

**Sections 5-33 through 5-34.** (Reserved for future use.)

**Article 5. Penalty.**

**Section 5-35. Penalty.**

Any person, firm or corporation who shall violate any provision of this Chapter shall be guilty of any offense and, upon conviction thereof, shall be punished by fine and costs as provided for in Section 1-40 of this Code, unless a separate and distinct penalty is otherwise specifically set forth in this Chapter . Each day's continuation of any such violation shall constitute a separate offense.

**CHAPTER 6**  
**CEMETERIES**

- Article 1. Cemetery Board
- Article 2. Miscellaneous Provisions
- Article 3. Penalty

**Article 1. Cemetery Board**

**Section 6-1. Cemetery Board Created.**

(See Chapter 1, Section 1-56.)

**Section 6-2. Burials.**

Burials of human dead prohibited anywhere in Elk City, except within the limits of dedicated cemeteries owned, operated or approved by the City.

**Sections 6-3 through 6-9. (Reserved for future use.)**

**Article 2. Miscellaneous Provisions**

**Section 6-10. Cemetery Board.**

1. The Cemetery Board shall have advisory responsibility for the management of all cemetery facilities in the City of Elk City, Oklahoma.

2. The Cemetery Board may make all necessary rules and regulations for its operation and for the care and management of cemetery facilities supported by the City of Elk City, Oklahoma, subject to approval and enactment by the City Commission.

**Section 6-11. Cemetery Funds.**

Not less than 25 percent (25%) of all moneys received from the sale of lots and interments, shall be segregated and set aside as a permanent fund to be known as "The Perpetual Care Fund",

such funds to be invested by the City Treasurer, and the interest only used in improving, caring for and embellishing the lots, walks, drives, parks and other necessary improvements on such cemetery.

**Section 6-12. Custodian of Perpetual Care Fund.**

The City Treasurer of Elk City, Oklahoma is hereby made the custodian of the perpetual care fund of this City.

**Section 6-13. Cemetery Lots.**

Lots in the cemetery shall be conveyed by certificate signed by the mayor and countersigned by the clerk, under the seal of the City, showing the price for which the lots are sold, and specifying that the person to whom it is issued is the owner of the lot or lots described therein by number, as laid down on the plat for the purpose of interment.

**Sections 6-14 through 6-19. (Reserved for future use.)**

**Article 3. Penalty**

**Section 6-20. Penalty.**

Any person, firm or corporation who shall violate any provision of this Chapter shall be guilty of any offense and, upon conviction thereof, shall be punished by fine and costs as provided for in Section 1-40 of this Code, unless a separate and distinct penalty is otherwise specifically set forth in this Chapter. Each day's continuation of any such violation shall constitute a separate offense.

## CHAPTER 7

### CIVIL DEFENSE

Article 1. Department of Civil Defense.

Article 2. Miscellaneous Provisions.

Article 3. Penalty.

#### **Article 1. Department of Civil Defense**

##### **Section 7-1. Department of Civil Defense Created.**

(See Chapter 1, Sections 1-53 and 1-54.)

##### **Sections 7-2 through 7-9. (Reserved for future use.)**

#### **Article 2. Miscellaneous Provisions**

##### **Section 7-10. Definitions.**

1. **Civil Defense.** The term "civil defense" shall mean the preparation for, and carrying out of, all emergency functions, other than functions for which primary responsibility is assigned elsewhere by Federal, State or local law or Ordinance, to protect the public peace, health and safety and to preserve lives and property in the City of Elk City, Oklahoma, during any emergency resulting from enemy attack, sabotage or other hostile action, or from any flood, drought, fire, hurricane, earthquake, storm or other catastrophe in or near said community, and involving imminent or actual peril to life and property. These functions include administration, organization, planning, recruiting, training, education, information, welfare service, relief service, police service, warden service, fire service, rescue service, medical service, health service, transportation service, communications service, streets and sewer service, utilities service, general engineering service, plant protection service, supply service, mutual aid, mobile support, evacuation and all other functions necessary or incidental to the preparation for any carrying out of the foregoing functions.

2. **Enemy-Caused Emergency.** The term "enemy-caused emergency" shall mean any state of emergency caused by actual or impending attack, sabotage or other hostile action, anywhere within the United States and involving imminent peril to lives and property in the City of Elk City,



Oklahoma. Such emergency shall be deemed to exist only when the Mayor shall so declare by public proclamation and such emergency shall be deemed to exist until the aforesaid Mayor shall declare its termination by public proclamation, or until the City Commission shall declare its termination by Resolution.

3. Natural Emergency. The term "natural emergency" shall mean any state of emergency caused by any actual or impending flood, drought, fire, hurricane, earthquake, storm or other catastrophe, in or near the City of Elk City, Oklahoma, and involving imminent peril to lives and property. Such emergency shall be deemed to exist and to be terminated under the same conditions as prescribed for an "enemy-caused emergency."

### **Section 7-11. Liability.**

1. Neither the City of Elk City, Oklahoma, nor any officer or member of the Civil Defense Organization provided for in this Code of Ordinances, shall be liable for personal injury or property damages sustained by any person appointed or acting as a volunteer civil defense worker or member of any agency engaged in civil defense activity prior to, or during, either an enemy-caused or a natural emergency.

2. Nor shall the City or any such officer or member be liable for the death or injury of any persons, or damage to property, resulting from such civil defense activity prior to, or during, either an enemy-caused or a natural emergency.

### **Section 7-12. Federal, State or Private Aid May Be Accepted.**

Whenever the Federal Government, the State of Oklahoma, or any person, firm or corporation shall offer to the City of Elk City, Oklahoma, any services, equipment, supplies, materials or funds by way of gift, grant or loan, for purposes of civil defense, the Mayor may accept such offer and may authorize the Director of Civil Defense to receive the same, subject to the terms of the offer and the rules and regulations, if any, of the agency making the offer.

### **Section 7-13. Emergency Operations Center.**

1. A Civil Defense Emergency Operations Center is hereby established for the City of Elk City, Oklahoma.

2. Operation of the Center shall be in conformance with appropriate rules and regulations adopted by motion of the City Commission.

**Sections 7-14 through 7-19.** (Reserved for future use.)

**Article 3. Penalty**

**Section 7-20. Penalty.**

Any person, firm or corporation who shall violate any provision of this Chapter shall be guilty of any offense and, upon conviction thereof, shall be punished by fine and costs as provided for in Section 1-40 of this Code, unless a separate and distinct penalty is otherwise specifically set forth in this Chapter. Each day's continuation of any such violation shall constitute a separate offense.

## CHAPTER 8

### FIRE PREVENTION

Article 1. Fire Prevention.

Article 2. Rural Fire Protection.

Article 3. Liquefied Petroleum Gas.

Article 4. Miscellaneous Provisions.

Article 5. Penalty.

#### **Article 1. Fire Prevention.**

##### **Section 8-1. Volunteer Fire Department.**

1. There is hereby established for the City of Elk City, Oklahoma, a Volunteer Fire Department under the provisions of the Oklahoma Volunteer Firemen's Act. (See Chapter 1, Sections 1-42 and 1-43, this Code of Ordinances.)

2. The Elk City, Oklahoma Volunteer Fire Department shall consist of not less than eight (8) and not more than twenty five (25) members. Members of Elk City, Oklahoma, Fire Department may continue as members of the Volunteer Fire Department established under this Code of Ordinances without probation, but shall be subject to the by-laws authorized under this Code of Ordinances.

3. All new members shall be on probation for one (1) year after their appointment to the department and shall not become regular members of the department upon completion of their probation period, until the approval by the majority of the regular members of the Elk City, Oklahoma, Volunteer Fire Department.

4. The Elk City, Oklahoma, Volunteer Fire Department shall adopt by-laws (a copy of which shall be deposited with the City Clerk), which shall include the following:

- a. Any applicant must be of reasonable health and character and a minimum age of 18;
- b. The Secretary-Treasurer shall be elected by a majority vote of members present;
- c. All volunteer fire fighters are required, when notified, to respond to alarms of fire and other emergencies, also are required to stay at the scene of the emergency until permission to leave is granted by the chief of officer in

charge. Those who are at the station shall remain until they are granted permission to leave by the officer in charge;

- d. All volunteer fire fighters are required to be present at all regular meetings, call meetings and school presented for the benefit of the fire fighters;
- e. There shall be two (2) regular business meetings and drills each month, to be held on the 1st and 3rd Mondays;
- f. Any volunteer fire fighter missing 25% of the meetings, drills or schools in one year will be dropped from the Department rolls;
- g. Volunteer fire fighters leaving City for an extended period of time will be required to notify the Fire Chief or officer in charge;
- h. Any volunteer fire fighter refusing to attend training classes provided for him will be dropped; and
- i. Any volunteer of the Fire Department shall be dropped from the rolls for any of the following offenses: (1) conduct unbecoming a fire fighter; (2) any act of insubordination; (3) neglect of duty; (4) violation of rules and regulations governing the fire department; or (5) conviction of a felony.
- j. All members will assist in rolling hose and performing whatever duties are necessary to get the fire apparatus back in service as soon as possible.
- k. Any new volunteer member of the Fire Department must be examined by a physician selected by the Fire Department, and must be recommended and certified physically fit for duty by that physician.

5. Copies of this Code of Ordinances and any amendments thereto relating to the Volunteer Fire Department of the City of Elk City, Oklahoma, shall be submitted to the State Insurance Commission.

**Section 8-2. Fire Prevention Code: Enforcement; Variances.**

1. The Fire Prevention Code adopted by the City Commission shall be enforced by the Elk City, Oklahoma Fire Department under the supervision of the Fire Chief; members of said department may be detailed as inspectors by the Fire Chief, if he deems it necessary. (See also Chapter 4, this Code of Ordinances.)

2. The Chief of the Elk City, Oklahoma Volunteer Fire Department, with the approval of the City Commission shall have the power to grant a variance to any of the provisions of the Fire Prevention Code, upon application in writing by the owner or lessee (or his duly authorized agent),

when there are practical difficulties in carrying out the strict letter of said Code; provided that the spirit of the Code shall be observed, public safety secured and substantial justice done. The particulars of such modification, when granted or allowed, and the decision of the Fire Chief thereon, shall be entered upon the records of the department and a signed copy shall be furnished the applicant.

**Sections 8-3 through 8-9. (Reserved for future use.)**

**Article 2. Fire Protection Fees**

**Section 8-10. Fire Calls.**

1. Any person, firm or corporation for whom the Elk City, Oklahoma Fire Department answers a call to property or premises located outside the corporate limits of the City of Elk City, Oklahoma, shall pay the fee of two hundred and fifty dollars (\$250.00) per truck, per hour. A fee of five hundred dollars (\$500.00) per truck, per hour shall be charged for any fire involving hazardous materials, (which are materials requiring placards per state and federal law), plus the cost of foam used.

2. There shall be no charge for fire calls made to premises or property within the corporate limits of the City of Elk City, Oklahoma, unless a fire involves hazardous materials (which are materials requiring placards per state and federal law), in which case a fee of five hundred dollars (\$500.00) per truck, per hour, plus the cost of foam used, shall be charged.

3. All monies collected shall be placed in the General Fund of the City of Elk City, Oklahoma.

**Sections 8-11 through 8-19. (Reserved for future use.)**

**Article 3. Liquefied Petroleum Gas**

**Section 8-20. Definition.**

The term "liquefied petroleum gas", as used in this article, shall mean and include any material which is composed predominately of any of the following hydrocarbons or mixtures thereof: propane, propylene, butanes (normal butane or iso- butane), and butylenes, regardless of by what names any such substances may be hereafter known.

**Section 8-21. Application.**

(a) The term "liquefied petroleum gas equipment", as herein referred to, shall be construed to embrace all devices, piping and equipment pertinent to the use of liquefied petroleum

gas, except gas-burning appliances.

(b) The term "appliances", as herein referred to, shall be construed to embrace all gas-burning appliances intended for use with liquefied petroleum gas.

**Section 8-22. Installation: Notice; Approval.**

1. No temporary system for the use or dispensation of liquefied petroleum gases shall be installed within the City of Elk City, Oklahoma, until written notice thereof is given to the fire marshal of the City, and the plans and specifications for such system have been submitted to such fire marshal and approved by him. Every such system shall be limited to two (2) containers not to exceed a combined 50 gallons. Every such system installed or used in the City shall have been tested and listed either by the Underwriters Laboratories, Inc., or by a nationally recognized testing laboratory, and shall be approved by the State Liquefied Petroleum Gas Administrator of Oklahoma. Every such system shall meet the regulations set forth in NFPA 58, Liquefied Petroleum Gas Code, current edition.

2. Trailer mounted containers shall be permitted within the boundary limits of the city for the purpose for supplying fuel for area heating of buildings under construction, and for the purpose of roofing application. Trailer mounted containers shall be limited to three hundred (300) gallons water capacity. Trailer mounted containers shall be located a minimum of twenty five feet (25') from all structures while in use. Trailer mounted containers shall be attended at all times during operating. All trailer mounted containers shall have the valves closed in the off position when unattended, and all valves shall be locked to prevent tampering.

**Section 8-23. Records of Installation.**

Every person, firm or corporation installing liquefied petroleum gas equipment, other than gas burning appliances and replacing of portable cylinders, shall keep a record of each installation showing the name and address of the customer at whose place the liquefied petroleum gas equipment has been installed and the date of installation. Such records shall be disclosed to the fire marshal of the City at any time upon his request during regular business hours; provided, however, that the fire marshal shall, at any time he deems it necessary as a precautionary measure, inspect such records. The fire marshal may, at any reasonable time, inspect the installation of liquefied petroleum gas equipment.

**Section 8-24. Standards for Use and installation of Liquefied Petroleum Gas Equipment.**

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

recommended by the National Fire Protection Association, shall be prima facia evidence of conformity with generally recognized standards for safety to persons and property.

**Section 8-25. Permit Required.**

Before any person, firm or corporation shall install any equipment in the City for the storage, dispensation nor handling of liquefied petroleum gases, such person, firm or corporation shall first obtain a permit therefore and pay a onetime permit fee of One Hundred (\$100.00). In granting or refusing such permit, the City shall consult with the fire marshal, who shall take into consideration the proposed location of such equipment and the probable hazards involved by reason of the proposed location thereof.

**Section 8-26. Permit Required to have Vehicle Repaired.**

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

**Section 8-27. Permit to be Exhibited.**

No person, firm or corporation engaged in the repair of vehicles shall receive into his or its place of business any vehicle in which a liquified petroleum gas transport tank is mounted unless the owner or operator of such vehicle shall then and there exhibit the permit referred to in Section 8-25.

**Section 8-28. When Vehicle may not be kept in Shop.**

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

**Section 8-29. Parking Prohibited; Exception.**

No person shall park, or cause to be parked, any liquified petroleum gas transport truck or vehicle on any public street or alley, or on any public or private property or driveway, within the corporate limits of the City of Elk City, Oklahoma, whether or not any such transport truck or

vehicle is carrying liquified petroleum gas on board, except when any such transport truck or vehicle is actually engaged in dispensing liquified petroleum products into any tank or tanks then being serviced and under conditions meeting the minimum safety standards provided for by ordinance of the City and by the laws of the State of Oklahoma.

**Section 8-30. Requirements for the Storage of Flammable and Combustible Liquids.**

1. Storage of flammable and combustible liquid is prohibited in all residential zoning districts.

2. Below ground fuel tanks within the limits of the City of Elk City, for the storage of flammable and combustible liquids class one, two, and three, and with a capacity of 110 gallons or more shall be regulated by the Oklahoma Corporation Commission.

3. Above ground fuel tanks, with a capacity of 2100 gallons or more, within the limits of the City of Elk City, for the storage of flammable and combustible liquids class one, two, and three shall be regulated by the Oklahoma Corporation Commission.

4. Above ground fuel tanks, with a capacity of less than 2100 gallons, within the limits of the City of Elk City, for the storage of flammable and combustible liquids class one, two, and three shall be regulated by the City of Elk City and shall meet regulations set forth in NFPA 30, Flammable and Combustible Liquids Code current edition, Chapter 22.

a. There shall be a onetime permit fee of Two Hundred (\$200.00) and application that will apply to any newly installed, or existing un-permitted above ground fuel tanks with a capacity of less than 2100 gallons. The permit application and fee shall be submitted to the City of Elk City and must be approved for each installation of any such above ground fuel tanks."

**Section 8-31 through 8-39. (Reserved for future use.)**

**Article 4. Miscellaneous Provisions**

**Section 8-40. Sale or Possession of Fireworks Prohibited.**

It shall be unlawful and an offense for any person, firm or corporation to sell or to discharge, ignite or in any manner aid, assist or abet in the discharging or igniting of any firecrackers of any size, type or description, skyrockets, pistols, torpedoes, roman candles, flash salutes, flash crackers, balloons or other fireworks or substances designed and intended for pyrotechnic display, or small display ground pieces, canes, cannons or



other appliances using caps containing chlorate or potash mixture within the corporate limits of the City of Elk City, Oklahoma; provided that the firing and discharging of such fireworks may be permitted, in the sole discretion of the City Manager, within Ackley Park and Ackley Park West only, between the hours of 6:00 PM and 11:59 PM on July 4, when the same is supervised by a municipal official. Public displays of fireworks shall be ordered or permitted by the City Manager provided by properly qualified individuals under the direction of experts in the handling of such fireworks."

**Section 8-41. Explosives.**

1. It shall be unlawful for any person to store, keep, have on their premises or in their possession, any explosive materials of any kind or nature without first having complied with the Laws of the State of Oklahoma for the purpose of selling, storing or keeping such articles.

2. It shall be unlawful for any person to keep or store any explosive on any premises which are occupied as a dwelling or school. Any person storing explosives for sale to the general public must comply with the Laws of the State of Oklahoma concerning the sale and storage of said explosives.

**Open Burning Prohibited**

It shall be unlawful for any individual to do any open burning, within the corporate limits. Bon fires for community activities shall only be held by permission of the Fire Chief.

**Sections 8-43 through 8-49. (Reserved for future use.)**

**Article 5. Penalty**

**Section 8-50. Penalty.**

Any person, firm or corporation who shall violate any provision of this Chapter shall be guilty of any offense and, upon conviction thereof, shall be punished by fine and costs as provided for in Section 1-40 of this Code, unless a separate and distinct penalty is otherwise specifically set forth in this Chapter . Each day's continuation of any such violation shall constitute a separate offense.

## CHAPTER 9

### GENERAL AND MISCELLANEOUS PROVISIONS

Article 1. Rules of Construction.

Article 2. Miscellaneous Provisions.

Article 3. Penalty; Judicial Relief.

#### **Article 1. Rules of Construction/Definitions**

##### **Section 9-1. Rules of Construction/Definitions.**

In the construction of this Code of Ordinances and of all subsequent Ordinances and Resolutions passed by the City Commission of the City of Elk City, Oklahoma, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of said City Commission.

1. **Chief of Police or Police Chief.** Reference to the "Chief of Police" or the "Police Chief," shall mean the Chief of Police or the police officer in charge of the police force of the City of Elk City, Oklahoma.

2. **City, Town or Municipality.** The words the "City," the "Town," or the "Municipality" shall mean the City of Elk City, Oklahoma, in Beckham County, Oklahoma.

3. **City Attorney, Town Attorney or Municipal Attorney.** Reference to the "City Attorney," the "Town Attorney" or the "Municipal Attorney" shall mean the City Attorney of the City of Elk City, Oklahoma.

4. **City Clerk, Town Clerk or Clerk of the Municipality.** Reference to the "City Clerk," the "Town Clerk" or the "Clerk of the Municipality" shall mean the City Clerk of the City of Elk City, Oklahoma.

5. **City Commission, City Council, Council, Town Board of Trustees, Town Board.** The words "City Commission," "City Council," "Council," "Town Board of Trustees" or "Town Board" shall mean the Governing Body of the City of Elk City, Oklahoma.

6. **City Treasurer, Town Treasurer or Treasurer.** Whenever reference is made to the "City Treasurer," the "Town Treasurer" or the "Treasurer," it shall mean the City Treasurer of the City of Elk City, Oklahoma.

7. **Code.** Reference to "this Code" or "the Code" shall mean the Code of Ordinances of the City of Elk City, Oklahoma.

8. **Computation of Time.** Whenever notice is required to be given (or an act to be done) a certain length of time before any proceeding shall be had, the day on which such notice is given (or such act is done) shall be excluded in computing the time, but the day on which such proceeding is to be had, shall be included.

9. **County.** The term "County," "the County" or "this County" shall mean Beckham County, Oklahoma.

10. **Court.** The word "Court" shall mean the Municipal Court of the City of Elk City, Oklahoma.

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

12. **Health Officer or Health Department.** Whenever reference is made to the "Health Officer" or the "Health Department," it shall be construed as meaning the County Sanitarian or County Health Department, unless specific reference is made to the appointed Health Officer of the City of Elk City, Oklahoma.

13. **Highway.** The term "highway" shall include any street, alley, highway, avenue, public place, square, bridge, underpass or overpass in the City of Elk City, Oklahoma, dedicated or devoted to public use.

14. **Joint Authority.** Words purporting to give authority to three (3) or more officers or other persons, shall be construed as giving such authority to a majority of such officers or other persons, unless it is otherwise declared.

15. **Judge.** The word "Judge" shall mean the Judge of the Municipal Court of the City of Elk City, Oklahoma, including the Acting Judge and/or Alternate Judge thereof, as provided by Oklahoma Statutes and this Code of Ordinances.

16. **Judicial District.** The term "Judicial District" shall mean the District Court and/or Judicial District of the State of Oklahoma, wherein the situs of government of the City of Elk City, Oklahoma, is situated.

17. **Manager.** Whenever reference is made to the "Manager", it shall mean the City Manager the Chief Executive Officer of the City of Elk City, Oklahoma.

18. **May.** The word "may" is permissive; the word "shall" is mandatory.

19. **Mayor.** Whenever reference is made to the "Mayor," it shall mean the head of the City Commission of the City of Elk City, Oklahoma.

20. **Month.** The word "month" shall mean a calendar month.

21. **Number.** Any word importing the singular number shall include the plural and any word importing the plural number shall include the singular, except where a contrary intention plainly appears.

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

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

24. **Or, And.** "Or" may be read "and," and "and" may be read "or," if the sense requires it.

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

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

27. **Policeman.** Reference to a "policeman" shall mean the Chief of Police or any police officer of the City of Elk City, Oklahoma.

28. **Preceding or Following.** The words "preceding" or "following" mean next before and next after, respectively.

29. **Roadway.** The word "roadway" shall mean that portion of a street improved, designed or ordinarily used for vehicular traffic.

30. **Sidewalk.** The word "sidewalk" shall mean any portion of the street right-of-way between the curb (or lateral line of the roadway) and the adjacent property line, intended for the use of pedestrians.

31. **Signature or Subscription.** The word "signature" or "subscription" shall include a mark when a person cannot write.

32. **State.** The words "State," "the State" or "this State" shall be construed to mean the State of Oklahoma.

33. **Statutory Reference.** Reference to the Statutes of the State of Oklahoma means the Statutes as they now are or as they may be amended to be; a reference to the 1971 Statutes also means the comparable provision when included in future codification or supplementation of said Statutes.

34. **Street.** The term "street" shall include any highway, alley, street, avenue, public place, underpass or overpass in the town, dedicated or devoted to public use.

35. **Tense.** Words used in the past or present tense shall include the future, as well as the past and present.

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

37. **Year.** Unless otherwise designated, the word "year" shall mean a calendar year.

**Section 9-2 through 9-9. (Reserved for future use.)**

**Article 2. Miscellaneous Provisions**

**Section 9-10. Certain Ordinances Not Affected by Code.**

Nothing in this Code of Ordinances or the Ordinances adopting this Code shall be construed to repeal, or otherwise affect the validity of, any of the following, and all such Ordinances are hereby recognized as continuing in full force and effect to the extent as if set out at length herein:

1. Ordinances promising or guaranteeing the payment of money for the City of Elk City, Oklahoma, authorizing the issuance of any municipal bonds or any evidence of the municipality's indebtedness;

2. Appropriation Ordinances, or Ordinances providing for (a) the levy of taxes, (b) an annual budget or (c) prescribing salaries for municipal officers and employees;

3. Ordinances annexing or de-annexing territory to or from the City of Elk City, Oklahoma;

4. Ordinances approving, authorizing or otherwise relating to, any contract, agreement, lease, deed or other instrument, or granting any franchise;

5. Ordinances authorizing or otherwise relating to specific public improvements;
6. Ordinances vacating, opening or dedicating specific streets and alleys;
7. Ordinances relating to specific street improvements and assessments therefore;
8. Ordinances relating to the grade or alignment of specific streets;
9. Ordinances naming or renaming specific streets;
10. Ordinances granting railroads the right to use specific streets and alleys;
11. Ordinances changing the Zoning District classification of a specific parcel of real property; or
12. Temporary or special Ordinances.

#### **Section 9-11. Enumeration of Provisions.**

1. Provisions of State Law which affect the City of Elk City, Oklahoma, because of its general relationship to the State, may not be enumerated herein, but may be adopted by reference as inseparable parts of this Code of Ordinances.
2. Provisions of State Law which prescribe specific actions or laws for the City of Elk City, Oklahoma, and its citizens, may be included in this Code of Ordinances for purposes of clarity.
3. Provisions of State Law in matters of wider public concern which are not enumerated herein, but which affect the City of Elk City, Oklahoma, and its citizens in a general way, may not be enumerated herein, but may nevertheless be made a part of this Code of Ordinances through adoption by reference.
4. All provisions which are purely local concern shall be specifically enumerated in this Code of Ordinances. The regulations, rules, prohibitions, nuisances, offenses and other provisions which are of purely local concern, as provided by State Law, and are specifically enumerated herein detail, shall be enforced by the City of Elk City, Oklahoma; duly authorized officers and agents of said City shall have all power, duties and responsibilities necessary to enforce the same.

#### **Section 9-12. Code Does Not Affect Prior Offenses or Rights.**

Nothing in this Code of Ordinances or the Ordinances adopting this Code shall affect any offense or act committed or done, any penalty or forfeiture incurred, or any contract or right established or accruing, before the effective date of this Code.

**Section 9-13. Code and Ordinances Effective Outside City on  
Property Owned or Controlled by City.**

1. All provisions of this Code of Ordinances and other Ordinances of the City of Elk City, Oklahoma, now in effect or adopted in the future, are hereby extended to all real property belonging to, or under the control of, the City of Elk City, Oklahoma, outside the corporate limits of said City, and shall be in full force and effect thereon insofar as they are applicable.

2. Any words in any such provision indicating that its effect is limited to the corporate limits of the City of Elk City, Oklahoma, shall be deemed to mean and include also outlying real property belonging to, or under the control of, said City, unless the context clearly indicates otherwise.

**Section 9-14. Designation and Citation of Code.**

The Ordinances embraced in this and all other Chapters and Sections shall constitute and be designated the "Code of Ordinances, City of Elk City, Oklahoma," and may be so cited. Such Code may also be cited as the "City of Elk City, Oklahoma, City Code" or the "City of Elk City, Oklahoma, Municipal Code."

**Section 9-15. Catchlines of Sections.**

The catchlines of the Sections of this Code of Ordinances which are underlined are intended as mere catchwords to indicate the contents of the Sections and shall not be deemed, or taken to be, titles of such Sections, nor as any part of such Sections, nor, unless expressly so provided, shall they be so deemed when any of such Sections, including the catchlines, are amended or re-enacted.

**Section 9-16. Severability of Parts of Code.**

1. It is hereby declared to be the intention of the City Commission of the City of Elk City, Oklahoma, that the Sections, paragraphs, sentences, clauses and phrases of this Code of Ordinances are severable and if any phrase, clause, sentence, paragraph or Section of said Code shall be declared invalid by the judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and Sections of said Code, since the same would have been enacted by the City Commission without the incorporation in this Code of any such invalid phrase, clause, sentence, paragraph or section.

2. Further, if any word, phrase, clause, sentence, paragraph or Section of this Code of Ordinances shall seem invalid through printing or typographical error, such error or misprint shall not serve to misconstrue or invalidate the intent thereof, nor affect in any way the intent or validity of any or all other words, phrases, clauses, sentences, paragraphs or Sections of this Code.

**Sections 9-17 through 9-19. (Reserved for future use.)**

### **Article 3. Penalty; Judicial Relief**

#### **Section 9-20. General Penalty for Violations.**

Whenever, in this Code of Ordinances or in any Ordinance of the City of Elk City, Oklahoma, an act is prohibited, is made or declared to be unlawful, an offense or misdemeanor, or wherever in said Code or Ordinance the doing of any act is required, or the failure to do any act is declared to be unlawful, and no specific penalty is provided therefore, the violation of any such provision of this Code of Ordinances or of any such Ordinance shall be punished in accordance with the appropriate provisions of Section 1-40 of the Elk City Municipal Code.

#### **Section 9-21. Judicial Relief.**

No penalty imposed by, and pursuant to, this Code of Ordinances, shall interfere with the right of the City of Elk City, Oklahoma, also to apply to the proper courts of the State of Oklahoma for a mandamus, an injunction or other appropriate action against such person, firm or corporation.



## CHAPTER 10

### HEALTH AND SAFETY

- Article 1. Contagious Diseases.
- Article 2. Sanitary Facilities.
- Article 3. Miscellaneous Provisions.
- Article 4. Penalty.

#### **Article 1. Contagious Diseases**

##### **Section 10-1. Introducing Diseases.**

1. It shall be unlawful for any person affected with, or exposed to, any contagious or infectious disease, to be upon any street or in any public place in the City of Elk City, Oklahoma; the purpose of this requirement is to avoid exposing other persons to such a disease.
2. It shall be unlawful for any parent, guardian or person having charge of any child or children to allow, or permit, such child or children to attend any classes, school or any gathering of people, or to appear upon any street or in any public place in the City of Elk City, Oklahoma, while infected with, or exposed to, any contagious or infectious disease, or in any manner to allow other persons to be exposed to such a disease.
3. No person suffering from, or infected with, the communicable form of a venereal disease, shall engage in any occupation involving intimate contact with persons, food or food products.

##### **Section 10-2. Report of Contagious Diseases.**

1. Every physician practicing in the City of Elk City, Oklahoma, shall report to the County Health Official, within six (6) hours after the diagnosis of the same, the appearance of any of the following diseases: diphtheria (including membranous croup), scarlet fever, small pox, yellow fever, typhoid fever, typhus fever, asiatic cholera, chicken pox, tuberculosis, undulant fever, acute anterior, poliomyelitis (infantile paralysis), epidemic cerebrospinal meningitis, whooping cough, mumps, or any other pestilential, infectious or contagious disease.
2. Syphilis, gonococcus infection and chancroid are hereby and hereinafter recognized and declared to be contagious, infectious, communicable and dangerous to the public health. The term "venereal disease," as used in this Chapter, shall include all such diseases.
3. The Statutes of the State of Oklahoma governing the diseases stated hereinbefore shall apply to all cases of this nature, after said report is made.

**Section 10-3. Quarantine.**

1. It shall be unlawful for any person to enter, or go upon, any ground or premises under quarantine, without first having obtained permission to do so from the local or County Health Official.

2. It shall be unlawful for any person whom the local or County Health Official shall have ordered to be detained in quarantine, to neglect or refuse to be so detained, or to willfully violate any quarantine regulation thereof.

3. It shall be unlawful for any person to tear down, remove, deface, mutilate or destroy any order, notice or flag that may be posted or displayed by the local or County Health Official.

4. It shall be unlawful for any person to willfully violate, or refuse to comply with, any lawful order, direction, prohibition, rule or regulation of any officer or official charged with enforcement of such order, direction, prohibition, rule or regulation.

**Sections 10-4 through 10-9. (Reserved for future use.)**

**Article 2. Sanitary Facilities**

**Section 10-10. Definitions.**

1. **Human Excrement.** The term "human excrement" is used herein to mean the bowel and kidney discharge of human beings.

2. **Sanitary Water Closet.** The term "sanitary water closet" is used herein to mean 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.

**Section 10-11. Owner to Provide Proper Toilet Facilities.**

1. Every owner of a residence or other building in which humans reside, are employed or congregate, shall install, equip and maintain adequate sanitary facilities for the disposal of human excrement; this requirement shall include a sanitary water closet, a water closet or closets connected to an approved septic tank.

2. The closets and toilets required herein shall be of the sanitary water closet type when located within three hundred (300) feet of any municipal sanitary sewer line and accessible thereto. It shall be the duty of every owner of property so located, to connect, or cause to be connected, his toilet(s) with the municipal sanitary sewer system, and to make every proper connection so that each toilet is properly connected with said sewer system.

3. When not so located, the closet or toilet shall be of (a) the sanitary water closet type, so connected to a sanitary sewer (notwithstanding the distance from it), (b) the water closet type, connected to a septic tank approved by the County Health Officer.

**Section 10-12. Proper Disposal of Human Excrement Required.**

All human excrement shall be disposed of by deposition in closets hereinbefore described. It shall be unlawful for any owner of property to permit the disposal of human excrement thereon in any other manner, or for any person to dispose of human excrement in any other manner.

**Section 10-13. Unauthorized Facilities Declared Public Nuisances.**

All facilities for the disposal of human excrement in a manner different from that required by this Code of Ordinances, 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 (See Chapter 14, Nuisances.)

**Sections 10-14 through 10-19. (Reserved for future use.)**

**Article 3. Miscellaneous Provisions**

**Section 10-20. Abandoned Ice Boxes, Refrigerators and Containers.**

It shall be 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.

**Section 10-21. Prohibiting the Rummaging and Pilfering of Trash Containers**

It shall be unlawful for any person to rummage, look through, ransack or take, steal or pilfer the contents of any receptacle, dumpster or other trash container.

The only exception to this ordinance shall be to allow the collection of aluminum cans for recycling purposes.

Upon conviction for violation of this ordinance, said person shall be punished by a fine of not less than \$50.00 and not more than \$300.00 or by imprisonment not to exceed 30 days, or both and for court costs.

**Sections 10-22 through 10-34. (Reserved for future use.)**

**Section 10-35. "Food Service Sanitation Code" Adopted.**

1. The United States Public Health Service "Food Service Sanitation Ordinance and Code," current edition, is hereby adopted and incorporated as fully as if set out at length herein.
2. From the date on which this Chapter shall take effect, the provisions of said Code, as herein modified, shall be controlling in the regulation of food service establishments within the corporate limits of the City of Elk City, Oklahoma.
3. Three (3) copies of said Code are on file in the Office of the City Clerk.
4. No fee shall be required for a municipal permit to operate a food service establishment.

**Section 10-36. "Milk Ordinance" Adopted.**

1. The production, transportation, processing, handling, sampling, examination, grading, labeling, and sale of all milk products sold for the ultimate consumption within the City of Elk City, Oklahoma; 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."
2. From the date on which this Chapter shall take effect, the provisions of said Ordinance, as herein modified, shall regulate milk and milk products within the corporate limits of the City of Elk City, Oklahoma.
3. Three (3) copies of said Ordinance are on file in the Office of the City Clerk.

**Article 4. Penalty.**

**Section 10.37. Penalty.**

Any person, firm or corporation who shall violate any provision of this Chapter shall be guilty of any offense and, upon conviction thereof, shall be punished by fine and costs as provided for in Section 1-40 of this Code, unless a separate and distinct penalty is otherwise specifically set forth in this Chapter. Each day's continuation of any such violation shall constitute a separate

offense.

## CHAPTER 11

### INDUSTRIAL WASTES

- Article 1. Industrial Wastes; Definitions; Prohibitions.
- Article 2. Industrial Waste Surcharge; Compliance.
- Article 3. Permit; Enforcement.
- Article 4. Penalty.

#### **Article 1. Industrial Wastes; Definitions; Prohibitions**

##### **Section 11-1. Definitions.**

1. The term "City." means the City of Elk City, or any authorized person acting in its behalf;
2. The term "B.O.D." ( Biochemical Oxygen Demand). means the quantity of oxygen by weight, expressed in mg/l, utilized in the biochemical oxidation of organic matter under standard laboratory conditions for five (5) days at a temperature of (20) degrees centigrade;
3. The term "C.O.D." ( Chemical Oxygen Demand). means measure of the oxygen consuming capacity of inorganic and organic matter present in the water or wastewater expressed in mg/l as the amount of oxygen consumed from a chemical oxidant in a specific test, but not differentiating between stable and unstable organic matter, and thus not necessarily correlating with biochemical oxygen demand;
4. The term "Control Point". means a point of access to a course of discharge before the discharge mixes with other discharges in the public sewer;
5. The term "Industrial Waste". means waste resulting from any process of industry, manufacturing, trade, or business from the development of any natural resource, or any mixture of the waste with water or normal wastewater, or distinct from normal wastewater, or distinct from normal wastewater;
6. The term "Industrial Waste Charge". means the charge made on those persons who discharge industrial wastes into the City's sewerage system.
7. The term "Milligrams per Liter" (mg/l). means the same as parts per million and is a weight-to-volume ratio; the milligram-per-liter value multiplied by the factor 8.34 shall be equivalent to pounds per million gallons of water;

8. The term "Normal Domestic Wastewater". means wastewater excluding industrial wastewater discharged by a person into sanitary sewers and in which the average concentration of total suspended solids is not more than 300 mg/l and BOD is not more than 250 mg/l;

9. The term "pH". means the logarithm (Base 10) of the reciprocal of the hydrogen ion concentration;

10. The term "Public Sewer" means pipe or conduit carrying wastewater or unpolluted drainage in which owners of abutting properties shall have the use, subject to control by the City;

11. The term "Suspended Solids". means solids measured in mg/l that either float on the surface of, or are in suspension in, water, wastewater, or other liquids, and which are largely removable by a laboratory filtration device;

12. The term "Wastewater". means a combination of the water-carried waste from residences, business buildings, institutions, and industrial establishments, together with any ground, surface, and storm water that may be present;

13. The term "Wastewater Facilities". includes all facilities for collection, pumping, treating, and disposing of wastewater and industrial wastes;

14. The term "Wastewater Service Charge". means the charge on all users of the public sewer system whose wastes do not exceed in strength the concentration values established as representative of normal wastewater;

### **Section 11-2. Prohibited Discharges.**

No person may discharge to public sewers any waste which by itself or by interaction with other wastes may:

- a. Injure or interfere with wastewater treatment processes or facilities;
- b. Constitute a hazard to humans or animals; or
- c. Create a hazard in receiving waters of the wastewater treatment plant effluent.

All discharges shall conform to requirements of this Ordinance.

### **Section 11-3. Chemical Discharges.**

No discharge to public sewers may contain:

- a. Cyanide greater than 0.05 mg/l

- b. Fluoride other than that contained in the public water supply
- c. Chlorides in concentrations greater than 250 mg/l
- d. Gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas; or
- e. Substances causing an excessive Chemical Oxygen Demand (C.O.D.)

No waste or wastewater discharged to public waters may contain:

- a. Strong acid, iron pickling wastes, or concentrated plating solutions whether neutralized or not;
- b. Fats, wax, grease or oils, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperatures between thirty-two (32) and one hundred fifty (150) degrees Fahrenheit 0 and 65 degrees Centigrade;
- c. Objectionable or toxic substances, exerting an excessive chlorine requirement, to such degree that any such material received in the composite wastewater at the wastewater treatment works exceeds the limits established by the approving authority for such materials; or
- d. Obnoxious, toxic, or poisonous solids, liquids, or gases in quantities sufficient to violate the provisions of Section 11-2.

No waste, wastewater, or other substance may be discharged into public sewers which has a pH lower than 6.0 or higher than 9.5, or any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel at the wastewater facilities.

All waste, wastewater, or other substances containing phenols, hydrogen sulfide, or other taste-and-odor producing substances, shall conform to concentration limits established by the approving authority. After treatment of the composite wastewater, concentration limits may not exceed the requirements established by state, federal, or other agencies with jurisdiction over discharges to receiving waters.

#### **Section 11-4. Heavy Metals and Toxic Materials.**

No discharges may contain concentrations of heavy metals greater than amounts specified in this Section.

The maximum allowable concentrations of heavy metals stated in terms of milligrams per liter (mg/l), determined on the basis of individual sampling in accordance with "Standard Methods" are:



Arsenic	0.05 mg/l	Barium	5.00 mg/l
Boron	1.00 mg/l	Cadmium	0.05 mg/l
Chromium (Total)	0.50 mg/l	Copper	0.10 mg/l
Lead	0.50 mg/l	Manganese	1.00 mg/l
Mercury	0.005 mg/l	Nickel	1.00 mg/l
Selenium	0.05 mg/l	Silver	0.06 mg/l
Zinc	1.00 mg/l		

No other heavy metals or toxic materials may be discharged into public sewers without a permit from the approving authority specifying conditions of pretreatment, concentrations, volumes, and other applicable provisions.

Prohibited heavy metals and toxic materials include but are not limited to:

Antimony	Bismuth	Molybdenum	Rhenium
Tellurium	Fungicides	Beryllium	Cobalt
Uranyl ion	Strontium	Herbicides	Pesticides

#### **Section 11-5. Impairment of Facilities.**

No person may discharge into public sewers any substances capable of causing:

- a. Obstruction to the flow in sewers;
- b. Interference with the operation of treatment facilities; or
- c. Excessive loading of treatment facilities.

Discharges prohibited by Section 11-5 include, but are not limited to materials which exert or cause concentrations of:

- a. Inert suspended solids greater than 250 mg/l including but not limited to;
  - Fuller's earth
  - Lime slurries; and
  - Lime residues.
- b. Dissolved solids greater than 500 mg/l including but not limited to:
  - Sodium Chloride; and
  - Sodium Sulfate.

- c. Excessive Discoloration including but not limited to:  
Dye wastes; and  
Vegetable tanning solutions.
- d. BOD, COD or chlorine demand in excess of normal plant capacity.

No person may discharge into public sewers any substance that may:

- a. Deposit grease or oil in the sewer lines in such a manner as to clog the sewers;
- b. Overload skimming and grease handling equipment;
- c. Pass to the receiving waters without being effectively treated by normal wastewater treatment processes due to the nonamenability of the substance to bacterial action; or
- d. Deleteriously affect the treatment process due to excessive quantities.

No person may discharge any substance into public sewers which:

- a. Is not amendable to treatment or reduction by the processes and facilities employed; or
- b. Is amendable to treatment only to such a degree that the treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

The approving authority shall regulate the flow and concentration of slugs when they may:

- a. Impair the treatment process;
- b. Cause damage to collection facilities;
- c. Incur treatment costs exceeding those for normal wastewater; or
- d. Render the waste unfit for stream disposal or industrial use.

No person may discharge into public sewers solid or viscous substances which may violate this Section if present in sufficient quantity or size including but not limited to:

- |             |                     |   |
|-------------|---------------------|---|
| a. Ashes    | i. Rags             | q. Hair and fleshing  |
| b. Cinders  | j. Feathers         | r. Entrails   |
| c. Sand     | k. Tar              | s. Paper products, either whole or ground by garbage grinders |
| d. Mud      | l. Plastics         | t. Slops  |
| e. Straw    | m. Wood             | u. Chemical residues  |
| f. Metal    | n. Unground garbage | v. Paint residues   |
| g. Shavings | o. Whole blood      | w. Bulk solids.   |
| h. Glass    | p. Paunch manure    |   |

## **Article 2. Industrial Waste; Compliance**

### **Section 11-6. Compliance with existing Authority.**

Unless exception is granted by the Approving Authority, the public sanitary sewer system shall be used by all people discharging:

- a. wastewater
- b. industrial waste
- c. polluted liquids.

Unless authorized by the Oklahoma State Department of Health, no person may deposit or discharge any waste included in subsection a) of this section on public or private property into or adjacent to any:

- a. natural outlet
- b. watercourse
- c. storm sewer
- d. other area within the jurisdiction of the City.

The Approving Authority shall verify prior to discharge that wastes authorized to be discharged will receive suitable treatment within the provisions of laws, regulations, ordinances, rules and orders of federal, state and local governments.

### **Section 11-7. Approving Authority Review and Approval.**

If pretreatment or control is required, the approving authority shall review and approve design and installation of equipment and processes.

The design and installation of equipment and processes must conform to all applicable statutes, codes, ordinances and other laws.

Any person responsible for discharges requiring pretreatment, flow-equalizing, or other facilities shall provide and maintain the facilities in effective operating condition at his own expense.

### **Section 11-8. Sampling and Testing.**

Sampling shall be conducted according customarily accepted methods, reflect the effect of constituents upon the sewage works and determining the existence of hazards to life, limb and property, and shall be conducted in accordance with the standard methods of sampling effluent and wastewater which are employed by the Oklahoma State Department of Health.

Examination and analyses of the characteristics of waters and wastes required by this ordinance shall be:

- a. conducted in accordance with the latest edition of Oklahoma State Health Department standards.
- b. determined from suitable samples taken at the control manhole provided or other control point authorized by the Approving Authority.

BOD and suspended solids shall be determined from composite sampling, except to detect unauthorized discharges.

The City may select an independent firm or laboratory to determine flow, B.O.D., and suspended solids.

The City is entitled to select the time of sampling at its sole discretion so long as at least annual samples are taken.

**Section 11-9. Industrial Charge.**

The following user charge formula shall hereafter be applied to any industrial user connecting to the Sanitary Sewer System.

IC equal 0.07 plus 0.04 (BOD) plus 0.02 (SS)  
IC equal Industrial charge, dollars per 1000 gallons, billed monthly  
BOD equal Five day @ 20EC for industrial waste, composite sampling, ppm  
SS equal suspended solids of industrial waste, composite sampling, ppm  
V equal flow in 1000 gallon.

User charge is as follows:

$$\text{O \& M costs/1000 gal.} = \frac{\text{Annual O \& M costs}}{1.8 \times 6 \text{ winter mo. water use } *(\text{in } 1000\text{'s})}$$

$$\text{Charge/1000 gal.} = A \times \left( \frac{1.8 \times 6 \text{ winter month's water use}}{\text{Annual water use}} \right)$$

\*Assumes discharge in winter months is 0.8 x 6 mo. water use and assumes discharge in summer months is 1.25 x winter discharges.

### **Article 3. Permit; Enforcement; Penalty**

#### **Section 11-10. Conditions or Permits.**

The City may grant a permit to discharge to persons meeting all requirements of the savings clause provided that the person:

- a. submit an application within 180 days after the effective date of this ordinance on forms supplied by the approving authority;
- b. secure approval by the approving authority of plans and specifications for pretreatment facilities when required; and
- c. has complied with all requirements for agreements or arrangements including, but not limited to, provisions for
  - a. payment of charges
  - b. installation and operation of pretreatment facilities; and
  - c. sampling and analysis to determine quantity and strength; and
- d. provides a sampling point subject to the provisions of this ordinance and approval of the approving authority.

A person applying for a new discharge shall

- a. meet all conditions of this section; and
- b. secure a permit prior to discharging any waste.

#### **Section 11-11. Power to Enter Property.**

The superintendent and other duly authorized employees of the City bearing proper credentials and identification are entitled to enter any public or private property at any reasonable time for the purpose of enforcing this Ordinance.

Anyone acting under this authority shall observe the establishment's rules and regulation concerning safety, internal security and fire protection.

**Section 11-12. Authority to Disconnect Service.**

The City may terminate water and wastewater disposal service and disconnect an industrial customer from the system when:

- a. Acids or chemicals damaging to sewer lines or treatment process are released to the sewer causing rapid deterioration of these structures or interfering with proper conveyance and treatment of wastewater;
- b. A governmental agency informs the City that the effluent from the wastewater treatment plant is no longer of a quality permitted for discharge to a watercourse, and it is found that the customer is delivering wastewater to the City's system that cannot be sufficiently treated or requires treatment that is not provided by the City as normal domestic treatment;
- c. the industrial customer:
  - discharge industrial waste or wastewater that is in violation of the permit issued by the approving authority;
  - discharges wastewater at an uncontrolled, variable rate in sufficient quantity to cause an imbalance in the wastewater treatment system;
  - fails to pay monthly bills for water and sanitary sewer services when due; or
  - repeats a discharge of prohibited wastes to public sewers.

**Sections 11-13 through 11-22. (Reserved for future use.)**

**Article 4. Penalty**

**Section 11-23. Penalty.**

Any person, firm or corporation who shall violate any provision of this Chapter shall be guilty of any offense and, upon conviction thereof, shall be punished by fine and costs as provided for in Section 1-40 of this Code, unless a separate and distinct penalty is otherwise specifically set forth in this Chapter. Each day's continuation of any such violation shall constitute a separate offense.

## CHAPTER 12

### MANUFACTURED AND MOBILE HOUSING

- Article 1. General Provisions.
- Article 2. Manufactured Homes.
- Article 3. Manufactured Home Subdivision.
- Article 4. Mobile Home and Recreational Vehicle.
- Article 5. Mobile Home Subdivisions.
- Article 6. Miscellaneous Provisions.
- Article 7. Penalty.

#### **Article 1. General Provisions**

##### **Section 12-1. Purpose.**

1. The purpose of this Chapter is to provide areas within the corporate boundaries of the City of Elk City, Oklahoma, wherein the location and development of manufactured homes, manufactured home subdivisions, mobile homes, mobile home parks, recreational vehicle and mobile home subdivisions may be safely continued and encouraged.

2. It is the purpose of this Chapter to encourage the provision of alternative modest income housing in general residential areas by permitting the use of Type I and Type II Manufactured Homes, as defined herein, in all districts in which similar dwellings constructed on site are permitted, subject to the requirements and procedures set forth herein to assure acceptable similarity in exterior appearance between such Type I and Type II Manufactured Homes and dwellings that have been or might be constructed under these and other lawful regulations on adjacent or nearby lots in the same district.

3. It is the further purpose of this Chapter to encourage the provision of alternative modest income housing in certain residential areas by permitting the use of Type III Manufactured Housing, as defined herein, in certain specified districts, when they are shown to meet the requirements and procedures set forth herein.

4. It is the purpose of this Chapter to recognize mobile homes constructed prior to June 15, 1976, as distinct and different from units designated as Manufactured Homes Type I, II and III, and to prescribe appropriate procedures and requirements for their placement in the community.

5. The regulations set forth in this Chapter are designed to promote stable neighborhoods, prevent health and safety hazards and encourage the economical and orderly development and operation of manufactured home subdivisions, mobile home parks and subdivisions, and recreational vehicle.

## **Section 12-2. Definitions.**

For the purpose of this Chapter, the following, terms words and phrases shall have the meanings indicated herein below:

1. **Add-A-Room Unit.** The term "add-a-room unit" shall mean a unit of manufactured housing, not designed as a part of the original structure, which may have less occupied space than a manufactured housing section.

2. **Approved.** The word "approved" shall mean acceptable to the appropriate authority having jurisdiction, by reason of investigation accepted principles, or tests by nationally recognized organizations.

3. **Anchoring System.** The term "anchoring system" shall mean an approved system of straps, cables, turnbuckles, chains, ties, or other approved materials used to secure a manufactured or mobile homes.

4. **ANSI/NFPA 501 A Standard for Installation of(Manufactured) Mobile Homes.** The term "ANSI/NFPA 501 A Standard for Installation of (Manufactured) Mobile Homes" shall mean those model mobile homes, as adopted and copyrighted by the National Fire Protection Association and the Manufactured Housing Institute.

5. **Building Code.** The term "building code" shall mean the officially adopted building code in effect within the Municipality.

6. **Expando Unit.** The term "expando unit" shall mean an expandable manufactured housing unit.

7. **Foundation Code.** The term "foundation code" shall mean the "Standard for the Permanent Installation of Manufactured Homes" as adopted by Ordinance.

8. **Foundation Siding/Skirting.** The term "foundation siding/skirting" shall mean a type of wainscoting constructed of fire and weather resistant material, such as aluminum, asbestos board, treated pressed wood or other approved materials, enclosing the entire under-carriage of the manufactured or mobile home.

9. **Health Officer.** The term "Health Officer" shall mean the legally-designated health authority of the City of Elk City, Oklahoma (or his authorized representative), or the authorized representative of the Elk City County Health Department, or the State Department of Health.

10 **Inspection Officer.** The term "inspection officer" shall mean the Building Official of the City of Elk City, Oklahoma, or his authorized agent.



11 **Licensee.** The word "licensee" shall mean any person licensed to operate and maintain a mobile home park under the provisions of this Chapter.

12. **Manufactured Home.** The term "manufactured home" shall mean a dwelling unit fabricated on or after June 15, 1976, in an off-site manufacturing facility for installation or assembly at the building site, bearing a seal certifying that it is built in compliance with the federal Manufactured Housing Construction and Safety Standards Code. The three types of manufactured home (TYPE I, TYPE II, and TYPE III) are defined as meeting all of the appropriate requirements of Section 4 of this Chapter.

13 **Manufactured or Mobile Home Community (Park).** The term "manufactured or mobile home community (park)" shall mean a parcel of land on which two (2) or more manufactured or mobile homes are occupied as residences.

14. **Manufactured Home Subdivision.** The term "manufactured home subdivision" shall mean a parcel of land platted for subdivision according to all requirements of the comprehensive plan, designed or intended for lots to be conveyed by deed to individual owners for residential occupancy primarily by manufactured homes.

15. **Manufactured Housing Construction and Safety Standards Code.** The term "manufactured housing construction and safety standards code" shall mean Title VI of the 1974 Housing and Community Development Act (42 U.S.C. 5401 et sequential), as amended (previously known as the federal Mobile Home Construction and Safety Act), rules and regulations adopted hereunder (including information supplied by the home manufacturer, which has been stamped and approved by a Design Approval Primary Inspection Agency, an agent of the U.S. Department of Housing and Urban Development pursuant to HUD rules), which become effective for mobile/manufactured home construction on June 15, 1976.

16. **Mobile Home.** The term "mobile home" shall mean a transportable structure larger than three hundred and twenty (320) square feet, designed to be used as a year-round residential dwelling, and built prior to the enactment of the federal Mobile Home Construction and Safety Act of 1974, which became effective for all mobile home construction June 15, 1976.

17. **Mobile Home, Dependent.** The term "dependent mobile home" shall mean any poses of regulation under this Chapter, a dependent mobile home shall be considered to be the same as a recreational vehicle, unless otherwise specified.

18. **Mobile Home, Independent.** The term "independent mobile home" shall mean any mobile home which meets the minimum gross floor area or habitable space requirement of any municipal regulations, and which has a flush toilet and a bath or shower. Unless otherwise indicated in the text of this Chapter, the term "mobile home" shall mean an independent mobile home.

19. **Mobile Home Space.** The term "mobile home space" shall mean a plot of ground within a mobile home park designed for the accommodation of one (1) mobile home, and not located on a mobile home sales lot.

20. **Mobile Home Subdivision.** The term "mobile home subdivision" shall mean any subdivision designed and intended for residential use, where residence is in mobile homes exclusively, and mobile home lots are sold for occupancy.

21. **Non-Residential Mobile Trailer.** The term "non- residential mobile trailer" shall mean any vehicle having the basic characteristics of either a mobile home travel trailer, but which is used for purposes other than residential and is not being offered for sale (as indicated by clearly displayed sign on or near the trailer).

22. **Occupied Space.** The term "occupied space" shall mean the total area of earth horizontally covered by the structure, excluding accessory structures, such as, but not limited to, garages, patios and porches.

23. **Park.** The term "park" shall mean a mobile home and/or recreational vehicle park.

24. **Permanent Foundation.** The term "permanent foundation" shall mean any structure system for transposing loads from a structure to the earth at a depth below the established frost line without exceeding the safe bearing capacity of the supporting soil.

25. **Permanent Perimeter Enclosure.** The term "permanent perimeter enclosure" shall mean a permanent perimeter system completely enclosing the space between the floor joists of the home and the ground.

26. **Permittee.** The term "permittee" shall mean any person to whom a temporary permit is issued to maintain or operate a mobile home park under the provisions of this Chapter.

27. **Public Water or Sewer System.** The terms "public water system" or "public sewer system" shall mean any such system built and owned by, or dedicated to and accepted by, the City of Elk City, Oklahoma; all other such systems shall be deemed private systems.

28. **Recreational Vehicle.** The term "recreational vehicle" shall mean a portable vehicular structure not built to the federal Manufactured Housing Construction and Safety Standards Code (or the obsolete ANSI 119.1 Mobile Home Design and Construction Standard) designed for travel, recreational camping or vacation purposes, either having its own motor power or mounted onto or drawn by another vehicle, and including but not limited to, travel and camping trailers, truck campers, and motor homes.

29. **Recreational Vehicle Park.** The term "recreational vehicle park" shall mean any plot or ground upon which two (2) or more recreational vehicles, occupied for dwelling or sleeping purposes are located, regardless of whether or not a charge is made for such accommodations.

30. **Mixed Park.** The term mixed park shall mean a mobile home park that has six (6) or more spaces dedicated to recreational vehicles.

31. **Recreational Vehicle Space.** The term "recreational vehicle space" shall mean a plot of ground within a recreational vehicle park designed for accommodation of one (1) recreational vehicle.

32. **Rural Area.** The term "rural area" shall mean any area within the existing or future corporate boundaries of the City of Elk City, Oklahoma, which is Zoned agriculturally; this shall not include areas Zoned for low-density, residential estates type uses.

33. **Section.** The word "section" shall mean a unit of a manufactured home at least ten (10) body feet in width and thirty (3) body feet in length.

34. **Service Building.** The term "service building" shall mean any building housing toilet and bathing facilities for men and/or women, and may also include buildings containing laundry facilities and other facilities, as required by this Chapter or desired by the park operator.

35. **Special Exception Permit.** The term "special exception permit" shall mean a device for, permitting a use within a district other than a principally permitted use.

36. **Support System.** The term "support system" shall mean a pad or a combination of footings, piers, caps, plates, and shims, which, when properly installed, support the manufactured or mobile home.

37. **Urban.** The word "urban" shall mean all areas within the existing or future corporate boundaries of the City of Elk City, Oklahoma, Zoned for urban intensity development.

### **Section 12-3. Permitted Placement.**

The establishment, location, and use of manufactured homes as permanent residences approved individually, by specific materials, or by design, shall be permitted in any zone permitting installation of a dwelling unit, subject to requirements and limitations applying generally to such residential use in the district, and provided such homes shall meet the following requirements and limitations:

1. The dwelling shall meet the appropriate Exterior Appearance Standards Section, as hereinafter set forth;

2. The dwelling shall be sited in a district where such use is permitted in the uses Permitted Section, as hereinafter set forth;

3. The dwelling shall receive all required permits and conform with Comprehensive Plan and other ordinances of the City of Elk City, Oklahoma, if applicable.

**Section 12-4. Non-Residential Mobile Trailers.**

1. No non-residential mobile trailer shall be permitted in the City of Elk City, Oklahoma, unless a license for its operation is issued by the inspection officer.
2. Such license shall specify the permitted use of the non-residential mobile trailer, the location of such operation and the termination date of the permit.
3. No license shall be issued for a use which would violate any local, State or Federal Ordinance, Law or regulation.
4. An annual fee of twenty-five dollars (\$25.00) shall be charged for each non-residential mobile trailer license; provided, that no governmental or non-profit agency shall be charged for such a fee.
5. Operation of non-residential trailers by contractors or construction projects for which building permits have been issued or which are otherwise approved by governmental units is permitted during the term of such construction project, without issuance of a license.
6. This Section shall not be construed as permitting or authorizing the permanent location of any non-residential mobile trailer within the City of Elk City, Oklahoma.

**Section 12-5. Non-Conforming Homes.**

1. A manufactured or mobile home placed and maintained on a tract of land and deemed to be a legal non-conforming use prior to the adoption of this ordinance, shall continue to be a legal non-conforming use. If the non-conforming use is discontinued, the owner has a period of sixty (60) days to replace the existing mobile home with another home that meets the provisions of this ordinance. The land thereafter must be used in conformity with all provisions of the Zoning Ordinance.

**Section 12-6. Structural Additions or Alterations.**

1. Due to its integral design, any structural alteration or modification of a manufactured or mobile home after it is placed on the site must be approved by the Building Inspector or other authorized administrative official of the City of Elk City. All structural additions shall comply with the City of Elk City's Building Codes.

**Section 12-7. Movement over Roadways.**

1. Movement of manufactures homes and mobile homes over the roadways of the City of Elk City, Oklahoma shall be allowed consistent with the following obligations:

- a. Protection of the motoring public from potential traffic hazards;
- b. Protection of highway surfaces, structures and private property; and
- c. Provision for normal flow of traffic with a minimum of interference.

2. Before manufactured homes or mobile homes enter or leave the City limits of Elk City, Oklahoma, or are transported within the City limits of the City of Elk City, Oklahoma, the owner thereof shall:

- a. Provide advance written notice, with all particulars set forth therein, to the Elk City Police Department not less than one hour before the intended movement commences;
- b. Provide advance written notice, with all particulars set forth therein, notice in writing to the Elk City Municipal Inspection Department not less than twenty-four hours before the intended movement commences.

3. Movement of manufactured homes and mobile homes is prohibited within the City limits of Elk City, Oklahoma between the hours of 7:00 o'clock A.M. to 9:00 o'clock A.M., 11:00 o'clock A.M. to 2:00 o'clock P.M. and 4:00 o'clock P.M. to 7:00 o'clock P.M.

**Sections 12-8 through 12-9. (Reserved for future use.)**

## **Article 2. Manufactured Homes.**

### **Section 12-10. Exterior Appearance Standards.**

Manufactured homes shall be classified as to acceptable compatibility or similarity in appearance with site-constructed residences, as set forth in the following sections.

### **Section 12-11. Type I Manufactured Home.**

**Type I manufactured home shall:**

1. Have more than 950 square feet of occupied space in a typically double-section or larger multi-section unit;
2. Be placed onto a permanent foundation;

3. Utilize a permanent perimeter enclosure in accordance with approved Installation Standards, as specified in Section 12-16;
4. Be anchored to the ground, in accordance with the City of Elk City Codes and to the manufacturer's specifications;
5. Have wheels, axles, and hitch mechanisms removed;
6. Have utilities connected in accordance with the local codes and manufacturer's specifications;
7. Have siding material of type customarily used on site- constructed residences;
8. Have roofing material of a type customarily used on site-constructed residences;
9. Have open, covered, and/or enclosed parking structure which is compatible with other housing in immediate area, and all parking surfaces shall be hard surfaced.

**Section 12-12. Type II Manufactured Home.**

**Type II manufactured home shall:**

1. Have more than 720 square feet of occupied space in a single, double, expando, or multi-section unit (including those with add-a-room units);
2. Be placed onto a permanent foundation;
3. Utilize a permanent perimeter enclosure in accordance with approved Installation Standards, as specified in Section 12-16;
4. Be anchored to the ground, in accordance with manufacturer's specifications and local codes;
5. Have wheels, axles, and hitch mechanisms removed;
6. Have utilities connected in accordance with manufacturer's specifications or the local codes, whichever is more restrictive;
7. Have siding material of a type customarily used on-site constructed residences;
8. Have roofing material of a type customarily used on-site constructed residences;
9. Have covered and/or enclosed parking structure which is compatible with other housing in an immediate area, and all parking surfaces shall be hard surfaced.

### **Section 12-13. Type III Manufactured Home.**

#### **Type III manufactured home shall:**

1. Have more than 400 square feet of occupied space in a single, double, expando, or multi-section unit (including those with add-a-room units);
2. Be placed onto a support system in accordance with approved Installation Standards, as specified in Section 12-16;
3. Be enclosed with foundation siding/skirting in accordance with approved Installation Standards, as specified in Section 12-16;
4. Be anchored to the ground, in accordance with manufacturer's specifications and the local codes;
5. Have utilities connected, in accordance with manufacturer's specifications or the local codes.

### **Section 12-14. Mobile Homes.**

#### **For purpose of determining appropriateness for placement, mobile homes shall:**

1. Have more than three hundred and twenty (320) square feet of occupied space;
2. Be placed onto support system, in accordance with approved Installation Standards, as specified in Section 12-16;
3. Be enclosed with foundation siding/skirting in accordance with approved Installation Standards, as specified in Section 12-16;
4. Be anchored to the ground, in accordance with manufacturer's specifications and local codes;
5. Have utilities connected, in accordance with manufacturer's specifications and local codes.

### **Section 12-15. Uses Permitted.**

Manufactured or mobile homes are permitted uses, as follows:

1. **Agricultural District (A-1).** Permitted uses are Type I, II, and III manufactured homes. Mobile homes may be permitted with a special exception permit.

2. **Single-Family Residential District (R-1).** Manufactured homes shall not be located in a Single-Family Residential District (R-1) unless (1) consent in writing is first obtained from 75 percent of all property owners within the city limits within a radius of 300 feet from the outside perimeter of the lot lines of the proposed location; (2) the owner in fee simple of the residential property and the title holder of the manufactured home are and remain one and the same; (3) the owner or members of owner's immediate family are the only persons who will occupy the manufactured home; (4) the manufactured home improves the surrounding area; (5) a permit is obtained from the City of Elk City; (6) the manufactured home has at least 1,200 square feet of floor space; and (7) the manufactured home is located on a lot of at least 14,000 square feet. In addition, the manufactured home shall be subject to all other zoning requirements for Single Family Residential District (R-1). Further, a single contiguous tract of land may house only one manufactured home. Subject to compliance with said requirements, permitted uses are Type I manufactured home. Subject to compliance with said requirements, Type II and III may be permitted with a Special Exception Permit. Mobile homes are prohibited.

3. **Two-Family Residential District (R-2).** Manufactured homes shall not be located in a Two-Family Residential District (R-2) unless (1) consent in writing is first obtained from 75 percent of all property owners within the city limits within a radius of 300 feet from the outside perimeter of the lot lines of the proposed location; (2) the owner in fee simple of the residential property and the title holder of the manufactured home are and remain one and the same; (3) the owner or members of owner's immediate family are the only persons who will occupy the manufactured home; (4) the manufactured home improves the surrounding area; (5) a permit is obtained from the City of Elk City; (6) the manufactured home has at least 1,200 square feet of floor space; and (7) the manufactured home is located on a lot of at least 7,000 square feet. In addition, the manufactured home shall be subject to all other zoning requirements for Two-Family Residential District (R- 2). Further, a single contiguous tract of land may house only one manufactured home. Subject to compliance with said requirements, permitted uses are Type I manufactured home. Subject to compliance with said requirements, Type II and III may be permitted with a Special Exception permit. Mobile homes are prohibited.

4. **Multi-Family Residential District (R-3).** Manufactured homes shall not be located in a Multi-Family Residential District (R-3) unless a permit is obtained from the City of Elk City. In addition, the manufactured homes shall be subject to all other zoning requirements for Multi-Family Residential District (R-3). Further a single contiguous tract of land may house only one manufactured home unless tract conforms to the requirements of Manufactured Home Subdivision in accordance with the terms of this Code. Subject to compliance with said requirements, permitted uses are Types I, II, III and mobile home and recreation vehicle parks and Manufactured Home Subdivisions.

5. **Residential Estate District (R-4).** Manufactured homes shall not be located in a Residential Estate District (R-4) unless (1) consent in writing is first obtained from 75 percent of all property owners within the city limits within a radius of 300 feet from the outside perimeter of the lot lines of the proposed location; (2) the owner in fee simple of the residential property and the title holder of the manufactured home are and remain one and the same; (3) the owner or members of



owner's immediate family are the only persons who will occupy the manufactured home; (4) the manufactured home improves the surrounding area; (5) a permit is obtained from the City of Elk City; (6) the manufactured home has at least 1,200 square feet of floor space; and (7) the manufactured home is located on a lot of at least 14,000 square feet. In addition, the manufactured home shall be subject to all other zoning requirements for Residential Estate District (R-4). Further, a single contiguous tract of land may house only one manufactured home. Subject to compliance with said requirements, permitted uses are Type I manufactured home. Subject to compliance with said requirements, Type II and III may be permitted with a Special Exception permit. Mobile homes are prohibited.

6. **Convenience Commercial District (C-1).** Allows no permitted uses. Types I, II, III and mobile homes may be permitted with a special exception permit.

7. **Highway Commercial and Commercial Recreation District (C- 2).** Allows no permitted uses. Types I, II, III and mobile homes may be permitted with a special exception permit.

8. **General Commercial District (C-3).** Allows no permitted uses. Types I, II, III and mobile homes may be permitted with a special exception permit.

9. **Light Industrial District (I-1).** Allows no permitted uses and all uses are prohibited.

10. **Manufactured Home Park.** Permitted uses are Type I, II, III and mobile homes.

11. **Manufactured Home Subdivision (MHS).** Permitted uses are Type I and II. Type III and mobile homes are prohibited.

#### **Section 12-16. Installation Standards.**

##### **Manufactured or mobile home installation standards are as follows:**

1. **Permanent Perimeter Enclosure.** Those manufactured homes designated in the zoning ordinance as requiring perimeter enclosure must be set onto an excavated area, with permanent perimeter enclosure, foundations, footings and crawl space or basement walls constructed in accordance with the terms of the Foundation Code. The space between the floors of the home and the excavated underfloor grade shall be completely enclosed with the permanent perimeter enclosure (except for required openings).

2. **Foundation Siding/Skirting (For Temporary Structures).** All manufactured or mobile homes without a permanent perimeter enclosure shall have an approved foundation siding/skirting enclosing the entire perimeter of the home. Foundation siding/skirting and back-up framing shall be weather resistant, non-combustible or self-extinguishing materials, which blend with the exterior siding of the home. Below grade level and for minimum distance of six (6) inches above finish grade, the materials shall be unaffected by decay or oxidation. The siding shall be installed in accordance with manufacturer's recommendations or approved equal standards. The

siding shall be ventilated by openings, which shall have a net area of not less than one and one-half (1 1/2) square feet for each twenty-five (25) linear foot of exterior perimeter. The openings shall be covered with corrosion resistant wire mesh not less than one-half (1/2) inch in any dimension. The underfloor area shall be provided with an eighteen (18) inch by twenty-four (24) inch minimum size access crawl hole, which shall not be blocked by pipes, ducts, or other construction interfering with the accessibility of the underfloor space, or other approved access mechanism.

3. **Support System.** All HUD-Code Type I and Type II manufactured home load-bearing foundations shall be installed in conformance with the regulations in the Foundation Code and with the manufacturer's installation specifications. All HUD-Code

Type III manufactured homes and all mobile homes not placed on a permanent foundation, shall be installed on a support system in conformance with the manufacturer's installation specifications or with the Foundation Code.

**Sections 12-17 through 12-19. (Reserved for future use.)**

### **Article 3. Manufactured Home Subdivision.**

#### **Section 12-20. Manufactured Home Subdivisions.**

1. Manufactured home subdivisions shall comply with the adopted Subdivision Regulations and Zoning Ordinance of the City of Elk City, Oklahoma, except as otherwise provided herein.

2. The minimum size of a manufactured home subdivision shall be ten (10) acres.

3. Type III manufactured homes and mobile homes are not permitted in manufactured home subdivisions.

**Sections 12-21 through 12-29. (Reserved for future use.)**

### **Article 4. Mobile Home, Recreational Vehicle Park and Mixed Park.**

#### **Section 12-30. Licenses and Temporary Permits; Requirements; Procedures; Fees.**

1. It shall be unlawful for any person to construct, maintain or operate any mobile home park or recreational vehicle park or mixed park within the corporate limits of the City of Elk City, Oklahoma, unless he holds a valid license issued annually by the City of Elk City. License shall include the name of the owner of the park, name of the park manager, if different from owner, and the name of the park, except that the maintenance or operation of a mobile home park or recreational vehicle park or mixed park in existence on the effective date of this Chapter may be continued under a temporary permit (not to exceed one (1) year) for such period of time and under

such conditions as are herein after described.

2. Application shall be made to the City of Elk City and shall issue a license upon compliance by the applicant with all pertinent provisions of this and other ordinances and regulations of the City of Elk City, Oklahoma. Every person holding such a license shall notify the City of Elk City in writing within twenty four (24) hours after having sold, transferred, given away or otherwise disposed of, interest in or control of, any mobile home park or recreational park or mixed park. Such notice shall include the name and address of the person succeeding to the ownership or control of such mobile home park, or recreational vehicle park, or mixed park.

3. Application for license shall be in writing, signed by the application, and accompanied by an affidavit of the applicant as to the truth of the application, and shall contain the following:

- a. Name and address of the owner and manager's name and address if different;
- b. Location and legal description and name of the park;
- c. A complete plan of the park, showing compliance with all applicable provisions of this Chapter and regulations promulgated hereunder; and
- d. Such further information as may be requested by the City of Elk City.

4. Applications for renewals of licenses shall be made, in writing, by the holder of the license and shall contain the following:

- a. Any change in the information submitted since the time the original license was issued, or the latest renewal granted; and
- b. Other information requested by the City of Elk City.

5. A complete plan, for the purpose of obtaining a license to be issued, shall show:

- a. The area and dimensions of the tract of land;
- b. The number, locations and size of all mobile home and/or recreational vehicle spaces;
- c. The location and width of roadways, walkways, buffer strips and recreational area;
- d. The location of service buildings and other proposed structures;

- e. The location and size of utility lines and treatment facilities; and
- f. Plans and specifications of all buildings and other improvements constructed, or to be constructed, within the park.

6. Whenever the City of Elk City finds conditions or receives a complaint of violations of this Chapter, or of any regulations adopted pursuant thereto, they shall give notice, in writing, to the person to whom the license was issued, that, unless such conditions or practices be corrected within a reasonable period of time (specified in the notice), the license will be suspended. At the end of such period, not to exceed ninety (90) days, the City of Elk City shall re-inspect such park, and, if such conditions or practices have not been corrected, they shall suspend the license and give notice, in writing, of such suspension to the person to whom the license was issued. Upon receipt of notice of suspension, such person shall cease operation of such park except as may be provided hereinafter.

7. Any person whose permit has been denied or suspended, or who has received notice from the City of Elk City that this permit will be suspended unless certain conditions or practices at the park are corrected, may request and shall be granted a hearing on the matter before the City Commission; provided, that when no petition for such hearing shall have been filed within ten (10) days following the day on which notice of suspension was served, such license shall be deemed to have been automatically revoked at the expiration of such ten (10) day period.

8. The City Clerk shall charge and collect fifty dollars (\$50.00) for the annual license or permit for mobile homes or recreational vehicle parks or a mixed park.

**Section 12-31. Inspection of Mobile Home and Recreational Vehicle Parks and Mixed Parks.**

1. The City of Elk City shall have the power to inspect the outside premises of private or public property for the purposes of inspecting and investigating conditions relating to the enforcement of this Chapter or of regulations promulgated hereunder.

2. The City of Elk City shall have the power to inspect the register containing a record of all mobile homes or recreational vehicles and occupants using the park.

3. It shall be the duty of every occupant of a park to give the owner thereof, or his agent or employee, access to any part of the park, or their premises, at reasonable times for the purpose of making such repairs or alterations adopted hereunder, or with lawful order issued pursuant to the provisions of this Chapter.

**Section 12-32. Notices, Hearings and Orders.**

- 1. Whenever the City of Elk City determines violations of pertinent regulations exist,

the City of Elk City shall notify the licensee or permittee of such alleged violation(s). Such notice shall:

- a. Be in writing;
- b. Include a statement of the reasons for its issuance;
- c. Contain an outline of remedial action, which if taken, will affect compliance with provisions of this Chapter and other pertinent regulations;
- d. Allow a reasonable time, not to exceed ninety (90) days, for the performance of any act it requires; and
- e. Be served upon the owner or his agent as the case may require; provided, that such notice or order shall be deemed as properly served upon owner or agent when a copy thereof has been sent by certified mail to his last known address.

2. Any person affected by any notice issued under this Chapter or resulting regulation, may request and shall be granted a hearing on the matter before the City Commission; provided, that such person shall file with the City of Elk City a written request for such hearing, setting briefly the grounds for such request, within ten (10) days after the day the notice was served. The filing of such request shall state the notice of suspension of permits and licenses, except in cases of orders issued under subsection 4, below.

3. Any person aggrieved by the decision of the City Commission may seek relief in District Court.

4. Whenever the City of Elk City finds that an emergency exists which requires immediate action to protect the public health, they may, without notice or hearing, issue an order reciting the existence of such an emergency and requiring that such action be taken as they deem necessary to meet the emergency, including the suspension of the permit. Any person to whom such an order is directed shall comply therewith immediately, but upon petition to the City Commission, shall be afforded a hearing at the next regular meeting, which petition shall serve to temporarily stay the effect of the order.

### **Section 12-33. Supervision.**

The licensee, permittee or a duly authorized attendant or caretaker, shall be charged at all times with keeping the park, its facilities and equipment in a clean orderly and sanitary condition. The attendant or caretaker shall be answerable, with the licensee or permittee, for the violation of any provision of this Chapter to which the licensee or permittee is subject.

**Section 12-34. Posting of License and Temporary Permit.**

The license certificate or temporary permit shall be conspicuously posted in the office of, or on the premises of, the mobile home park or recreational vehicle park or mixed park at all times.

**Section 12-35. Location and Design Consideration for Mobile Home and Recreational Vehicle Parks and Mixed Parks.**

1. Parks shall be of three (3) types: (a) mobile home parks, (b) recreational vehicle park and (c) mixed park. No more than five (5) recreational vehicles (in designated separate area) are allowed in a mobile home park, which are rented on a monthly basis and hooked to their own electric meter. No mobile home shall be located in a recreational vehicle park. In a mixed park, separate areas shall be reserved and posted for mobile homes and for recreational vehicle sector; no recreational vehicle shall be permitted in the mobile home sector.

2. All mobile home parks, recreational vehicle parks and mixed parks shall be located on a well-drained site, properly graded to insure proper drainage and freedom from stagnant pools of water; drainage shall not endanger any water supply.

3. The minimum area of any park shall be five (5) acres. Parks in existence on the effective date of this Chapter can continue to operate with less than five (5) acres area; however, if the park is to be expanded, it must at that time have a minimum area of five (5) acres.

4. Intensity of development shall be limited to no more than ten (10) mobile homes per gross acre for a mobile home park, and no more than twenty-five (25) recreational vehicles per gross acre for a recreational vehicle park. A combination of the above will be used for mixed park. (Area used for sewerage treatment facilities shall not be included in density computations.) Mobile home spaces shall be at least thirty (30) feet wide and recreational vehicle spaces shall be at least eighteen (18) feet wide.

5. Every mobile home and recreational vehicle space shall be clearly defined so that the City of Elk City can inspect to see the parks are in compliance with the provisions of this Chapter. Mobile homes and recreational vehicles shall be parked in such spaces, so that, at the nearest point, they shall be ten (10) feet from the service road, five (5) feet from the rear lot line and at least ten (10) feet from any other mobile home or recreational vehicle.

6. It shall be unlawful to locate a mobile home or recreational vehicle less than twenty-five (25) feet from any public street or highway right-of-way, or so that any part of such mobile home or recreational vehicle will obstruct any roadway or walkway of such park.

7. It shall be unlawful to permit a mobile home to occupy a recreational vehicle space,

a recreational vehicle to occupy a mobile home space and for any mobile home or recreational vehicle to be located in a park unless in a designated mobile home or recreational vehicle space.

8. All mobile home spaces or recreational vehicle spaces shall abut upon a sealed surface interior streets of not less than twenty (20) feet in width, if on street parking is prohibited, and twenty-six (26) feet in width, if on street parking is permitted on one (1) side of the street only. Interior streets must have unobstructed access to a public street or highway.

9. In mobile home or recreational vehicle or mixed parks existing at the effective date of this Chapter, parking on or adjacent to the street within the park is permissible as long as it does not obstruct free movement of traffic. Whether or not a safety hazard exists is a question to be determined by the Planning and Zoning Commission, with final appeal to the City Commission, if it is determined that a safety hazard does in fact exist, the parks concerned will be required to comply with the following provisions:

- a. In new mobile home parks, at least two (2) clearly defined parking spaces will be provided for each space either on, or adjacent to, the space.
- b. In new recreational vehicle parks, at least one (1) clearly defined parking space shall be provided for each space either on, or adjacent to, the space.
- c. In new mixed parks, at least two (2) clearly defined parking spaces will be provided for each mobile home space and one (1) clearly defined parking space for recreational vehicle space either on, or adjacent to, the space.

10. All interior streets and walkways within a park shall be at least asphalt-oil-rock sealed and surfaced.

11. New mobile home parks should abut, and have their major means of ingress and egress on at least a secondary thoroughfare. Recreational vehicle parks and mixed parks shall abut, and have their major means of ingress and egress on at least a primary thoroughfare.

12. All mobile home parks, recreational vehicle parks or mixed parks shall have and maintain a solid screened fence or solid screen of not less than six (6) feet in height along park boundaries, if abutting any zoning other than A-1, or not bordering a street. All materials for screening shall provide a visibility barrier and shall be of sufficient strength to withstand normal winds and other weather occurrences common to the area.

**Section 12-36. Service Building for Recreational Vehicle Parks  
and Mixed Parks.**

1. Each recreational vehicle park and mixed park shall provide one (1) service building adequately equipped with flush type toilet fixtures and sanitary facilities. Each park shall have two (2) private toilets for females, two (2) toilets for males, two (2) lavatories and shower and private dressing rooms for each sex.

2. Each additional service building shall provide at least one (1) private toilet for females, one (1) toilet for males, one (1) lavatory and shower and private dressing room for each sex.

3. Service building shall:

- a. Be of permanent construction or a building meeting all requirements of the International Building Code (IBC) and be adequately lighted;
- b. Be of moisture-resistant materials, to allow frequent washings and cleansing;
- c. Have adequate heating facilities to maintain a temperature of seventy (70E) degrees Fahrenheit during cold weather, and to supply adequate hot water during time of peak demands; and
- d. Have all rooms well ventilated, with all openings effectively screened.

4. Laundry facilities will be required in a recreational vehicle park or a mixed park with six (6) or more recreational vehicle spaces. Laundry facility will have at least one (1) laundry unit and shall be in a separate, soundproof room of a service building or in a separate building. A laundry unit shall consist of at least one (1) mechanical dryer and at least one (1) clothes washing machine.

5. All service buildings if required and the grounds of the park shall be maintained in a clean condition and kept free of any condition that will menace the health of any occupant or the public or constitute a menace.

### **Section 12-37. Sewage Disposal for Mobile Home Parks.**

1. Waste from showers, bathtubs, flush toilets, lavatories and laundries in service and other buildings within the park shall be discharged into a public sewer and disposal plant, septic tank system or private sewer and lagoon system, of such construction and in such manner as approved by the Oklahoma State Department of Health and in accordance with all applicable Ordinances of the City of Elk City, Oklahoma.

2. Each mobile home space shall be provided with at least a three (3) inch sewer connection at least four (4) inches above the surface of the ground. The sewer connection should be protected by a concrete collar at least four (4) inches thick and have a minimum outside diameter of twenty-four (24) inches. The sewer connection shall be fitted with a standard ferrule and close nipple, and provided with a screw cup. Connection between the mobile home drain and the sewer must be watertight and self- draining. Mobile homes with fixtures from which back-siphonage may occur shall not be connected to the parks water system until the defect has been corrected.



3. In the event that a public water system is, or becomes available, within three hundred (300) feet of a mobile home or recreation vehicle park or a mixed park, connection must be made to the public system within one hundred eight (180) days.

4. The design of private sewage treatment facilities shall be based on the maximum capacity of the park. Effluent from sewage treatment facilities shall not be discharge into the watershed of the Municipal Lake, or any other water of the State. The disposal facilities shall be located where they will not create a nuisance or health hazard to the mobile home park or to the owner or occupants of any adjacent property. The Oklahoma State Health Department must approve the type of treatment proposed and the design of any disposal facilities and sewer system, prior to construction.

5. Every mobile home occupying a mobile home park space shall tie onto the park sewerage system and shall dump any accumulated wastes into the system. Every recreational vehicle shall dump all accumulated waste into a receptacle provided in the recreational vehicle park upon entering and upon leaving the park. Such receptacles must be approved by the Oklahoma State Health Department. Any other dumping of accumulated waste within the City of Elk City, Oklahoma, is prohibited.

6. Sewer connections shall be watertight. Park licenses shall maintain trailer and mobile home connections to sewer and water systems in good condition and be responsible that there is no sewage or water leakage on park premises.

7. No permanent sewer connection shall be made to recreational vehicle spaces.

### **Section 12-38. Water Supply for Mobile Home Park.**

1. An accessible, adequate, safe and potable supply of water shall be provided in each park, capable of furnishing a minimum of two hundred and fifty (250) gallons per day, per mobile home space. Where a public supply of water of such quality is available, within three hundred (300) feet, or becomes available within three hundred (300) feet, connection shall be made thereto and its supply shall be used exclusively. Where private water supplies must be developed, the health officer must approve the location, construction and development of the water well, pipe system and connections. No private source other than a water well shall be used.

2. The water system of the mobile home park shall be connected by pipes to all buildings and all mobile home spaces. Each mobile home shall be provided with a cold water tap at least four (4) inches above the ground. An adequate supply of hot water shall be provided at all times, in the service buildings, for all bathing, washing, cleansing and laundry facilities.

3. All water piping shall be constructed and maintained in accordance with State and local law. The water piping system shall not be connected with non-potable or questionable water supplies, and shall be protected against the hazards of backflow or back-siphonage. All water connections shall be weather-tight.

4. Where drinking fountains are provided for public use, they shall be of a type and in locations approved by the Health Officer.

5. Individual water-service connections which are provided for direct use by mobile homes or recreational vehicles shall be of such construction so that they will not be damaged by the parking of such mobile homes or recreational vehicles. The park system shall be adequate to provide twenty (20) pounds per square inch of pressure at all mobile home or recreational vehicle connections.

6. Provisions shall be made within one-hundred and fifty (150) feet of each recreational vehicle space to supply water for recreational vehicle reservoirs.

7. No well-casing, pumps, pumping machinery or suction pipes shall be located in any pit, room or space extending below ground level, nor in any room or space above ground which is walled in or otherwise enclosed unless such rooms, whether above or below ground, have free drainage by gravity to the surface. All floors shall be watertight and sloped from the pump pedestal to the drain, and floors shall extend at least two (2) feet from the well in all directions. The pedestal shall not be less than twelve (12) inches above the floor. This shall not be construed as prohibiting submersible pumps.

8. All water storage reservoirs shall be watertight, and constructed of impervious material; all overflows and vents of such reservoirs shall be effectively screened. Open reservoirs are prohibited. Manholes shall be constructed with overlapping covers, so as to prevent the entrance of contaminated material. Overflow pipes from a reservoir shall not connect to any pipe in which sewage or polluted water may back up.

9. Underground stop and waste-cocks shall not be installed on any connection.

10. No water well shall draw water from any sands reserved to the City of Elk City, Oklahoma, for its use, except as many be otherwise permitted by Ordinances of the City of Elk City, Oklahoma.

11. No permanent water connections shall be made to recreational vehicle spaces.

#### **Section 12-39. Refuse Disposal for Mobile Home Parks.**

1. The storage, collection and disposal of refuse in the park shall be so managed as to create no health hazards, rodent's harborage, insect-breeding areas, accident or fire hazards, or air pollution.

2. All refuse shall be stored in fly-tight, water-tight and rodent-proof containers, which shall be located within one hundred and fifty (150) feet of any mobile home or recreational vehicle space. Containers shall be provided in sufficient numbers and capacity to properly store all refuse.

3. Racks or holders shall be provided for all refuse containers. Such container racks or holders shall be so designed as to prevent containers from being tipped, to minimize spillage and container deterioration, and to facilitate cleaning around them. Lids for containers shall be permanently connected to racks or holders with chains or other flexible materials.

4. All refuse shall be collected at least once weekly, or as otherwise required by the Health Officer. Where municipal garbage collection is not available, the mobile home park operator shall either employ a private agency or provide this service. All refuse shall be collected and transported in covered vehicles or covered containers.

5. Where municipal or other private disposal service is not available, the mobile home park operator shall dispose of the refuse by burial or transporting to an approved disposal site, as directed by the Health Officer. Refuse shall be buried only at locations and by methods approved by the Health Officer, and in accordance with the ordinances of the City of Elk City, Oklahoma.

6. When municipal refuse disposal service is available, it must be used.

#### **Section 12-40. Insect and Rodent Control.**

1. Insect and rodent control measures to safeguard public health, as required by the Health Officer, shall be applied in the park.

2. Effective larvicidal solutions may be required by the Health Officer for fly- or mosquito-breeding areas which cannot be controlled by other, more permanent measures.

3. The Health Officer may require the park operator to take suitable measures to control other insects and obnoxious weeds.

4. Accumulations of debris which may provide harborage for rodents shall not be permitted in the mobile home park.

5. When rats or other objectionable rodents are known to be in the park, the park operator shall take definite action, as directed by the Health Officer, to exterminate them.

#### **Section 12-41. Electricity: Exterior Lighting.**

1. An electrical outlet supplying at least sixty (60) amperes shall be provided for each mobile home space. The installation shall comply with all applicable State and local electrical codes and ordinances. Such electrical outlets and extension lines shall be grounded and weatherproofed. Plug receptacles shall also be grounded and weatherproofed. No power supply line shall be permitted to lie on the ground, and no main power line shall be suspended less than eighteen (18) feet above the ground, unless otherwise approved by the inspection officer.

2. Streets and driveways within mobile home and recreational vehicle parks shall be lighted with street lights meeting the current standards of the Illuminating Engineering Society or one-half (1/2) candlepower, whichever is higher.

**Section 12-42. (Reserved for future use.)**

**Section 12-43. Fire Protection.**

1. Park areas shall be kept free of litter, rubbish and other flammable materials.
2. Where the water supply system does not provide at least six (6) inch water mains, there shall be provided a two (2) inch, frost-protected water riser within three hundred (300) feet of each mobile home or building.
3. Fires shall be made only in stoves and other cooking and/or heating equipment intended for such purposes.

**Section 12-44. Alterations and Additions.**

1. All plumbing and electrical alterations or repairs in the park shall be made in accordance with applicable local regulations.
2. Skirting of mobile home is permissible but areas enclosed by such skirting shall be maintained so as not to provide a harborage for rodents or create a fire hazard.
3. A permit issued by the inspecting office shall be required before any construction on a mobile home space or any structural addition or alteration to the exterior of a mobile home takes place. No construction, addition or alteration to the exterior of a mobile home located in a mobile home park shall be permitted unless of the same type of construction or materials as the mobile home affected. All such construction, additions or alterations shall be in compliance with applicable local and State laws. No permit shall be required for the addition of steps, canopies, awnings or antennas.
4. No structure, other than a mobile home, shall be permitted on a mobile home space, except that one (1) structure of not to exceed one hundred and seventy-five (175) square feet, to be used for storage, may be allowed on each such space.

**Section 12-45. Registration of Owners and Occupants.**

1. Each licensee or permittee shall keep a register containing a record of all mobile home and recreational vehicle owners and occupants located within the park. The register shall contain the following information.

- a. The name and address of the owner or occupant of each mobile home, and motor vehicle by which it is owned;
- b. The make, model, year and license of each mobile home and motor vehicle;
- c. The state, territory or country issuing such license;
- d. The date of arrival and of departure of each mobile home; and
- e. Whether or not each mobile home is a dependent or independent mobile home.

2. The park shall keep the register available for inspection at all times by law-enforcement officers, public health officials and other officials whose duties necessitate acquisition of the information contained in the register. The register record of each occupant registered shall not be destroyed for a period of one (1) year, following the date of departure of the registrant from the park.

**Sections 12-46 through 12-49. (Reserved for future use.)**

### **Article 5. Mobile Home Subdivisions**

#### **Section 12-50. Mobile Home Subdivisions.**

1. Mobile home subdivisions shall comply with the adopted Subdivision Regulations and Zoning Ordinance of the City of Elk City, Oklahoma, except as otherwise provided herein.
2. The minimum size of a mobile home subdivision shall be ten (10) acres.
3. No residences except mobile homes shall be permitted in a mobile home subdivision.
4. Minimum effective lot widths in a mobile home subdivision shall be forty (40) feet, measured at the front building line, and minimum lot areas shall be four thousand (4,000) square feet; provided that at least a five (5) foot side yard shall be provided on each lot beyond any mobile home and additions thereto; and further provided, that in areas not serviced by a public sewer, the minimum additional lot area shall be determined by the Health Officer on the basis of safe and sanitary sewer service. The effective lot width of a mobile home lot shall be determined, for interior lots, by measuring at right angles across the lot from one (1) diagonal side line to the other, and for corner lots, the measurement shall be made at right angles from the diagonal having the greatest divergence from perpendicular to the street, through the midpoint of the rear line of the required front yard, to the opposite lot line, or an extension thereof.

5. Side lines of lots in mobile subdivisions need not be at right angles to straight street lines or radial to curved street lines.

6. Regardless of the effective lot width, mobile home subdivision lots must abut a public street for at least twenty- five (25) feet.

7. All mobile home subdivisions, except those developed under Residential Estate Zoning District Standards, shall have a green belt planting strip of not less than twenty (20) feet in width along all subdivision boundaries. Such green belt shall be composed of (a.) one (1) row of deciduous and/or evergreen trees, spaced not more than forty (40) feet apart, or (b.) not less than three (3) rows of shrubs, spaced not more than eight (8) feet apart, which grow to a height of five (5) feet or more after one (1) full growing season, and which shrubs will eventually grow to a height of not less than twelve (12) feet.

**Sections 12-51 through 12-59.** (Reserved for future use.)

#### **Article 6. Miscellaneous Provisions**

**Sections 12-60 through 12-69.** (Reserved for future use.)

#### **Article 7. Penalty**

##### **Section 12-70. Penalty.**

Any person, firm or corporation who shall violate any provision of this Chapter shall be guilty of any offense and, upon conviction thereof, shall be punished by fine and costs as provided for in Section 1-40 of this Code, unless a separate and distinct penalty is otherwise specifically set forth in this Chapter. Each day's continuation of any such violation shall constitute a separate offense.

## CHAPTER 13

### MUNICIPAL COURT

Article 1. Application of Chapter; Jurisdiction of Court.

Article 2. Organization and Procedure.

Article 3. Penalty.

#### **Article 1. Application of Chapter; Jurisdiction of Court**

##### **Section 13-1. Application of Chapter.**

1. This Chapter shall govern the organization and operation of the Municipal Court of the City of Elk City, Oklahoma, as put into operation and continued by Resolution, duly passed and filed in accordance with State Law.

2. To the extent of conflict between any provisions of this Chapter and the provisions of any other Ordinance of the City of Elk City, Oklahoma, the provisions of this Chapter shall control.

##### **Section 13-2. Jurisdiction of Court.**

The Municipal Court shall exercise original jurisdiction to hear and determine all prosecutions wherein a violation of any provision of this Code of Ordinance or any other Ordinance of the City of Elk City, Oklahoma, is charged, including any such prosecutions transferred to said court, in accordance with applicable laws.

##### **Sections 13-3 through 13-9. (Reserved for future use.)**

#### **Article 2. Organization and Procedure**

##### **Section 13-10. Judge; Alternate Judge; Acting Judge.**

(See Chapter 1, Section 1-40, this Code of Ordinances.)

##### **Section 13-11. Compensation of Judges.**

The compensation of the Judges and the Alternate or Acting Judges of the Municipal Court of the City of Elk City, Oklahoma, shall be as determined by the City Manager.

**Section 13-12. No Change of Venue; Disqualification of Judge.**

1. In prosecutions before the Municipal Court, no change of venue shall be allowed, but the Municipal Judge before whom the case is pending may certify his disqualification or he may be disqualified from sitting, under the terms, conditions and procedures provided by law for the Courts of Record.

2. If the Municipal Judge is disqualified, the matter shall be heard by an Alternate Judge, appointed as provided in this Code of Ordinances.

**Section 13-13. Chief of Police.**

All writs or process of the Municipal Court shall be directed to the Chief of Police of the City of Elk City, Oklahoma, who shall be the principal officer of the Court.

**Section 13-14. Attorney.**

The Municipal Attorney, or his duly designated assistant, shall be the prosecuting officer of the Municipal Court. He shall be authorized to prosecute all alleged violations of the Ordinances of the City of Elk City, Oklahoma, and to prosecute and resist appeals and proceedings in error and review from the Court to any other courts of the State; he shall also be authorized to represent the City of Elk City, Oklahoma, in all proceedings arising out of matters of the Court.

**Section 13-15. Clerk of Court.**

1. The City Clerk, or a deputy designated by him, shall be the Clerk of the Court. Duties of the Court Clerk shall include the following:

- a. Assist the Municipal Judge in recording the proceedings of the Court and in preparing writs, process and other papers.
- b. Administer oaths required in proceedings before the Court.
- c. Enter all pleadings, process and proceedings in the dockets of the Court.
- d. Perform such other clerical duties relating to the proceedings of the Court as the Municipal Judge shall direct.
- e. Receive and receipt for forfeitures, fees, deposits and sums of money payable to the Court.
- f. Pay to the City Treasurer or the City Clerk all money so received (except



such special deposits or fees as shall be received to be disbursed for special purposes), to be placed in the General Fund of the municipality, or in such other fund and in such manner as the City Commission may direct.

2. The Clerk of the Court shall give bond to the City in the sum of five thousand dollars (\$5,000.00).

**Section 13-16. Traffic Violations Bureau.**

1. A Traffic Violations Bureau is hereby established as a division of the Office of the Clerk of the Court, to be administered by said Clerk, or by subordinates designated by him for that purpose.

2. Persons who are cited for violation of any of the traffic ordinances of the City of Elk City, Oklahoma, may elect to pay a fine in the Traffic Violations Bureau according to the schedule adopted as a part of the Court rules.

3. The court may adopt further rules to implement this Section. Payment of a fine under this Section shall constitute a final determination of the case against the defendant. If a defendant who has elected to pay a fine under this Section fails so to do, prosecution shall proceed under other provisions of this Chapter.

**Section 13-17. Traffic Violations.**

1. If a police officer observes facts which he believes constitute a violation of the traffic Ordinances of the City of Elk City, Oklahoma, by a resident thereof, in lieu of arresting such person, he may take his name, address, operator's license number, the license number of the motor vehicle involved and any other pertinent information, and may issue to him, in writing in a form prescribed by the Mayor (or his duly designated delegate), a traffic citation embracing the above information, stating the traffic violation alleged to have occurred and notifying him to answer to the charge against him in the Municipal Court at a time specified in the citation. The officer, upon receiving the written promise of the alleged violator (on the citation) to answer as specified, shall release said person from custody. If the person to whom a citation is issued fails to answer as prescribed in the citation, a complaint shall be filed and the case shall be prosecuted as otherwise provided in this Chapter.

2. If the alleged traffic violation is committed by a non-resident of said City, the police officer shall take him into custody under arrest. The arrested person shall either (a) be taken immediately before the Municipal Judge for further proceedings according to law, or shall (b) have bail fixed for his release in accordance with the provisions of this Chapter. Upon providing bail, and upon giving his written promise to appear upon a day certain, as provided in Subsection 1 (above), he shall be released from custody.

3. If the alleged offense constitutes violation of any parking Ordinance and the operator

is not present, the police officer shall place on the vehicle, at a place reasonably likely to come to the notice of the operator, an appropriate citation (Subsection 1, above), with such variations as the circumstances require. The operator of the vehicle shall be under the same obligation to respond to the citation as if it had been issued to him personally under other provisions of this Section.

### **Section 13-18. Style of Prosecutions.**

All prosecutions for violation of this Code of Ordinances or other Ordinances of the municipality shall be styled "The City of Elk City, Oklahoma, Plaintiff, vs. (naming defendant or defendants). Except as otherwise provided with respect to traffic violations, prosecutions shall be initiated by the filing of a written complaint, subscribed and verified by the person making the complaint and setting forth concisely the offence charged.

### **Section 13-19. Summons.**

1. Upon the filing of a complaint charging a violation of this Code of Ordinances or other Ordinance(s) of the City of Elk City, Oklahoma, the Municipal Judge, unless he determines to issue a warrant of arrest, unless the defendant previously has been issued a citation, or unless he has been arrested and given bond for his appearance, shall issue a summons, naming the person charged, specifying his address or place of residence (if known), stating the offense with which he is charged and giving him notice to answer the charge in the Municipal Court on a day certain, five (5) days hence (Sundays and holidays excepted), or the next Municipal Court date after the summons is served upon him, containing a provision for the official return of the summons and including such other pertinent information as may be necessary.

2. The summons shall be served by delivering a copy to the defendant personally. If he fails to appear and answer the summons within the prescribed period, a warrant shall be issued for his arrest, as provided by this Chapter.

### **Section 13-20. Complaints Against a Corporation.**

1. Upon complaint against a corporation being filed with the Municipal Judge of the City of Elk City, Oklahoma, said Judge shall issue a summons in a form as outlined in this Chapter, signed by him with his title of office, requiring the corporation to appear before him at a specific time and place to answer the complaint.

2. The summons must be served at least two (2) days before the day of appearance fixed therein, by delivering a copy thereof and showing the original to the president, secretary, cashier or managing agent or director of the corporation.

3. At the time appointed in the summons, the Municipal Judge shall try the complaint in the same manner as in the case of any other person brought before him.

4. When a fine is imposed upon conviction, it may be collected by the Municipal Judge by making a transcript of his proceedings thereof, together with the judgment of the Court duly

certified and filed with the Clerk of the District Court, and execution shall be issued thereon and served by the Sheriff of the County as in cases of execution generally.

**Section 13-21. Warrant of Arrest.**

1. Except as may otherwise be provided in this Code of Ordinances, upon the filing of a complaint, approved by the endorsement of the City Attorney or by the Municipal Judge, there shall be issued a warrant of arrest in substantially the following form:

The City of Elk City, Oklahoma, to the Chief of  
Police of the Municipal Court of Elk City, Oklahoma:

Complaint upon oath having this day been made  
by \_\_\_\_\_ that the offense of  
\_\_\_\_\_ has been committed  
and accusing \_\_\_\_\_, thereof,  
you are commanded therefore forthwith to arrest  
the above named (Defendant or Defendants) and  
bring (him, her, and them) before me at my office  
at the Elk City, Oklahoma Municipal Court Room.

Witness my hand this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_.

Judge of the Municipal  
Court of the City of  
Elk City, Oklahoma

2. It shall be the duty of the Chief of Police to execute such warrant as promptly, either (a) personally, (b) through a duly constituted member of the police force of the City of Elk City, Oklahoma, or (c) through any other person lawfully authorized to act.

**Section 13-22. Bail; Temporary Bonds.**

1. Whenever a resident of the City of Elk City, Oklahoma, is arrested for a violation of any ordinance by a police officer of said City, the officer shall immediately release such person if he acknowledges receipt of a citation by signing it, unless it reasonably appears to the officer that the person may cause injury to himself or others, or damage to property, if released, or if it reasonably appears that the person will not appear in response to the citation. (if such person fails to appear in response to the citation, a warrant shall be issued for his arrest and his appearance in Court shall be compelled).

2. Whenever a resident of the City of Elk City, Oklahoma, is arrested by a police officer of said City of the violation of any Ordinance, and is not released by being permitted to sign a citation as provided hereinabove (Subsection 1), said resident shall be admitted to bail either before or after arraignment, or released on his own recognizance.

3. Whenever a non-resident of the City of Elk City, Oklahoma, is arrested by a police officer of said City for a violation other than a traffic violation, the defendant shall be eligible to be admitted to bail either before or after arraignment.

4. The City of Elk City, Oklahoma, may require any person who is arrested by a police officer of said City for a municipal traffic violation to comply with Statutory procedures for State traffic violations, with respect to the release of the arrested person. The following methods of posting bail shall apply:

- a. Posting cash bail, in exchange for a receipt therefore, issued by the arresting officer;
- b. Depositing with the arresting officer a "guaranteed arrest bond certificate"; or
- c. Depositing with the arresting officer a valid motor vehicle operator's license, in exchange for receipt therefore, issued by the arresting officer, which shall be recognized as an operator's license and shall authorize the person's license and shall authorize the person's operation of a motor vehicle to the date of his hearing; provided, that said date shall not exceed twenty (20) days from the date of arrest.

5. The amount and any conditions of bail granted under this Section shall be determined by the Municipal Judge, who shall prescribe rules for the receipt of bail and for release by personal recognizance. In the event of arrest at night, other emergencies or when the Municipal Judge is not available, the Chief of Police (or his designated representative) shall be authorized by the Municipal Judge, under such conditions as shall be prescribed by said Judge, to accept a temporary cash bond in a sufficient amount to secure the appearance of the accused, but in no event shall the cash bond be more than the allowable maximum fine for each offense charged. The Chief of Police (or his designated representative) is authorized, subject to such conditions as shall be prescribed by the Municipal Judge, to release a resident of the City of Elk City, Oklahoma, on his own recognizance.

### **Section 13-23. Arraignment.**

Upon making his appearance before the Municipal Court, the defendant shall be arraigned. The Municipal Judge or the City Attorney shall read the complaint to the defendant, inform him of his legal rights, of the consequences of conviction and ask him whether he pleads guilty or not guilty. If the defendant pleads guilty, the Court may proceed to judgment and sentence or may continue the matter for subsequent disposition. If the plea is not guilty, the Court may proceed to try the case or may set it for hearing at a later date.

### **Section 13-24. Postponement of Trial.**

Before a trial commences in the Municipal Court, either party, upon good cause shown, may obtain a reasonable postponement thereof.

**Section 13-25. Trial Procedure.**

In all trials in the Municipal Court as to matters not covered (a) in this Chapter, (b) by the Statutes relating to the Municipal Criminal Courts or 8 by rules duly promulgated by the Supreme Court of Oklahoma, the procedure applicable in trials of misdemeanors in the District Court shall apply, to the extent that they can be made effective.

**Section 13-26. Contempt.**

1. Obedience to the orders, rules and judgments made by the Municipal Judge or by the Municipal Court, may be enforced by said Judge, who may file or imprison for contempt committed as to him while holding Court, or committed against process issued by him, in the same manner and to the same extent, as the District Court of this State.

2. It shall be an offense to be in contempt, directly or indirectly, of the Municipal Court of the City of Elk City, Oklahoma, and of its orders.

**Section 13-27. Defendant to be Present at Trial; Failure to Appear.**

1. The defendant must be present in person at the trial of his case in the Municipal Court.

2. If, without sufficient excuse, a defendant fails to appear according to the terms or conditions of his bond, either for hearing, arraignment, trial or judgment, or upon any other occasion when his presence in Court or before the magistrate may be lawfully required, the Municipal Judge may direct that fact to be entered upon the Court minutes, thereby declaring the bond to be forfeited. Without advancing Court costs, said Judge shall then cause the forfeiture to be certified to the District Court of the county wherein the situs of government is situated, where it shall be entered upon the judgment docket and shall have the full force and effect of a District Court Judgment Docket. The District Court Clerk shall proceed in accordance with the applicable provisions of State Statutes.

**Section 13-28. Judgment.**

1. At the close of a trial in the Municipal Court, judgment must be rendered by the Municipal Judge, who shall cause it to be entered in his docket.

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

3. If the defendant pleads guilty or is convicted after trial, the Municipal Court must render judgment thereon, fixing the penalty within the limits prescribed by this Code of Ordinances or other applicable Ordinance, and imposing sentence accordingly.

**Section 13-29. Costs Upon Judgment of Conviction; Court Costs.**

1. If judgment of conviction is entered, the Clerk of the Court shall tax the costs to the defendant, in a sum not to exceed twenty dollars (\$20.00), or the maximum allowed by State law, whichever is greater, together with special assessments and fees the collection of which is otherwise required by State law, plus the fees and mileage of jurors and witnesses. All funds collected shall be deposited in the appropriate fund.

**Section 13-30. Enforcement of Payment of Fines or Costs by Imprisonment; Persons Unable to Pay.**

1. If a defendant, who is financially able, refuses or neglects to pay a fine or costs, or both, payment may be enforced by imprisonment, until the same shall be satisfied at the rate of five dollars (\$5.00) per day.

2. If the defendant is without means to pay the fine or costs, the Municipal Judge of the City of Elk City, may direct the total amount due to be entered upon the Court minutes and to be certified to the District Court of the county wherein the situs of government is situated, where it shall be entered upon the District Court Judgment Docket and shall have the full force and effect of a District Court Judgment. Thereupon, the same remedies shall be available for the enforcement of said judgment as are available to any other judgment creditor.

**Section 13-31. Suspension of Sentence.**

After conviction and sentence of a defendant in the Municipal Court of the City of Elk City, Oklahoma, the Municipal Judge may suspend sentence in accordance with the provisions of, and subject to the conditions and procedures imposed by, applicable provisions of Title 11, Oklahoma Statutes, 1981, as amended.

**Section 13-32. Witness Fees.**

1. Witnesses in any proceeding in the Municipal Court, other than police officers or peace officers, shall be entitled to two dollars (\$2.00) for each day of attendance, plus ten cents (\$.10) for each mile actually and necessarily traveled in going to, and returning from, the place of attendance, if their residence is more than five (5) miles outside the corporate limits of the City of Elk City, Oklahoma. No witness shall receive fees or mileage in more than one (1) case for the same

period of time or the same travel.

2. A defendant seeking to subpoena witnesses must deposit, with the Clerk of the Court, a sum sufficient to cover fees and mileage for one (1) day of attendance for each witness to be summoned; such deposit shall not be required from an indigent defendant who files an affidavit setting out:

- a. The names of no more than three (3) witnesses:
- b. That the defendant, by reason of his poverty, is unable to provide fees and mileage allowed by law;
- c. That the testimony of such witness is material; and
- d. That their attendance at the trial is necessary for his proper defense.

3. The fees of witnesses in such cases (Subsection 2 above) shall be paid by the City of Elk City, Oklahoma.

#### **Section 13-33. Jury Trials; Qualifications of Jurors.**

In all prosecutions in the municipal court, for any offense for which the municipality, with the concurrence of the Court, seeks imposition of a fine of more than two hundred dollars (\$200.00) or by imprisonment, or by both such fine and imprisonment, a jury trial shall be had unless waived by the defendant and the municipality, provided that the municipality has complied its penal ordinances in accordance with the provisions of State Law (11 O.S. 1981, 14-109 and 14-110). If the municipality has not complied its ordinances as provided by law, the fine shall not exceed fifty dollars (\$50.00). In prosecutions for all other offense, or in cases wherein a jury trial is waived by the defendant and the municipality, trial shall be to the court. A jury in the municipal court shall consist of six (6) jurors, five (5) of whom may return a verdict. Jurors shall be good and lawful men or women, citizens of the county in which the court sits, having the qualifications of jurors in the district court.

#### **Section 13-34. Selection and Summons of Jurors.**

Jurors in the municipal court shall be selected under the same terms and conditions as are provided for by law for the district courts. Upon written request of the judge of the municipal court for a stated number of jurors to the chief judge of the appropriate district court, it shall be the duty of the clerk of the district court to draw from the jury wheel a requested number of jurors in the same manner as is provided by addresses appear to reside within the corporate limits of the municipality, is drawn, and to prepare a list of names drawn and certify such list to the judge of the municipal court. On completion of the draw, the clerk shall immediately return to the jury wheel all names drawn which are not placed on the certified list. The judge of the municipal court shall make written request to the chief judge of the allowance of claimed statutory exemptions, the listed number is found to set out by ordinance, and may be served in person by chief of police or any member of the police force of the municipality, or may be served by the clerk of the municipal court by mail.

**Section 13-35. Failure to Appear.**

1. It shall be unlawful for any person to fail to appear in Municipal Court at the time and place ordered by the Court in a Notice to Appear mailed or delivered to such person, or by an Order of the Court made at the previous hearing. Such appearance is required and failure to appear is a violation, regardless of whether such appearance is for arraignment, trial, or to show cause why a Defendant has not yet complied with an Order of the Court; provided that this section shall not apply:

- a. To any person who voluntarily appears before the Court personally, and not by telephone, within two weeks of his or her failure to appear, and before any Warrant for the non-appearance is served.
- b. To any person who provides documentation from a government agency that he or she was incarcerated continuously from the date of the non-appearance until the date the case involving the violation of this Ordinance was filed.
- c. To any person who provides documentation from a medical facility that he or she was an inpatient in the facility continuously from the date of the non-appearance until the date the case involving the violation of this Ordinance was filed.

2. Any person who shall violate this Section shall be guilty of an offense separate and apart from the case in which he or she failed to appear, and upon conviction thereof, shall be punished by a fine not to exceed Two Hundred Dollars (\$200.00), plus costs.

**Sections 13-36 through 13-39. (Reserved for future use.)**

**Article 3. Penalty**

**Section 13-40. Penalty.**

1. If the Judge of the Municipal Court of the City of Elk City, Oklahoma, is a licensed attorney, the maximum fine may not exceed five hundred dollars (\$500.00) plus costs; provided, furthermore, that the fine may not exceed the maximum as specified for the specific offense, as set forth in this Code of Ordinances or other Ordinances now or in the future in effect.

2. If the Municipal Judge is not a licensed attorney, trial shall be to the court, and the court may not impose a fine greater than fifty dollars (\$50.00) and costs, and may not order the defendant imprisoned, except for the nonpayment of fine or costs, or both.



## CHAPTER 14

### NUISANCES

Article 1. General Provisions.

Article 2. Abatement of Nuisances.

Article 3. Penalty.

#### **Article 1. General Provisions**

##### **Section 14-1. Nuisance Unlawful.**

It shall be unlawful for any person (owner, lessee or other) to create or maintain a nuisance, or to permit a nuisance to remain on premises under his control, within the corporate limits of the City of Elk City, Oklahoma.

##### **Section 14-2. City Commission May Determine and Define Nuisances.**

The City Commission has power to determine what is and what shall constitute a nuisance within the corporate limits of the City of Elk City, Oklahoma, and, for the protection of the public health, parks and water supply, outside of said City's corporate limits.

##### **Section 14-3. Nuisance Defined.**

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

1. Annoys, injures or endangers the comfort, repose, health or safety of others;
2. Offends public decency;
3. Unlawfully interferes with, obstructs, tends to obstruct or renders dangerous for use, any lake or drainage way, stream, stream basin, public park, street or other public property; or
4. In any way renders other persons insecure in life or in the use of property.

**Section 14-4. Public Nuisances; Possible Remedies.**

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

2. The possible remedies against a public nuisance are:

- a. Prosecution on complaint before the Municipal Court;
- b. Prosecution of information or indictment before another appropriate court;
- c. Civil action; and
- d. Abatement:
  - 1. By the person injured; or
  - 2. By the municipality, in accordance with law or ordinance.
  - 3. No lapse of time can legalize a public nuisance amounting to an actual obstruction of public right.

**Section 14-5. Private Nuisances; Possible Remedies.**

1. Every nuisance not included in Section 14-4 (above) is a private nuisance.

2. The possible remedies against a private nuisance are:

- a. Civil action; and
- b. Abatement:
  - 1. By the person injured; or
  - 2. By the municipality, in accordance with law or ordinance.

**Section 14-6. Person Liable.**

Every successive owner of property who neglects to abate a continuing nuisance upon or in the use of such property created by a former owner is liable therefore in the same manner as the person who first created it.

**Section 14-7. Procedure Cumulative.**

The various procedures for abating nuisances prescribed by this Chapter and by other provisions of law and Ordinances shall be cumulative one (1) to the other; the City Commission may elect to follow any such procedure which is applicable in abating any particular nuisance.

**Sections 14-8 through 14-9. (Reserved for future use.)**

**Article 2. Abatement of Nuisances**

**Section 14-10. Summary Abatement of Nuisances.**

1. Whenever it is practical to do so, the City Commission 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.

2. Some nuisances are of such nature as to constitute a grave and immediate danger to the peace, health, safety, morals or welfare of one (1) or more persons of the public generally, and it is recognized that, in such circumstances, the City Manager (or his representative) may be justified or required 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.

3. The Fire Chief, the Chief of Police, the City Attorney, the Health Officer, the City Manager, the Mayor, any Commissioner, any resident of the City of Elk City, Oklahoma, or any other officer subordinate to the City Commission, may submit to said City Commission, a statement as to the existence of a nuisance as defined by State Law or the Ordinances of the City, and a request or recommendation that it be abated.

4. The City Commission, shall determine whether or not the alleged nuisance is a nuisance in fact, and before proceeding to have the nuisance abated, the said City Commission shall give notice of a hearing on the proposed abatement to the owner of any property concerned and to any other 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; if the names and addresses are not known, and the peace, health, safety, morals or welfare of the person, persons or public adversely affected would not be unduly jeopardized by the necessary delay, a notice of the hearing shall be published in a newspaper of general circulation within the City or County.

5. If the City Commission finds that a nuisance does in fact exist, it shall direct the owner and/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 person, 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 does not abate it within the specified time, the City commission shall direct the City Manager to abate the nuisance or have it abated, if summary abatement is practical.

6. The City Clerk shall send a statement of the costs of such summary abatement to the owner and/or other persons responsible for, or causing, the nuisance, as may be just under the circumstances, if their names and addresses are known. Until paid, such cost shall constitute a debt to the City, collectible as other debts of the City may be collected.

#### **Section 14-11. Abatement of Public Health Nuisances.**

1. The local or county health officer shall have the authority to order, in writing, the owner or occupant of any private premises in the City to remove from such premises, within a reasonable length of time and 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; failure to do shall constitute an offense. Such order shall be served on the owner or occupant (or his agent) of the premises by the local or county health officer, or a policeman. 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 (1) issue of a newspaper having a general circulation in the City or county.

2. If the order is not complied with, the Health Officer may cause the order to be executed, and the cost thereof shall be certified to the City Clerk; the cause of abating such nuisance shall be added to the municipal utility bill of the owner or occupant (if he is a user of any municipal utility service) 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 municipal utility service, such costs, after certification to the City Clerk, may be collected in any manner in which any other debt due the City may be collected.

#### **Section 14-12. Dilapidated Buildings, Procedure, Removal.**

1. The City Commission may cause dilapidated buildings within the city limits to be torn down and removed in accordance with the following procedures:

- a. After 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 Commission holds a hearing. A copy of the notice shall be posted on the property to be affected. In addition, a copy of the notice shall be sent by mail to the property owner at the address shown by the current year's tax rolls in the office of the County Treasurer. Written notice shall also be mailed to any mortgage holder as shown by the records in the office of the County Clerk to the last known address of the mortgagee. At the time of mailing of notice to any property owner or mortgage holder, the City shall obtain a receipt of mailing from the

postal service, which receipt shall indicate the date of mailing and the name and address of the mailee. However, if neither the property owner nor mortgage holder can be located, notice may be given by posting a copy of the notice on the property, or by, publication. Such notice may be published once, not less than ten (10) days prior to any hearing or action by the City Commission;

- b. A hearing shall be held by the City Commission 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;
- c. Pursuant to a finding that the condition of the property constitutes a detriment or a hazard and that the property would be benefited by the removal of such conditions, the City Commission may cause the dilapidated building to be torn down and removed. the City Commission 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 said 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 with dates fixed by the City Commission.

2. The City Commission shall determine the actual cost of the dismantling and removal of dilapidated buildings and other expenses that may be necessary in conjunction with the dismantling and removal of the buildings, including the cost of notice and mailing. The City Clerk shall forward a statement of the actual cost attributable to the dismantling and removal of the buildings and a demand for payment of such costs, by mail to the property owner. In addition, a copy of the statement shall be mailed to any mortgage holder at the address provided for in subparagraph 1(a) of this Section. At the time of mailing of the statement of costs to any property owner or mortgage holder, the City shall obtain a receipt of mailing from the postal service, which receipt shall indicate the date of mailing and the name and address of the mailee. If 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.

3. When payment is made to the City for cost incurred, the City Clerk shall file a release of lien, but if payment attributable to actual cost of the dismantling and removal of the buildings is not made within six (6) months from the date of mailing of the statement to the owner of such property, the City Clerk shall forward a certified statement of the amount of the cost to the

County Treasurer of the county in which the property is located. The costs shall be levied on the property and collected by the County Treasurer as are other taxes authorized by law. Until finally paid, the costs and the interest thereon shall be the personal obligation of the property owner from and after the date of the notice of dilapidation and lien is filed with the County Clerk. In addition, the cost and the interest thereon shall be a lien against the property from the date the notice of the lien is filed with the County Clerk. The lien shall be coequal with the lien of ad valorem taxes and all other taxes and special assessments and shall be prior and superior to all other titles and liens against the property. The lien shall continue until the cost is fully paid. At any time prior to collecting provided for in this paragraph, the City may pursue any civil remedy for collection of the amount owing and interest thereon including an action in personam against the property owner and an action in rem to foreclose its lien against the property. A mineral interest, if severed from the surface interest and not owned by the surface owner, shall not be subject to any tax or judgment lien created pursuant to this Section. Upon receiving payment, the City Clerk shall forward to the County Treasurer a notice of such payment and shall direct discharge of the lien.

4. The City Manager of the City of Elk City is hereby designated as the administrative officer to carry out the duties of the City Commission specified in Section 14-12 of the Code of Ordinances of the City of Elk City, Oklahoma, pertaining to dilapidated building complaints. The property owner shall have the right of appeal to the City Commission from any order of the administrative officer or administrative body. Such appeal shall be taken by filing written notice of appeal with the City Clerk within ten (10) days after the administrative order is rendered.

5. For the purposes of this Section, "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 said structure is a hazard to the health, safety, or welfare of the general public. "Owner" means the owner of record as shown by the most current tax rolls of the County Treasurer.

6. 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.

7. 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.

8. The provisions of this act shall not apply to any property zoned and used for agricultural purposes.

9. After a building has been declared dilapidated, as provided in this Section, and before the commencement of the tearing and removal of a dilapidated building, the City Commission may authorize that such a building be boarded and secured.

10. The City Commission may cause the premises on which an unsecured building is located to be cleaned of trash and weeds in accordance with the provisions of Sections 14-13 through 14-20, inclusive, herein.

11. The City Commission may cause an unsecured building to be boarded and secured in accordance with the following procedures:

12. Before the City Commission orders such action, at least ten (10) days' notice that such unsecured building is to be boarded and secured shall be given by mail to any property owners and mortgage holders as provided in sub-paragraph 1(a) of this Section. At the time of mailing of notice to any property owner or mortgage holder, the City shall obtain a receipt of mailing from the postal service, which receipt shall indicate the date of mailing and the name and address of the mailer. A copy of the notice shall also be posted on the property to be affected. However, if neither the property owner nor the mortgage holder can be located, notice may be given by posting a copy of the notice on the property or by publication. Such notice shall be published one time, not less than ten (10) days prior to any hearing or action by the City pursuant to the provisions of this Section. If the City Commission anticipates summary abatement of a nuisance in accordance with the provisions of sub-paragraph 21 of this Section, the notice shall state: that any subsequent need for boarding and securing the building within a six-month period after the initial boarding and securing of the building pursuant to such notice may be summarily boarded and secured by the City Commission; that the costs of such boarding and securing shall be assessed against the owner; and that a lien may be imposed on the property to secure such payment; all without further prior notice to the property owner or mortgage holder.

13. The owner of the property may give his written consent to the City authorizing the boarding and securing of such unsecured building and to the payment of any costs incurred thereby. By giving said written consent, the owner waives his right to a hearing by the City Commission.

14. If the property owner does not give his written consent to such actions, a hearing may be held by the City Commission to determine whether the boarding and securing of such unsecured building would promote and benefit the public health, safety or welfare. Such hearing may be held in conjunction with a hearing on the accumulation of trash or the growth of weeds or grass on the premises of such unsecured building held pursuant to the provisions of this Chapter. In making such determination, the City Commission shall apply the following standard: the City Commission may order the boarding and securing of the unsecured building when the boarding and securing thereof would make such building less available for transient occupation, decrease a fire hazard created by such building, or decrease the hazard that such building would constitute an attractive nuisance to children. Upon making the required determination, the City Commission may order the boarding and securing of the unsecured building.

15. After the City Commission orders the boarding and securing of such unsecured building, the City Clerk shall immediately file a notice of unsecured building and lien with the County Clerk describing the property, stating the findings of the City Commission at the hearing at which such building was determined to be unsecured, and stating that the City claims a lien on said property for the costs of boarding and securing such building and that such costs are the personal obligation of the property owner from and after the date of filing said notice.

16. Pursuant to the order of the City Commission, the agents of the City are granted the right of entry on the property for the performance of the boarding and securing of such building and for the performance of all necessary duties as a governmental function of the City.

17. After an unsecured building has been boarded and secured, the City Commission shall determine the actual costs of such actions and any other expenses that may be necessary in conjunction therewith including the cost of the notice and mailing. The City Clerk shall forward a statement of the actual costs attributable to the boarding and securing of the unsecured building and a demand for payment of such costs, by mail to any property owners and mortgage holders as provided in sub-paragraph 1(a) of this Section. At the time of mailing of the statement of costs to any property owner or mortgage holder, the City shall obtain a receipt of mailing from the postal service, which receipt shall indicate the date of mailing and the name and address of the mailee.

18. If the City boards and secures any unsecured building, the cost to the property owner shall not exceed the actual cost of the labor, materials and equipment required for the performance of such actions. If such actions are done on a private contract basis, the contract shall be awarded to the lowest and best bidder.

19. When payment is made to the City for costs incurred, the City Clerk shall file a release of lien, but if payment attributable to the actual costs of the boarding and securing of the unsecured building is not made within thirty (30) days from the date of mailing of the statement to the owner of such property, the City Clerk shall forward a certified statement of the amount of the costs to the County Treasurer of the county. Said costs shall be levied on the property and collected by the County Treasurer as are other taxes authorized by law. Until fully paid, the costs and the interest thereon shall be the personal obligation of the property owner from and after the date the notice of unsecured building and lien is filed with the County Clerk. In addition, the costs and the interest thereon shall be a lien against the property from the date the notice of the lien is filed with the County Clerk. Said lien shall be coequal with the lien of ad valorem taxes and all other taxes and special assessments and shall be prior and superior to all other titles and liens against the property. The lien shall continue until the costs and interest are fully paid. At any time prior to collection as provided for in this sub-paragraph, the City may pursue any civil remedy for collection of the amount owing and interest thereon, including an action in personam against the property owner and an action in rem to foreclose its lien against the property. A mineral interest if severed from the surface 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.

20. The City Manager of the City of Elk City is hereby designated as the administrative officer to carry out the duties of the City Commission specified in Section 14-13, 14-14, 14-15, and 14-16 of the Code of Ordinances of the City of Elk City, Oklahoma, pertaining to weeds and trash complaints. The property owner or mortgage holder shall have a right of appeal to the City Commission from any order of the administrative officer or administrative body. Such appeal shall be taken by filing written notice of appeal with the City Clerk within ten (10) days after the administrative order is rendered.



21. If the City Commission causes a structure within the city limits to be boarded and secured, any subsequent need for boarding and securing within a six-month period constitutes a public nuisance and may be summarily boarded and secured without further prior notice to the property owner or mortgage holder. At the time of each such summary boarding and securing, the City shall notify the property owner and mortgage holder of the boarding and securing and the costs thereof. The notice shall state that the property owner may request an appeal with the City Clerk within ten (10) days after the mailing of the notice. The notice and hearing shall be as provided for in sub-paragraph 12 of this Section. Unless otherwise determined at the hearing the cost of such boarding and securing shall be determined and collected as provided for in sub-paragraph 17, 18 and 19 of this Section.

22. The City Commission may determine that a building is unsecured and order that such building be boarded and secured, even though such building has not been declared, by the City Commission, to be dilapidated.

23. For the purposes of this subsection:

- a. "boarding and securing" or "boarded and secured" means the closing, boarding or locking of any or all exterior openings so as to prevent entry into the structure, and
- b. "unsecured building" shall mean any structure which is not occupied by a legal or equitable owner thereof, or by a lessee of a legal or equitable owner, and into which there are one or more unsecured openings such as broken windows, unlocked windows, broken doors, unlocked doors, holes in exterior walls, holes in the roof, broken basement or cellar hatchways, unlocked basement or cellar hatchways or other similar unsecured openings which would facilitate an unauthorized entry into the structure.

24. The provisions of this Section shall not apply to any property zoned and used for agricultural purposes.

### **Section 14-13. Cleaning and Mowing of Property.**

The City Commission may cause property within the city limits to be cleaned of trash and weeds or grass to be cut or mowed in accordance with the following procedures:

- a. At least ten (10) days' notice shall be given to the owner of the property by mail at the address shown by the current year's tax rolls in the County Treasurer's office before the City Commission holds a hearing or takes action. The notice shall order the property owner to clean the property of trash, or to cut or mow the weeds or grass on the property, as appropriate, and said 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. At the time of mailing of notice to the property owner, the City shall obtain a receipt of mailing from the postal service, which receipt shall indicate the date of mailing and the name and address of the mailee. However, if the property owner cannot be located within ten (10) days from the date of mailing by the City Commission, notice may be given by posting a copy of the notice on the property or by publication, one time not less than ten (10) days prior to any hearing or action by the City Commission. If the City Commission anticipates summary abatement of a nuisance in accordance with the provisions of Section 14-18, herein, the notice, whether by certified mail, posting or publication, shall state: that any accumulations of trash or excessive weed or grass growth on the owner's property occurring within six (6) months 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 Commission; 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;

- 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 said written consent, the owner waives his right to a hearing by the City Commission.
- c. A hearing may be held by the City Commission to determine whether the accumulation of trash or the growth of weeds or grass has caused the property to become detrimental to the health, benefit, and welfare of the public and the community or a hazard to traffic, or creates a fire hazard to the danger of property;

#### **Section 14-14. Entry and Lien.**

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

#### **Section 14-15. Determination of Cost.**

The City Commission 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 specified in Section 14-13 (A), herein, 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 said cleaning and mowing shall not exceed the actual cost of the labor, maintenance, and equipment required. If the cleaning and mowing are done on a private contract basis, the contract shall be awarded to the lowest and best bidder;

**Section 14-16. Collection of Cost-Lien on Property.**

If payment is not made within thirty (30) days from the date of the mailing of the statement, the City Clerk shall forward a certified statement of the amount of the cost to the County Treasurer of the county in which the property is located and the same shall be levied on the property and collected by the County Treasurer as other taxes authorized by law. Until fully paid, the cost and the interest thereon shall be the personal obligation of the property owner from and after the date the cost is certified to the County Treasurer. In addition the cost and the interest thereon shall be a lien against the property from the date the cost is certified to the County Treasurer, coequal with the lien of ad valorem taxes and all other taxes and special assessments and prior and superior to all other titles and liens against the property, and the lien shall continue until the cost shall be fully paid. At the time of collection, the County Treasurer shall collect a fee of Five Dollars (\$5.00) for each parcel of property. Such fee shall be deposited to the credit of the general fund of the County. At any time prior to the collection as provided in this paragraph, the City may pursue any civil remedy for collection of the amount owing and interest thereon, including an action in personam against the property owner and an action in rem to foreclose its lien against the property. A mineral interest, if severed from the surface interest and not owned by the surface owner, shall not be subject to any tax or judgment lien created pursuant to this Section. Upon receiving payment, if any, the City Clerk shall forward to the County Treasurer a notice of such payment and directing discharge of the lien; and

**Section 14-17. Delegation of Duties.**

The City Manager of the City of Elk City is hereby designated as the administrative officer to carry out the duties of the City Commission, specified in Sections 14-12, 14-13, 14-14, 14-15 and 14-16 of the Code of Ordinances of the City of Elk City, Oklahoma, pertaining to weeds and trash complaints and dilapidated building complaints. The property owner shall have a right of appeal to the City Commission from any order of the administrative officer or administrative body. Such appeal shall be taken by filing written notice of appeal with the City Clerk within ten (10) days after the administrative order is rendered.

**Section 14-18. Summary Abatement.**

If the City Commission causes property within the city limits to be cleaned of trash and weeds or grass to be cut or mowed, any subsequent accumulations of trash or excessive weed or grass growth on the property occurring within a six-month period may be declared to be a nuisance and may be summarily abated without further prior notice to the property owner. At the time of each summary abatement the City shall notify the property owner of the abatement and the cost thereof. The notice shall state that the property owner may request a hearing within ten (10) days after the date of mailing the notice. The notice and hearing shall be as provided for in Section 14-13 (A),

herein. Unless otherwise determined at the hearing the cost of such abatement shall be determined and collected as provided for in Sections 14-15 and 14-16, herein. Provided, however, that these provisions pertaining to summary abatement shall not apply if the records of the County Clerk show that the property was transferred after notice was given pursuant to Section 14-13(A.), herein.

**Section 14-19. Enforcement.**

The City Commission may enact ordinances to prohibit owners of property or persons otherwise in possession or control located within the city limits from allowing trash to accumulate, or weeds to grow or stand upon the premises and may impose penalties for violation of said ordinances.

**Section 14-20. Definitions.**

As used in this Section:

1. "Weed" includes but is not limited to poison ivy, poison oak, or poison sumac and all vegetation at any state of maturity which:
  - a. exceeds twelve (12) inches in height, except healthy trees, shrubs, or produce for human consumption grown in a tended and cultivated garden unless such trees and shrubbery by their density or location constitute a detriment to the health, benefit and welfare of the public and community or a hazard to traffic or create a fire hazard to the property or otherwise interfere with the mowing of said weeds;
  - b. regardless of height, harbors, conceals, or invites deposits or accumulation of refuse or trash;
  - c. harbors rodents or vermin;
  - d. gives off unpleasant or noxious odors;
  - e. constitutes a fire or traffic hazard;
  - f. or is dead or diseased.

The term "weed" shall not include tended crops on land zoned for agricultural use which are planted more than one hundred fifty (150) feet from a parcel zoned for other than agricultural use.

"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.

"Owner" means the owner of record as shown by the most current tax rolls of the County

Treasurer.

"Cleaning" means the removal of trash from property.

The provisions of this Section shall not apply to any property zoned and used for agricultural purposes.

**Section 14-21. Oklahoma Junkyard and Scrap Metal Processing Facility Control Act Adopted.**

1. The Oklahoma Junkyard and Scrap metal Processing Facility Control Act (Title 69, Oklahoma Statutes, Section 1251 through Section 1264, inclusive, as amended and recodified) is hereby adopted and incorporated in the Code of Ordinances of the City of Elk City, Oklahoma, as if set out at length herein, for the purposes of establishing locally appropriate rules and regulations for the promotion of public safety, health, welfare, convenience and enjoyment of public travel, the protection of public investment in public highways, and the preservation and enhancement of scenic beauty of lands bordering public highways within the City of Elk City, Oklahoma.

2. The City Commission is hereby empowered to adopt and enforce regulations necessary to make the provision of this Section and any other related Ordinances of the City of Elk City, Oklahoma, effective, and to adopt and enforce temporary regulations to cover emergencies or special conditions.

3. No person shall willfully fail or refuse to comply with any lawful order or direction of the City Manager or any other authorized municipal employee relating to the enforcement of this Section.

4. All references to the term "Department" shall be deemed to refer to the Inspection Department of the City of Elk City, Oklahoma; all references to the term "Commission" shall be deemed to refer to the City Commission of the City of Elk City, Oklahoma; all references to the term "Director" shall be deemed to refer to the City Manager of the City of Elk City, Oklahoma.

5. Notwithstanding any provisions in the Oklahoma Junkyard and Scrap Metal Processing Facility Control Act to the contrary, the penalty provisions in Article 3 of this Chapter 14 shall apply.

**Sections 14-22 through 14-24. (Reserved for future use.)**

**Article 3. Penalty**

**Section 14-25. Penalty.**

Any person, firm or corporation who shall violate any provision of this Chapter shall be guilty of any offense and, upon conviction thereof, shall be punished by fine and costs as provided for in Section 1-40 of this Code, unless a separate and distinct penalty is otherwise specifically set forth in this Chapter. Each day's continuation of any such violation shall constitute a separate offense.

## CHAPTER 15

### OFFENSES

- Article 1. Offenses in General.
- Article 2. Offenses Against Public Decency, Morality and Policy.
- Article 3. Offenses Against the Peace.
- Article 4. Offenses Against Persons.
- Article 5. Offenses Against Property.
- Article 6. Offenses Against Public Authority.
- Article 7. Juvenile Crime Act.
- Article 8. Penalty.

#### **Article 1. Offenses in General**

##### **Section 15-1. Offense Defined.**

An "offense" is hereby defined as the doing of any act or thing which, by this Chapter or any ordinance of the City of Elk City, Oklahoma, is prohibited, forbidden or declared to be unlawful, or the failure or refusal to do any act or perform any duty which, by any provision of this Chapter or by any ordinance of the City of Elk City, Oklahoma, is commanded or required to be done.

##### **Section 15-2. Attempts to Commit an Offense.**

Every person who attempts to commit an offense against the Code of Ordinances of the City of Elk City, Oklahoma, and in such attempt does any act toward the Commission of such offense, but fails, is prevented or intercepted in the perpetration thereof, shall be guilty of an offense and shall be punished in the manner prescribed for the offense itself.

##### **Section 15-3. Effect of Intoxication.**

No act committed by any person while in a state of voluntary intoxication, whether from alcoholic beverages or drugs, shall be deemed less an offense by reason of his being in such condition.

##### **Section 15-4. Aiding in an Offense.**

When no punishment for counseling or aiding in the commission of a particular offense is expressly prescribed by ordinance, every person who counsels or aids another in the commission of such, shall be guilty of an offense and punishable in the same manner as the principal offender.

##### **Sections 15-5 through 15-9. (Reserved for future use.)**

**Article 2. Offenses Against Public Decency,  
Morality and Policy**

**Section 15-10. Gambling Prohibited.**

No person, firm or corporation (or agent or employee thereof) shall play, open or cause to be opened, operate, carry on or conduct any game of roulette, craps, or any percentage played with dice, for money, checks, chips, credit or any other things of value; or shall set up, operate or permit to be operated, any slot machine or other device whatsoever where money, checks, chips, credit or any other things of value are played, when the act of playing the same might result in a gain or loss to the party playing; or shall gamble knowingly in any other similar manner; or knowingly shall permit his or its premises, houses, lot or other property to be used in connection with or for, any act declared unlawful in this Chapter.

**Section 15-11. False Or Bogus Checks.**

1. It shall be unlawful for any person, with intent to cheat or defraud, to obtain, or attempt to obtain, from any person, firm or corporation, any money, property or valuable thing, of the value of fifty dollars (\$50.00) or less, by means of any false or bogus check or by any other written, printed or engraved instrument or spurious coin. The term "false or bogus check" shall include checks or orders given for money or property which are not honored on account of insufficient funds of the maker to pay same, as against the maker or drawer thereof.

2. The making, drawing, issuing or delivering of a check draft or order, payment of which is refused by the drawee, shall be prima facie evidence of intent to defraud and the knowledge of insufficient funds in, or credit with, such bank or other depository; provided, such maker or drawer shall not have paid the drawee the amount due thereon, together with the protest fees, within five (5) days from the date the same is presented for payment; and, provided further, that said check or order is presented for payment within thirty (30) days after same is delivered and accepted.

**Section 15-12. Harmful Deception.**

It shall be unlawful for any person knowingly to deceive another (whether by impersonation, misrepresentation or otherwise), when such deception results in, or contributes to, the loss, damage, harm or injury of the person deceived or of a third party, or results in or contributes to the benefit of the deceiver.

**Section 15-13. Loitering.**

1. It shall be unlawful for any person, without lawful reason, between the hours of 12:00 o'clock midnight and 5:00 o'clock a.m., to wander aimlessly within the City of Elk City, Oklahoma, on the streets, in other public places or on property of other persons; or during such time to sleep upon any street or in any other public place or on any property of another person without the express or tacit consent of the owner or person in charge of such place.



2. It shall be unlawful for any person to loiter in or about any public building, in or about the station or depot of a public carrier or on or about the premises of a public or private school.

3. No person shall loiter in the immediate vicinity where a person or persons are gambling by the use of any means or device.

4. It shall be unlawful for any person to loiter, loaf, wander, stand or remain idle, either alone or in consort with others, in a public place or building in such a manner as to:

- a. Obstruct any public street, highway, sidewalk or any other public place or building by hindering, impeding or tending to hinder or impede the free and uninterrupted passage of vehicles, traffic or pedestrians; or
- b. Commit in or upon any public street, highway, sidewalk or any other public place or building, any act or thing which is an obstruction or interference to the free and uninterrupted use of property or with any business lawfully conducted by anyone in, upon, facing or fronting on any such public street, highway, sidewalk or any other public place or building, all of which prevents the free and uninterrupted ingress, egress and regress therein, thereon and thereto.

#### **Section 15-14. Offenses Relating to Drugs and Related Substances.**

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

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

3. It shall be unlawful for any person under the influence of marijuana or any narcotic or other controlled dangerous substance, to appear or be upon or in any street, alley, place of business or other public place within the City of Elk City, Oklahoma; or for any person without a medical marijuana license to use or possess marijuana or to use or possess any other narcotic or controlled dangerous substance; in any place within said City, except as legally prescribed by a physician licensed to practice in the State; or for any person to loiter about a place where any narcotic or other controlled dangerous substance is sold or furnished illegally; or for any person to sell or furnish illegally to another person marijuana or any narcotic or other controlled dangerous substance.

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

5. It shall be unlawful for any person without a license to use medical marijuana or to use or possess drug paraphernalia upon or in any street, alley, place of business or other public place within the City of Elk City, Oklahoma.

6. Any person, firm or corporation who shall violate any provision of this Section shall be guilty of an offense and, upon conviction thereof, shall be punished by fine not to exceed Seven Hundred Fifty Dollars (\$750.00) plus costs and may be imprisoned for any amount of time not to exceed sixty (60) days. Each day such violation is committed or continues to exist shall constitute a separate offense and shall be punishable as such.

#### **Section 15-15. Illicit use of Certain Chemical Compounds.**

1. It shall be unlawful for any person to deliberately smell, inhale, breathe, drink or otherwise consume any compound, liquid, chemical, narcotic, drug or any other substance or chemical containing any ketones, aldehydes, organic aldehydes, organic acetones, ether, chlorinated hydrocarbons, such as gasoline, glue, fingernail polish, adhesive cement, mucilage, dope or any other substance or combination thereof containing solvents releasing toxic vapors, with the intent to cause conditions of intoxication, inebriation, excitement, elation, stupefaction, paralysis, irrationality, dulling of the brain or nervous system or any other changing, distorting or disturbing of the eyesight, thinking processes, judgment, balance or coordination of such person.

2. The provisions of this Section shall not pertain to any person who inhales, breathes, drinks or otherwise consumes such material or substance pursuant to the direction or prescription of any licensed doctor, physician, surgeon, dentist or podiatrist, nor to the consumption of intoxicating liquor.

#### **Section 15-16. Immoral Conduct, Shows or Exhibitions; Nudity.**

1. It shall be unlawful for any person to conduct himself in a lewd or immoral manner in any public place within the City of Elk City, Oklahoma.

2. It shall be unlawful to show, rent, loan or sell obscene or immoral motion pictures, VCRs, DVDs or other visual reproductions thereof or present any kind of a show or exhibition within the City of Elk City, Oklahoma, which is obscene or immoral.

3. It shall be unlawful for any person to appear in any public place within the City of Elk City, Oklahoma, in a state of total nudity, or for any person to make an indecent public exposure of his or her person.

4. It shall be unlawful to publicly display pornographic magazines or books for sale in any store within the corporate limits of the City of Elk City, Oklahoma.

5. It shall be unlawful for any person to urinate or defecate in any publicly-exposed place within the corporate limits of the City of Elk City, Oklahoma.

**Section 15-17. Prostitution; Illicit Sexual Relations.**

1. For the purpose of this Section, "illicit sexual relations" shall mean sexual relations with any person other than one's lawful husband or wife.

2. It shall be unlawful for any person to offer, submit or give himself or herself to a lewd or immoral use, such as illicit sexual relations, or to engage in any lewd or immoral act for money or any other thing of value.

3. It shall be unlawful for any person to engage in illicit sexual relations or any other immoral act, to knowingly consort with a prostitute or other person of immoral vocation, or to consort with another for an immoral purpose, in any public place within the City of Elk City, Oklahoma.

4. It shall be unlawful for any person, firm or corporation, or any agent or employee thereof, to keep, or assist in keeping, a house of prostitution or a house or place within the City Elk City, Oklahoma, where persons meet or assemble for illicit sexual relations or for any other lewd or immoral purpose, or to permit a known prostitute or other person of a known immoral vocation to become or remain a guest in a hotel or rooming house.

5. It shall be unlawful and an offense for any person to act as a procurer for any house or place of prostitution or for any prostitute or other person engaged in an immoral vocation, or to procure, assist in procuring or attempt to procure any person for another for illicit sexual relations or any other immoral purpose.

**Section 15-18. Certain Conduct Prohibited on or Near School Grounds.**

No person shall engage in any conduct or commit any of the acts enumerated herein, around or on the grounds of, any school in the City of Elk City, Oklahoma, or in any street or alley adjacent to a school:

1. Loitering by any person not having lawful business in connection with the school, an employee thereof or student therein;

2. Any conduct that disturbs the orderly conduct of the school;

3. Annoying or molesting any student or employee of the school;

4. Lewd or wanton conduct; or

5. Moving or parking any vehicle in the vicinity of any school or in any street or alley adjacent thereto, in such a manner as to annoy or molest any student or employee of the school.

**Section 15-19. Alcoholic or Intoxicating Beverages.**

1. It shall be unlawful for any person under twenty-one (21) years of age to misrepresent his age through false documentation, for the purpose of inducing any person to sell him alcoholic beverages.

2. It shall be unlawful for any person under twenty-one (21) years of age to have in his or her possession any alcoholic beverage.

3. It shall be unlawful for any person to open a retail container or consume alcoholic beverages on the premises of a retail package store.

4. No person drunk or in a state of intoxication shall appear, or be upon or in, any street, alley, place of business or other public place, nor shall any person drink any alcoholic beverage upon or in any street, alley, place of business or other public place within the City of Elk City, Oklahoma.

5. It shall be unlawful for any person to transport in any vehicle upon any street, alley, or other public way within the City of Elk City, Oklahoma any alcoholic beverage except in the original container, which shall not have been opened, the seal of which shall not have been broken, and from which the original cap or cork shall not have been removed, unless the opened container be in the trunk or any closed compartment or other container out of public view and out of reach of the driver or any occupant of the vehicle.

6. It shall be unlawful for any person, firm or corporation to buy, receive, possess, sell, barter, give away, manufacture or use any alcoholic or nonintoxicating beverages in violation of the State Constitution and Laws or Code of Ordinances of the City of Elk City, Oklahoma. (See Chapter 2, this Code of Ordinances.)

**Section 15-20. Beer.**

1. It shall be unlawful for any person under twenty-one (21) years of age to be, or remain within, any place of business where beer are sold for consumption on the premises.

2. It shall be unlawful for any person under twenty-one (21) years of age to purchase, receive, procure, drink or be in the possession of any beer.

3. It shall be unlawful for any person under twenty-one (21) years of age to work in a place where beer are sold for consumption on the premises, except an eating place where the service of such beverages is incidental to the main business of serving food.

4. It shall be unlawful for any person, whether a minor or of age, to be in possession of, or to drink, any beer while such person is upon any public street, alley, or other public highway, or in

any public building or other public place, within the City of Elk City, Oklahoma; provided, that this shall not prohibit a person who is of age from drinking such beverage in a place licensed to sell it for consumption on the premises.

5. It shall be unlawful for any person to knowingly transport in any moving vehicle, upon any public highway, street, alley or roadway within the corporate limits of the City of Elk City, Oklahoma, or in or upon any property owned by said City outside of its corporate limits, any beer, except in the original container which shall not have been opened and from which the original cap or seal shall not have been removed, unless the opened container is in the rear trunk or rear compartment, which shall include the spare tire compartment in a station wagon or panel truck, or any outside compartment which is not accessible to the driver or any other person in the vehicle while it is in motion. (See Chapter 2, this Code of Ordinances.)

### **Section 15-21 Adult Entertainment-Definitions.**

1. The following terms are defined as set forth for use in this article:
  - a. **Adult Entertainment.** The term "adult entertainment" encompasses all uses of the term "sexually oriented" herein.
  - b. **Employee.** The word "employee" means a person who performs any service on the premises of a sexually oriented business on a full-time, part-time or contract basis, whether or not the person is denominated an employee, independent contractor, agent or otherwise. Whether or not said person is paid salary, wages, tips or other compensation by the operator or by the customers of said business shall not change the defined status as an "employee". Employee does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to or the removal of waste from the premises.
  - c. **Escort.** The word "escort" means a person who, for wage, fee, tip or other consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.
  - d. **Escort Agency.** The term "escort agency" means a person or business association who furnished, offers to furnish, or advertise to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.
  - e. **Establishment.** The word "establishment" means and includes any of the following:
    - The opening or commencement of any sexually oriented business as a new business;
    - The conversion of an existing business, whether or not a

sexually oriented business, to any sexually oriented business;

- The addition of any sexually oriented business to any other existing sexually oriented business as defined under this article; or

- The relocation of any sexually oriented business.

f. **Licensee.** The word "licensee" means a person in whose name a license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a license; and in the case of an employee, a person in whose name a license has been issued authorizing employment in a sexually oriented business.

g. **Nude Model Studio.** The term "nude model studio" means any place where a person who appears in a state of nudity or semi-nudity, or who displays "specified anatomical areas" and is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. Nude model studio shall not include a) a proprietary school licensed by the State of Oklahoma or a college, junior college or university supported entirely or in part by public taxation; b) a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or c) in a structure:

- That has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing; and

- Where in order to participate in a class as student must enroll at least three days in advance of the class; and

- Where no more than one nude or semi-nude model is on the premises at any one time.

h. **Nudity Or A State Of Nudity.** The term "nudity or a state of nudity" means the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state.

i. **Person.** The word "person" means an individual, proprietorship, partnership, corporation, association, or other legal entity.

j. **Sexually Oriented Arcade.** The terms "sexually oriented arcade" means any

place to which the public is permitted or invited wherein coin-operated, token-operated, or for any form of consideration, or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, video or laser disc players, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas."

k. **Sexually Oriented Bookstore or Novelty Store.** The term "sexually oriented bookstore or novelty store" means a commercial establishment which, as one of its principal purposes, offers for sale or rental for any form of consideration any one or more of the following:

- Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; or

- Instruments, devices, or paraphernalia which are designed for use in connection with "specified sexual activities." A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental material depicting or describing "specified sexual activities" or "specified anatomical areas" and still be categorized as sexually oriented bookstore or novelty store. Such other business purposes will not serve to exempt such commercial establishments from being categorized as an sexually oriented bookstore or novelty store so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas." Provided that if such materials are rented for use on site, the business shall be considered either a sexually oriented arcade or a sexually oriented theater.

l. **Sexually Oriented Cabaret.** The term "sexually oriented cabaret" means a nightclub, bar, restaurant, auditorium, concert hall, or similar commercial establishment which regularly features:

- Persons who appear in a state of nudity or semi-nudity; or

- Live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities". Provided that the provision of films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas", in addition to live entertainment shall not change this classification of

business.

- m. **Sexually Oriented Motel.** The term "sexually oriented motel" means a hotel, motel or similar commercial establishment which:
- Offers accommodations to the public for any form of consideration and 1) provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; and 2) has a sign visible from the public right-of-way which advertises the availability of this adult of graphic reproductions: or
  - Offers a sleeping room for rent for a period of time that is less than ten hours; or
  - Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten hours.
- n. **Sexually Oriented Theatre.** The term "sexually oriented theatre" means a commercial establishment designed to accommodate audiences of more than five persons where, for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions are regularly shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."
- o. **Sexual Encounter Center.** The term "sexual encounter center" means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:
- Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
  - Contact activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity.
- p. **Sexually Oriented Business.** The term "sexually oriented business" means any arcade, bookstore, novelty store, video store, cabaret, motel, theatres, escort agency, nude model studio, or sexual encounter center where live performances or recorded media in any form, or various devices are used or made available, for any consideration, to patrons for use in or viewing of specified criminal activity or specified sexual activity.
- q. **Specified Anatomical Areas.** The term "specified anatomical areas" means:



- The human male genitals in a discernibly turgid state, even if completely and opaquely covered; or

- Less than completely and opaquely covered human genitals, pubic area, vulva, anus or anal cleft.

r. **Specified Criminal Activity.** The term "specified criminal activity" means any of the following offenses:

- Prostitution or promotion of prostitution; dissemination of obscenity; sale, distribution or display of harmful material to a minor, sexual performance by a child; possession or distribution of a child pornography; public lewdness; indecent exposure; indecency with a child; engaging in organized criminal activity; sexual assault; molestation of a child; regardless of how dominated, any offense for which a convicted person must register as a sex offender; gambling; or distribution of a controlled substance; or any similar offenses to those described above under the criminal or penal code of other cities, states or countries;

- For which:

Less than five years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor or an offense;

Less than ten years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense; or

Less than ten years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of a) two or more misdemeanors or b) any offenses or combination of misdemeanor offenses occurring within any 24-month period.

- The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant or a person residing with the applicant.

s. **Specified Sexual Activities.** The term "specified sexual activities" means any of the following:

- The fondling or other erotic touching of human genitals,

pubic area, buttocks, anus, vulva or female breasts;

- Sexual acts, normal or perverted, actual or simulated, including intercourse, oral copulation, masturbation, or anal copulation; or

- Excretory functions as part of or in connection with any of the activities set forth above.

t. **Substantial Enlargement.** The term "substantial enlargement" of a sexually oriented business means the increase in floor areas occupied by the business by more than 25 percent, as the floor areas exist on the date this article takes effect or the date of the most recent permit.

u. **Transfer Of Ownership Or Control Of A Sexually Oriented Business.** The term "transfer of ownership or control of a sexually oriented business" means and includes any of the following:

- The sale, lease, or sublease of the business;

- The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or

- The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

### **Section 15-22. Adult Entertainment - Licensing, Fees and Inspection.**

1. It is unlawful:
  - a. For any person to operate a sexually oriented business without a valid sexually oriented business license issued by the city.
  - b. For any person who operates a sexually oriented business to employ a person to work for the sexually oriented business who is not licensed by the city as a sexually oriented business employee.
  - c. For any person to obtain employment with a sexually oriented business without having secured a sexually oriented business employee license pursuant to this article.
2. An application for a license must be made on a form provided by the city.
3. All applicants must be qualified according to the provisions of this article. The

application may request and the applicant shall provide such information (including fingerprints) as to enable the city to determine whether the applicant meets the qualifications established in this article.

4. Any person, who wishes to operate a sexually oriented business, must sign the application for a license as an applicant. If a person other than an individual wishes to operate a sexually oriented business, all persons legally responsible for the operations of the sexually oriented business or who have power to control or direct its operations must each sign the application for a license as applicant. Such persons include, but are not limited to, general partners, corporate officers, corporate directors, and controlling shareholder(s). Each application must be qualified under the following section and each applicant shall be considered a licensee if a license is granted.

5. The completed application for a sexually oriented business license shall contain the following information and shall be accompanied by the following documents:

- a. If the applicant is:
  - An individual, the individual shall state his/her legal name and any aliases and submit proof that he/she is 18 years of age;.
  - A partnership, the partnership shall state its complete name, and the names of all partners, whether the partnership is general or limited, and a copy of the partnership agreement, if any;
  - A corporation, the corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing and entitled to do business under the laws of Oklahoma, the names and capacity of all officers, directors and controlling stockholders, and the name of the registered corporate agent and the address of the registered officer for service of process.
- b. If the applicant intends to operate the sexually oriented business under a name other than that of the applicant; her or she must state 1) the sexually oriented business's fictitious name and 2) submit the required registration documents.
- c. Whether the applicant, or a person residing with the applicant, has been convicted of a specified criminal activity as defined in this article, and, if so, the specified criminal activity involved, the date, place, and jurisdiction of each conviction. If the applicant does not specify whether the offense was a felony or a misdemeanor the city shall not treat the conviction as it most likely be defined in Oklahoma. Misdemeanors under the state law and offenses under municipal law shall all be considered to be misdemeanors.
- d. Whether the applicant, or a person residing with the applicant, has had a

previous license under this article or other similar sexually oriented business ordinances from another city or county denied, suspended or revoked; in these events, applicant shall identify the name and location of the sexually oriented business for which the permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation.

- e. Whether the applicant or a person residing with the applicant has been a partner in a partnership or an officer, director or principal stockholder of a corporation that is licensed under this article whose license has previously been denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked as well as the date of denial, suspension or revocation.
- f. Whether the applicant, or a person residing with the applicant, holds any other licenses under this article or other similar sexually oriented business article form another city or county and, if so, the names and location of such other licensed businesses.
- g. The type of sexually oriented business (as defined herein) for which the applicant is applying.
- h. The location of the proposed sexually oriented business, including a legal description of the property, street address, and telephone number(s), if any.
- i. The applicant's mailing address and residential address.
- j. A recent photograph of the applicant(s).
- k. The applicant's driver's license number.
- l. A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus three inches.
- m. A current certificate and straight-line drawing prepared within 30 days prior to the application by a registered land surveyor depicting the property lines and the structures containing any existing sexually oriented businesses within 1,000 feet of the property to be certified; the property lines of any established place of public worship, school, public park, or recreation area within 1,000 feet of the property to be certified. For purposes of this section, a use shall be considered existing or established if it is in existence at the time an application is submitted.
- n. If an applicant wishes to operate a sexually oriented business, other than a sexually oriented motel, which shall exhibit on the premises, in a viewing

room or booth of less than 150 square feet of floor space, films, video cassettes, other video reproductions, or live entertainment which depict specified sexual activities or specified anatomical areas, then the applicant shall comply with the application requirements set forth herein.

6. Before any applicant may be issued a sexually oriented business employee license, the applicant shall submit on a form to be provided by the city the following information;

- a. The applicant's name or any other name (including "stage" names) or aliases used by the individual;
- b. Age, date, and place of birth;
- c. Height, weight, hair and eye color;
- d. Present residence address and telephone number;
- e. Present business address and telephone number;
- f. Date, issuing state and number of driver's permit or other identification card information; and
- g. Proof that the individual is at least 18 years of age.

7. Attached to the application form for a sexually oriented business employee license as provided above, shall be the following:

- a. A color photograph of the applicant clearly showing the applicant's face, and the applicant's fingerprints on a form provided by the police department. Any fees for the photographs and fingerprints shall be paid by the applicant.
- b. A statement detailing the license history of the applicant for the five years immediately preceding the date of the filing of the applicant, including whether such applicant previously operated or is seeking to operate, in this or any other city, state or county has ever had a license, permit, or authorization to do business denied, revoked, or suspended. In the event of any such denial, revocation, or suspension, state the name, the name of the issuing or denying jurisdiction, and describe in full the reason for the denial, revocation, or suspension. A copy of any order of denial, revocation, or suspension shall be attached to the application.
- c. A statement whether the applicant has been convicted of a specified criminal activity as defined in this article and, if so, the specified criminal activity involved, the date, place and jurisdiction of each conviction, and the sentence imposed.

8. Upon the filing of said application for a sexually oriented business employee license, the city shall issue a temporary license to said applicant, which shall be valid for 30 days. The

application shall then be referred to the appropriate city departments for an investigation to be made on such information as is contained on the application. The application process shall be completed within 30 days from the date the completed application is filed. After the investigation, the city shall issue a license, unless it is determined by a preponderance of the evidence that one or more of the following findings is true:

- a. The applicant has failed to provide accurate information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form;
- b. The applicant is under the age of 18 years;
- c. The applicant has been convicted of a "specified criminal activity" as defined in this article within the time frames set forth above;
- d. The applicant is under some form of probation or parole as a result of "specified criminal activity" or must register as a sex offender.
- e. The sexually oriented business employee license is to be used for employment in a business prohibited by local or state law, statute, rule or regulation, or prohibited by a particular provision of this article; or
- f. The applicant has had a sexually oriented business employee license revoked by the city within five years of the date of the current application. If the sexually oriented business employee license is denied, the temporary license previously issued is immediately deemed null and void. Denial, suspension, or revocation of a license issued pursuant to this subsection shall be subject to appeal as set forth herein.

9. A license granted shall be subject to annual renewal upon the written application of the applicant and a finding by the city that the applicant has not been convicted of any specified criminal activity as defined in this article or committed any act during the existence of the previous license, which would be grounds to deny the initial license application. The renewal of the license shall be subject to the payment of the fee as set forth herein.

10. Within 30 days after receipt of a completed sexually oriented business application, the city shall approve or deny the issuance of a license to an applicant. The city shall approve the issuance of a license to an applicant unless it is determined by a preponderance of the evidence that one or more of the following findings is true:

- a. An applicant is under 18 years of age.
- b. An applicant who is overdue in payment to the city of taxes, fees, fines, or penalties assessed against or imposed upon him/her in relation to any business.
- c. An applicant has failed to provide accurate information reasonably necessary

for issuance of the license or has falsely answered a question or request for information on the application form.

- d. An applicant or a person with whom the applicant is residing has been denied a license by the city to operate a sexually oriented business within the preceding 24 months or whose license to operate a sexually oriented business has been revoked within the preceding 24 months.
- e. An applicant or a person with whom the applicant is residing has been convicted of a specified criminal activity defined in this article and within the time frames set forth above.
- f. An applicant or a person with whom the applicant is residing is under some form of probation or parole as a result of "specified criminal activity" or must register as a sex offender.
- g. The premises to be used for the sexually oriented business have not been approved by the health department, fire department, and the inspection department as being in compliance with applicable laws and ordinances.
- h. The license fee required by this article has not been paid.
- i. An applicant of the proposed establishment is in violation of or is not in compliance with any of the provisions of this article.

11. The license, if granted shall state on its face the name of the person or persons to who it is granted, the expiration date, the address of the sexually oriented business and the type of sexually oriented business (as defined herein) for which the license is issued. All business licenses shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that they may be easily read at any time. All employees' licenses shall be kept by the employee with a copy provided to and maintained by the on-premises manager.

12. The health department, fire department, and the inspection department shall complete their certification that the premises is in compliance or not in compliance within 20 days of receipt of the application by the city.

13. A sexually oriented business license shall issue for only one type of sexually oriented business (as defined herein).

14. Every application for a sexually oriented business license (whether for a new license or for renewal of an existing license) shall be accompanied by a \$1,000.00 non-refundable application and investigation fee.

- a. In addition to the application and investigation fee required above, every sexually oriented business that is granted a license (new or renewal) shall pay to the city an annual non-refundable license fee of \$500.00 within 30 days of license issuance or renewal.

- b. Every application for a sexually oriented business employee license (whether for a new license or for renewal of an existing license) shall be accompanied by an annual \$150.00 non-refundable application, investigation, and license fee.
- c. All license applications and fees shall be submitted to the city clerk of the city.

15. An applicant or licensee shall permit representative of the police department, health department, fire department, planning and zoning department, and inspection department or other city agencies to inspect the premises of a sexually oriented business for the purpose of insuring compliance with the law, at any time it is occupied or open for business. A person who operates a sexually oriented business or his agent or employee commits a misdemeanor if he refuses to permit such lawful inspection of the premises or of the employee licenses at any time the business is open.

16. Each license shall expire one year from the date of issuance and may be renewed only by making application as provided herein. Application for renewal shall be made at least 30 days before the expiration date, and when made less than 30 days before the expiration date, the expiration of the license will not be affected. When the city denies renewal of a license, the applicant shall not be issued a license for one year from the date of denial. If, subsequent to denial, the city finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date denial became final.

17. A licensee shall not transfer his/her license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the application.

**Section 15-23. Adult Entertainment - Suspension, Revocation, Location.**

1. The city shall suspend a license for a period not to exceed 30 days if it determines that a licensee or an employee of a licensee has:

- a. Violated or is not in compliance with any section of this article;
- b. Refused to allow an inspection of the sexually oriented business premises as authorized by this chapter.

2. The city shall revoke a license if cause for suspension occurs and the license has been suspended within the preceding 12 months. The city shall revoke a business license if three or more employees are found to have been employees in the business without first obtaining an employee license within any 24 consecutive month period.

3. The city shall revoke a license if it determines that:

- a. A licensee gave false or misleading information in the material submitted during the application process.
- b. A licensee has knowingly allowed possession, use, or sale of controlled



substances on the premises;

- c. A licensee has knowingly allowed prostitution or sexual assault on the premises;
- d. A licensee knowingly operated the sexually oriented business during a period of time when the licensee's license was suspended;
- e. Except in the case of a sexually oriented motel, a licensee has knowingly allowed any act of sexual intercourse, anal copulation, oral copulation, masturbation, or other sex act to occur in or on the licensed premises; or
- f. A licensee is delinquent in payment to the city, county, or state for any taxes or fees past due.

4. When the city revokes a license, the revocation shall continue for two years, and the license shall not be issued a sexually oriented business license for two years from the date the revocation became effective. If, subsequent to revocation, the city finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date the revocation became effective.

5. After denial of an application, or denial of a renewal of an application, or suspension or revocation of any license, the applicant or licensee may seek prompt judicial review of such administrative action in any court of competent jurisdiction. The administrative action shall be promptly reviewed by the court.

6. A person commits an offense if that person operates or causes to be operated a sexually oriented business in any zoning district other than C-3 General Commercial District, as defined and described in the Elk City Zoning Code.

7. A person commits an offense if the person operates or causes to be operated a sexually oriented business within 1,000 feet of:

- a. A place of public religious worship;
- b. A public or private educational facility including but not limited to child day care facilities, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities; a school includes the school grounds, but does not include facilities used primarily for another purpose such as offices and vehicle maintenance facilities and only incidentally used by students;
- c. A boundary of a residential district as defined in the Elk City Zoning Code;

- d. A public park or recreational area which has been designated for park or recreational activities including but not limited to a park, playground, nature trail, swimming pool, reservoir, athletic field, golf course, basketball or tennis courts, wilderness area, or other similar public land within the city which is under the control, operation, or management of the parks department or any public trusts, provided that a recreation area as used in this article shall not be interpreted as including turnpikes and highways that also contain jogging or bicycle paths;
- e. The property line of a lot actually devoted to a residential use as defined in the Elk City Zoning Code.
- f. An entertainment business which is oriented primarily towards the children or family entertainment; or
- g. A premises licensed pursuant to the alcoholic beverage control regulations of the state where any beverage containing alcohol is sold, distributed or served. The distance between a sexually oriented business and any use names above shall be measured in a straight line, without regard to the intervening structures, objects or political boundaries, from the nearest exterior boundary of the parcel or the premises where a sexually oriented business is conducted, to the nearest property boundary of the premises of a listed use.

8. A person commits an offense if that person causes or permits the operation, establishment, substantial enlargement, or transfer of ownership or control of a sexually oriented business within 1,000 feet of another sexually oriented business. The distance between any two sexually oriented businesses shall be measure in a straight line, without regard to the intervening structures or objects or political boundaries, from the nearest exterior walls of the structures in which each business is located.

9. A person commits an offense if that person causes or permits the operation, establishment, or maintenance of more than one sexually oriented business in the same building, structure, or portion thereof, or the increase of floor area of any sexually oriented business in any building, structure, or portion thereof containing another sexually oriented business.

**Section 15-24. Adult Entertainment -Other Regulations.**

1. Evidence that a sleeping room in any hotel, motel, or a similar commercial establishment has been rented and vacated two or more times in a period of less than ten hours creates a rebuttable presumption that the establishment is an adult motel as that term is defined in this article.

2. A person commits an offense if, as the person in control of a sleeping room in a hotel, motel, or similar commercial establishment that does not have a sexually oriented license, he rents or sub-rents a sleeping room to a person and, within ten hours from the time the same room is rented or sub-rented again.

3. For purposes of subsection (b) of this section, the terms "rent" or "sub-rent" mean the act of permitting a room to be occupied for any form of consideration.

4. A person who operates or causes to be operated a sexually oriented business, other than an sexually oriented motel, which exhibits on the premises in a viewing room of less than 150 square feet of floor space, a film, video cassette, live entertainment, or other video reproduction which depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:

- a. Upon application for a sexually oriented license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted.. A manager's station may not exceed 32 square feet of floor area. A professionally prepared diagram in the nature of an engineer's or architect's blueprint under seal shall be required. Each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus three inches. The city may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.
- b. The application shall be sworn to be true and correct by the applicant.
- c. No alteration in the configuration or location of a manger's station may be made without the prior approval of the city.
- d. It is the duty of the licensee of the premises to ensure that at least one licensed employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.
- e. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain exhibition equipment nor live entertainment. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.
- f. It shall be the duty of the licensee to ensure that the view area specified

herein remains unobstructed by any doors, curtains, partitions, walls, merchandise, display racks or other materials and, at all times, to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted.

- g. It shall be the duty of the employee on duty at the manager's station to ensure that no violations of law involving specified criminal activity, or specified sexual activity, or the distribution of controlled substances occur inside the business premises.
- h. The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five (5.0) foot-candles as measured at the floor level.
- i. It shall be the duty of the licensee to ensure that the illumination described above is maintained at all times that any patron is present on the premises.
- j. No licensee shall allow openings of any kind to exist in the walls or partitions between viewing rooms or booths.
- k. No person shall make or attempt to make an opening of any kind between viewing booths or rooms.
- l. The licensee shall, during each business day, regularly inspect the walls between the viewing booths to determine if any openings or holes exist.
- m. The licensee shall cause all floor coverings in viewing booths to be nonporous, easily cleanable surfaces, with no rugs or carpeting.
- n. The licensee shall cause all wall surfaces and ceiling surfaces in viewing booths to be constructed of, or permanently covered by, nonporous, easily cleanable material. No wood, plywood, composition board or other porous material shall be used within 48 inches of the floor.

5. A person having a duty under subsection a. through o. of paragraph 4 above commits an offense if he knowingly fails to fulfill that duty.

6. An escort agency shall not employ any person under the age of 18 years.

7. A person commits an offense if the person acts as an escort or agrees to act as an escort for any person under the age of 18 years.

8. A nude model studio shall not employ any person under the age of 18 years.

9. A person under the age of 18 years commits an offense if the person appears in a state

of nudity or semi-nudity in or on the premises of a nude model studio. It is a defense to prosecution under this subsection if the person under 18 years was in a restroom not open to the public view or visible to any other person.

10. A person commits an offense if the person appears in a state of nudity, or knowingly allows another to appear in a state of nudity in an area of a nude model studio premises, which can be viewed from the public right of way.

11. A nude model studio shall not place or permit a bed, sofa, or mattress in any room on the premises, except that a sofa may be placed in a reception room open to the public.

12. It shall be an offense for a person who knowingly and intentionally, in a sexually oriented business, appears in a state of nudity or depicts specified sexual activities.

13. It shall be an offense for a person who knowingly or intentionally in a sexually oriented business appears in a semi-nude condition unless the person is an employee who, while semi-nude, shall be at least five feet from any patron or customer and on a state raised at least two feet higher than the adjacent floor.

14. It shall be an offense for an employee, while semi-nude in a sexually oriented business, to solicit any pay or gratuity from any patron or customer or for any patron or customer to pay or give any gratuity directly to any employee while said employee is semi-nude in a sexually oriented business.

15. It shall be an offense for an employee, while semi-nude, to touch a customer or the clothing of a customer.

16. A person commits an offense if the person knowingly allows a person under the age of 18 years on the premises of a sexually oriented business.

**Section 15-25. Adult Entertainment - Hours of Operation, Exemptions.**

1. No sexually oriented business, except for a sexually oriented motel, may remain open at any time between the hours of eleven o'clock (11:00) p.m. and nine o'clock (9:00) a.m. on weekdays and Saturdays. No sexually oriented business except a sexually oriented motel may remain open at any time on Sundays.

2. It is a defense to prosecution that a person appearing in a state of nudity did so in a modeling class operated:

- a. By a proprietary school, licensed by the State of Oklahoma; a college, junior college, or university supported entirely or partly by taxation;
- b. By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or
- c. In a structure:

- Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and
- Where, in order to participate in a class a student must enroll at least three days in advance of the class; and
- Where no more than one nude model is on the premises at any one time.

**Section 15-26. City Owned/Operated Property to be Tobacco-Free; Definitions.**

All City owned or operated property shall be tobacco-Free. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

1. Definitions.

Indoor area. The term “indoor area” means any indoor city-owned/operated property. An indoor area includes work areas, employee lounges, restrooms, conference rooms, classrooms, employee cafeterias, hallways, any other spaces used or visited by employees or the public, and all space between a floor and ceiling that is predominantly or totally enclosed by walls or windows, regardless of doors, doorways, open or closed windows, stairways, or the like. The provisions of this section shall apply to such indoor areas at any given time, whether or not work is being performed.

Outdoor area. The term “outdoor area” means any covered area, partially covered area or area open to the sky that is on a property owned or operated by the city.

Recreational area. The term “recreational area” means any area that is owned, controlled or used by the City of Elk City and open to the general public for recreational purposes, regardless of any fee or age requirement. The term “recreational area” includes but is not limited to parks, picnic areas, playgrounds, sports fields, golf courses, walking paths, gardens, hiking trails, bike paths, riding trails, swimming pools, roller- and ice-skating rinks, beaches surrounding lakes and skateboard parks.

Tobacco Product. The term “tobacco product” means any product that contains or is derived from tobacco and is intended for human consumption excluding drugs or devices approved for cessation by the United States Food and Drug Administration. This includes e-cigarettes and vapor products, with or without nicotine.

Tobacco-free. This term means to prohibit the use of any tobacco product by anyone, anywhere, at any time.

Vapor product. This term shall mean noncombustible products, that may or may not contain nicotine, that employ a mechanical heating element, battery, electronic circuit, or other mechanism, regardless of shape or size, that can be used to produce a vapor in a solution or other form. "Vapor products" shall include any vapor cartridge or other container with or without nicotine or other form that is intended to be used with an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. "Vapor products" do not include any products regulated by the United States Food, Drug and Cosmetic Act.

2. Prohibition.

- a. The possession of lighted tobacco in any form is a public nuisance and dangerous to public health and is hereby prohibited when such possession is in any indoor or outdoor areas owned or operated by this city.
- b. All buildings and other properties, including indoor and outdoor areas, owned or operated by this city, shall be entirely tobacco free to include all forms of tobacco products including vapor products.
- c. All indoor and outdoor recreational areas owned or operated by this city, shall be entirely tobacco free to include all forms of tobacco products including vapor products.

3. Posting.

- a. The City of Elk City shall be responsible for posting a sign or decal, at least four inches by two inches in size, at each entrance of city owned/operated property indicating the property is tobacco-free.
- b. The posting of signs or decals is the responsibility of the manager and/or supervisor of the city owned/operated facility.
- c. Any person who knowingly violates this article is guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine as set by the city.

4. Violation and Penalty.

Any person who knowingly violates this Section is guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine as set forth by the city.

5. Enforcement.

The State or local governmental agency shall, at a minimum, do the following in order to prevent tobacco and vapor product use in city owned/operated places:

- a. Post signs at entrances to city owned/operated places which state that tobacco use is prohibited; and
- b. Ask tobacco users to refrain from using any form of tobacco products, including vapor products upon observation of anyone violating the provisions of this act.

**Sections 15-27 through 15-29. (Reserved for future use.)**

**Article 3. Offenses Against the Peace**

**Section 15-30. Carrying Concealed Weapons.**

It shall be unlawful for any person to carry concealed upon or about his person any pistol, revolver, knife, dagger, metal knuckle or other dangerous or deadly weapon or instrument, except when doing so in the line of duty or may be permitted by law.

**Section 15-31. Discharging Firearms.**

It shall be unlawful for any person to discharge a firearm within the corporate limits of the City of Elk City, Oklahoma, except when doing so in the line of duty, when lawfully doing so in defense of oneself or of another person or property, when otherwise authorized by law or ordinance, when doing so for the preservation of the peace, health or safety of residents or the abatement of nuisances, or when engaged in authorized hunting or other related activities; it shall also be unlawful to discharge an air rifle or BB gun within the City of Elk City, Oklahoma, in such a manner as to harm or damage persons or property.

**Section 15-32. Unlawful Assembly.**

It shall be unlawful for two (2) or more persons to assemble together without authority of law and in such a manner as is adapted to disturb the public peace, or excite public alarm.

**Section 15-33. Permits Required for Purchase of Pistols.**

1. The words "pistol" or "revolver", as used in this Section shall be construed as meaning any firearm with a barrel less than twelve (12) inches long.

2. It shall be unlawful and an offense for any person to purchase, receive or accept in any manner any revolver, pistol, or other like firearm within the City of Elk City, Oklahoma, without first having obtained a written permit from the Chief of Police of the City of Elk City, Oklahoma, authorizing such person to receive or accept such revolver, pistol or other like firearm.



3. No person, firm or corporation shall sell, deliver, barter, give or otherwise transfer a pistol, revolver or other like firearm within the City of Elk City, Oklahoma, to any person to purchase or receive, who is not a holder of a written permit from the Chief of Police of the City of Elk City, Oklahoma, authorizing such person to purchase, receive or accept such revolver, pistol or other like firearms, and in no case shall any person, firm or corporation deliver a pistol or revolver or other like firearm to the person to whom it is to be sold or transferred until approved by, or transferred by the Chief of Police of the City of Elk City, Oklahoma, in the manner provided herein.

**Section 15-34. Disturbing Lawful Assemblies.**

It shall be unlawful for any person to disturb any lawful gathering, by making noise, by rude, indecent or improper behavior, by profane, improper or loud language, or in any other manner, either within the place of assembly or within hearing distance thereof.

**Section 15-35. Disturbing the Peace; Obscene Gestures and Phone Calls.**

1. It shall be unlawful for any person to disturb the peace of another or others by violent or improper conduct, by loud or unusual noise, by unseemly, obscene, insulting offensive or abusive language, or by conducting oneself in a disorderly manner.

2. It shall be unlawful for any person to use a telephone to:

- a. Make any obscene, lewd, lascivious, filthy or indecent comment, suggestion or proposal;
- b. Make a telephone call without disclosing his identity and with intent to annoy, abuse, threaten or harass any person at the called number;
- c. Knowingly permit any telephone under his control to be used for any purposes prohibited in this Subsection; or
- d. In conspiracy or concerted action with other persons, make repeated or continuous calls solely to harass any person at the called number.

3. It shall be unlawful for any person to make, demonstrate or otherwise symbolize any obscene gesture by use of said person's extremities, toward any other human being or object within the corporate limits of the City of Elk City, Oklahoma.

**Section 15-36. Operating Vehicle Emitting Excessive Music Volume.**

1. It shall be unlawful for any person to operate a vehicle located upon any public street or other right-of-way and to be playing or operating, or permitting the playing, use or operation, of any radio, musical instrument, phonograph, or other machine or device for the producing or reproducing of sound if such is for the purpose of entertainment or is used for that purpose and can be

heard from the distance of fifty (50) feet or more when the source of such sound is located upon any public right-of-way, and/or

2. It shall be unlawful if said source is located upon any public right-of-way and can be heard inside a structure or in a motor vehicle other than the source of said noise and if the receiving motor vehicle which is located a distance of fifty (50) feet or more from source of the noise all doors and windows are closed.

3. Any person convicted of violating any provision in this Section shall be punished by a fine of not less than fifty dollars (\$50.00) and not more than two hundred dollars (\$200.00), plus court costs.

**Sections 15-37 through 15-39. (Reserved for future use.)**

**Article 4. Offenses Against Persons**

**Section 15-40. Assault and Battery.**

1. An assault is any willful and unlawful attempt or offer with force or violence to do a corporal hurt to another.

2. A battery is any willful and unlawful attempt or offer with force or violence upon the person of another.

3. It shall be unlawful to commit an assault or any assault and battery within the City of Elk City, Oklahoma.

4. Any person, firm or corporation who shall violate any provision of this Section shall be guilty of an offense and, upon conviction thereof, shall be punished by fine not to exceed Seven Hundred Fifty Dollars (\$750.00) plus costs and may be imprisoned for any amount of time not to exceed sixty (60) days. Each day such violation is committed or continues to exist shall constitute a separate offense and shall be punishable as such.

**Sections 15-41 through 15-49. (Reserved for future use.)**

**Article 5. Offenses Against Property.**

**Section 15-50. Petty Larceny.**

1. Petty Larceny is the taking of personal property of value not to exceed Fifty Dollars (\$50.00), accomplished by fraud, stealth, or with intent to deprive another thereof when the property is not taken from the person of another.

2. Any person, firm or corporation who shall violate any provision of this Section shall be guilty of an offense and, upon conviction thereof, shall be punished by fine not to exceed Seven Hundred Fifty Dollars (\$750.00) plus costs and may be imprisoned for any amount of time not to exceed sixty (60) days. Each day such violation is committed or continues to exist shall constitute a separate offense and shall be punishable as such.

**Section 15-51. Receiving Stolen Property.**

It shall be unlawful for any person to buy, receive or to bring into the City of Elk City, Oklahoma, any property which he knows has been stolen.

**Section 15-52. Damages or Destroying Property.**

1. It shall be unlawful for any person to destroy, injure, deface, besmear or molest any structure, building, outbuilding, fence or any other property, real or personal, public or private, belonging to another, including automobiles or other vehicles, to use any such property wrongfully to the detriment of the owner or other person entitled to its use, or to interfere wrongfully with the use of any such property by its owners or any other person entitled to its use.

2. Any person, firm or corporation who shall violate any provision of this Section shall be guilty of an offense and, upon conviction thereof, shall be punished by fine not to exceed Seven Hundred Fifty Dollars (\$750.00) plus costs and may be imprisoned for any amount of time not to exceed sixty (60) days. Each day such violation is committed or continues to exist shall constitute a separate offense and shall be punishable as such.

**Section 15-53. Unlawful Entry.**

1. It shall be unlawful for any person to enter upon the property of another or into an area or structure on such property (whether such property, area or structure is public or private), when such entrance is plainly forbidden by signs or otherwise, or when the property, area or structure is enclosed, except when such entrance is in line of duty, with the expressed or tacit consent of the owner or person in charge, or otherwise by authority of law or ordinance.

2. Any person, firm or corporation who shall violate any provision of this Section shall be guilty of an offense and, upon conviction thereof, shall be punished by fine not OT exceed five hundred dollars (\$500.00) plus costs and may be imprisoned for any amount of time not to exceed sixty (60) days. Each day such violation is committed or continues to exist shall constitute a separate offense and shall be punishable as such.

**Section 15-54. Unlawful Intrusion Upon Land.**

Every person who intrudes or squats upon any lot or piece of land within the City of Elk City, Oklahoma, without a license or authority from the owner thereof, or who erects or occupies

thereon any hut or other structure without such license or authority, and every person who places, erects or occupies within the bounds of any street, alley or avenue of the City, any hut or other structure whatever, shall be guilty of an offense.

**Section 15-55. Unlawful Posting of Advertising Matter.**

It shall be unlawful for any person to place, post, paint, mark, write or print any sign, poster, picture, announcement, advertisement, device or inscription upon any public or private building, fence, sidewalk, bridge, automobile, other vehicle or other property of another, without the consent of the owner or person in charge thereof.

**Section 15-56. Damaging Utility Poles.**

1. It shall be unlawful for any person to make, write, print, paint upon, or otherwise make any signs or marks, by indentation or otherwise, or by posting signs or posters, upon any telephone, television, electric or power pole, either wood, concrete, steel or of any other substance, within the corporate limits of the City of Elk City, Oklahoma. The word "pole" shall be construed to mean any pole supporting telephone, television, electric or power lines or braces, and any device used to support or brace such a pole.

2. This Section shall not apply to the owners of such poles who may make such necessary or authorized marks or signs thereon.

**Section 15-57. Unlawful Throwing or Shooting of Objects.**

It shall be unlawful for any person to throw or shoot any stone, shot or other object into or across any street or alley, or in any place where he is likely to hit another person wrongfully or to injure property, or to throw or shoot any stone, shot or other object at any person, vehicle, structure, electric light or other property of another, whether public or private, except in the case where such is done in defense of oneself, of another person or of property.

**Section 15-58. Littering.**

1. For the purpose of this Section, "litter" is defined to be any garbage, refuse, rubbish, ashes, street cleanings, dead animals, abandoned automobiles, paper, wrappings, cigarette butts, cardboard, tin cans, yard clippings, leaves, wood, grass, bedding or crockery and similar materials commonly referred to as rubbish or trash.

2. No person shall throw or deposit litter in or upon any open or vacant property within the City of Elk City, Oklahoma, irrespective of the ownership of such property.

3. No person shall throw or deposit litter in or upon any street, alley, sidewalk or other public place within the City of Elk City, Oklahoma, except in public receptacles, authorized private receptacles or in the Municipal Sanitary Landfill.

4. No person shall sweep into, or deposit in, any gutter, street or other public place within the City, the accumulation of litter from any building or lot, or from any public or private sidewalk or driveway; persons owning or occupying property shall keep the sidewalk in front of their premises free of litter.

5. No person shall drive or move any truck or other vehicle within the City, unless such vehicle is so constructed or loaded as to prevent any load as to prevent any load, contents or litter from being blown or deposited upon any street, alley or other public place; nor shall any person drive or move any vehicle or truck within the City, the wheels or tires of which carry onto, or deposit in, any street, alley or other public place, mud, dirt, sticky substances, litter or foreign matter of any kind, in excessive or damaging amounts.

6. No person shall throw or deposit any commercial or non-commercial handbill on or upon any sidewalk, street or other public place within the City; no person shall hand out, distribute or sell commercial handbills in public places.

7. No person shall throw or deposit any commercial or non-commercial handbill in or upon any vehicle; however, it shall not be unlawful, in any public place, for a person to hand out or distribute, without charge to the receiver, a non-commercial handbill to any occupant of a vehicle who is willing to accept it.

8. No person shall throw or deposit any commercial or non-commercial handbill in or upon any private premises which are temporarily or continuously vacant.

9. No person shall throw, deposit or distribute any commercial or non-commercial handbill upon any private premises, if requested not to do so or if signs are posted bearing the words "no trespassing," "no peddlers or agents," "no advertisement," or similar notice, indicating that the occupants do not desire to have their privacy disturbed.

10. No person shall throw, deposit or distribute any commercial or non-commercial handbill in or upon private premises which are inhabited, except by transmitting them directly to the owner, occupant or persons present upon such private premises; in cases of inhabited private premises which are not posted, handbills must be placed securely, to prevent them from blowing on sidewalks or other public places.

11. The provisions of Subsection 10 (above) shall not apply to the distribution of mail by the United States, nor to newspapers, except that newspapers shall be placed on private property so as to prevent being carried or deposited upon any street, sidewalk or public place, or on other private property.

12. No person in an aircraft shall throw out, drop or deposit within City, any litter, handbill or any other object.

**Section 15-59. Junk Automobiles.**

1. It shall be unlawful for any person, firm, corporation or other entity to permit an inoperative automobile or other vehicle, or a junk automobile or other vehicle to be parked upon any street, alley or highway within the corporate limits of the City of Elk City, Oklahoma.

2. It shall be unlawful to keep, or allow to be kept, an inoperative automobile or other vehicle, or a junk automobile or other vehicle to be parked, maintained or otherwise kept on any private property within the City of Elk City, Oklahoma, closer than fifty (50) feet to the traveling surface of any street, alley or highway in said municipality.

**Sections 15-60 through 15-69. (Reserved for future use.)**

**Article 6. Offenses Against Public Authority**

**Section 15-70. Resisting Arrest.**

1. It shall be unlawful for any person knowingly or willfully to resist, oppose or obstruct the Chief of Police, any policeman, the Municipal Judge or other municipal officer or employee in the discharge of his official duties; or, by threats or otherwise, to intimidate, or attempt to intimidate, any such officer or employee from the discharge of his official duties; or to assault, beat, revile, abuse, be disrespectful to or use abusive or indecent language toward or about, any such officer or employee, while such officer or employee is in the discharge of his official duties.

2. Any person, firm or corporation who shall violate any provision of this Section shall be guilty of an offense and, upon conviction thereof, shall be punished by fine not OT exceed five hundred dollars (\$500.00) plus costs and may be imprisoned for any amount of time not to exceed sixty (60) days. Each day such violation is committed or continues to exist shall constitute a separate offense and shall be punishable as such.

**Section 15-71. Impersonating Municipal Officer or Employee.**

It shall be unlawful for any person to impersonate any municipal officer or employee, or exercise, or attempt to exercise, any of the duties, functions or powers of any municipal officer or employee, without being duly authorized to do so.

**Section 15-72. False Representation to Municipal Officials.**

It shall be unlawful for any person knowingly to make any material misrepresentation to any

municipal officer, employee or agency in any official application to, or official dealing or negotiation with, such officer or agency, or to commit perjury before any tribunal or office of the City.

**Section 15-73. Escape of Prisoners.**

1. It shall be unlawful for any person confined in the Municipal Jail or other place of confinement by the City, working upon the streets or other public places of the City in pursuance of any judgment, or otherwise held in legal custody by authority of the City, to escape, or attempt to escape, from any such Municipal Jail, prison or custody.

2. Any person, firm or corporation who shall violate any provision of this Section shall be guilty of an offense and, upon conviction thereof, shall be punished by fine not OT exceed five hundred dollars (\$500.00) plus costs and may be imprisoned for any amount of time not to exceed sixty (60) days. Each day such violation is committed or continues to exist shall constitute a separate offense and shall be punishable as such.

**Section 15-74. Assisting Prisoners to Escape.**

1. It shall be unlawful for any person, in any unlawful manner, to set at liberty, rescue or attempt to set at liberty or rescue, any prisoner from any officer or employee of the City of Elk City, Oklahoma, having legal custody of such prisoner, or from the Municipal Jail or other place of confinement by the City, or to assist such prisoner in any manner to escape from such prison or custody, or to give such prisoner any weapon or object which might be used as a weapon or instrument to assist him in escape, or to give such prisoner any alcoholic beverages, narcotics or other controlled dangerous substances.

2. Any person, firm or corporation who shall violate any provision of this Section shall be guilty of an offense and, upon conviction thereof, shall be punished by fine not OT exceed five hundred dollars (\$500.00) plus costs and may be imprisoned for any amount of time not to exceed sixty (60) days. Each day such violation is committed or continues to exist shall constitute a separate offense and shall be punishable as such.

**Section 15-75. Removal of Barricades.**

1. No person, unless authorized by proper authority, shall remove any barricade or obstruction placed by authority of the City of Elk City, Oklahoma, to keep traffic off any pavement, street, curb, sidewalk or other area.

2. Any person, firm or corporation who shall violate any provision of this Section shall be guilty of an offense and, upon conviction thereof, shall be punished by fine not OT exceed five hundred dollars (\$500.00) plus costs and may be imprisoned for any amount of time not to exceed sixty (60) days. Each day such violation is committed or continues to exist shall constitute a separate offense and shall be punishable as such.

**Section 15-76. Flight From An Officer.**

A person commits the offense of flight from an Officer, if:

1. He is the operator of a vehicle and refuses to stop his vehicle as soon as is safely possible, when signaled to do so by a law enforcement officer; or, upon stopping his vehicle at the signal of a law enforcement officer, abandons said vehicle and leaves, or attempts to leave the immediate area without the permission of the law enforcement officer; or
2. He is a passenger in a vehicle and abandons the vehicle after a law enforcement officer has signaled the vehicle to stop, or, after the vehicle has stopped, leaves the immediate area without the permission of the law enforcement officer; or
3. He is a pedestrian and leaves, or attempts to leave, the immediate area after being directed by a law enforcement officer to stop, or to remain in said area for a reasonable length of time.

**Section 15-77. Refusing or Failing to Assist a Policeman.**

1. Any policeman of the City of Elk City, Oklahoma making or about to make an arrest, or executing or about to execute a warrant or other process, in accordance with the Code of Ordinances of said municipality or with State or Federal Law, or suppressing or about to suppress a riot, affray or unlawful assembly, may call upon a person or persons to assist him in making such arrest, executing such process or suppressing such riot, affray or unlawful assembly.
2. No person lawfully called upon thus to assist any policeman of the City of Elk City, Oklahoma, shall refuse or fail to do so, whenever such assistance is reasonably possible.

**Section 15-78. False Fire Alarms.**

1. No person shall turn in a false fire alarm, or in any manner shall deceive or attempt to deceive the Fire Department or any officer or employee with reference to any fire alarm or reported fire, or knowingly shall cause the Fire Department or its officers or employees to make a useless run.
2. Any person, firm or corporation who shall violate any provision of this Section shall be guilty of an offense and, upon conviction thereof, shall be punished by fine not OT exceed five hundred dollars (\$500.00) plus costs and may be imprisoned for any amount of time not to exceed sixty (60) days. Each day such violation is committed or continues to exist shall constitute a separate offense and shall be punishable as such.

**Section 15-79 through 15-88. (Reserved for future use.)**



## Article 7. Juvenile Crime Act

### Section 15-89. Purpose; Definitions.

The purpose is to curb the increasing problem of juvenile crime; to educate and reform juvenile offenders; to punish juvenile offenders; and to create an environment whereby adults and juveniles take responsibility for the actions of juveniles. It is intended to hold neglectful or careless parents to a reasonable community standard of parental responsibility through an objective test. It shall not be a defense to the commission of any offense that a parent, guardian or any other person whose responsibility it is to exercise control over a minor, was completely unaware or indifferent to the activities, conduct or whereabouts of such minor.

1. **Definitions.** For the purposes of this Act, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular and words in the singular include the plural. The word "shall" is always mandatory and not merely directory. The word "may" is always directory and not mandatory.

- a. **Parent.** Any person having legal custody of a minor (i) as a natural or adoptive parent; (ii) as a legal guardian; (iii) as a person who stands in loco parentis; or (iv) as a person to whom legal custody has been given by order of a court.
- b. **Public place in public view.** Any public street, highway, road, alley, parking lot, park, playground, public building, parkway, sidewalk, vacant lot, yard, driveway, automobile or cycle in public view.
- c. **Remain.** To stay behind, to tarry and stay unnecessarily upon a public place in public view.
- d. **Minor.** Any person under the age of eighteen (18) years of age, or in equivalent phrasing, any person of the age of seventeen (17) years old or younger. The term "minor" shall be synonymous with the term "juvenile".
- e. **Time of night.** The prevailing local standard of time at the date in question, whether Central Standard Time, or Central Daylight Savings Time, as observed by the public. The time maintained by the Elk City Police Department shall be prima facie evidence of the time of day for continued implementation of this division.
- f. **Years of age.** This term means the time from one birthday, such as seventeenth to the next, but not including the day of the next birthday. Thus upon a person's eighteenth birthday, he or she will cease to be a minor regulated by this ordinance.

**Section 15-90. Curfew for Minors.**

1. **Curfew for Minors.** It shall be unlawful for any person seventeen (17) years old or younger be or remain in or upon any public place in public view within the City of Elk City between the hours of 11:00 p.m. and 6:00 a.m. Sunday through Thursday and between the hours of 12:00 midnight and 6:00 a.m. Friday and Saturday.

2. **Exceptions.** This section is intended as a clear general guide for minors, their parents, and enforcement officials. In the following exceptional cases, a minor in or upon any public place in public view shall not be deemed in violation of this division:

- a. When the minor is accompanied by his parent.
- b. When exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech and the rights of assembly. It shall be deemed a bona fide exercise of such rights if the assembly, whether parade or demonstration, has been permitted by the City of Elk City or other bona fide religious, social or school activities involving the right to assemble.
- c. When engaged in performing an errand or other legitimate business at the direction of a parent including travel to and from such location by a direct route.
- d. When the minor is engaged in employment activities, such as, but not restricted to, newspaper delivery.
- e. All of the above cited exceptions to the Curfew Ordinance include travel to and from such activity by a direct route, and this division is in no way to be construed as a limitation upon normal travel by a minor engaged in interstate movement.
- f. Each of the foregoing exceptions are severable and in addition other possible exceptions may be added hereto in the future as warranted by experience as illuminated by the views of student government associations, school personnel, citizens, neighborhood spokesmen, parents, officers and persons in authority concerned positively with minors as well as juvenile delinquency.

3. **Parental responsibility.** It shall be unlawful for a parent knowingly to permit or by insufficient control to allow a minor to be or remain in any public place in public view other than for the exceptions set forth above during curfew hours. The term "knowingly" includes knowledge which a parent should reasonably be expected to have concerning the whereabouts of a minor. It shall be prima facie evidence of violation of this section if a responsible parent has no knowledge of a minors' whereabouts during the hours of curfew established by this division.

4. **Police procedures.** A police officer of the city, upon finding or having attention called to any minor in prima facie violation of the Curfew Ordinance, may take the minor to the city police station, where a parent shall immediately be notified to come for such minor, whereupon the parent may be questioned. This is intended to permit ascertainment, under constitutional safeguards, of relevant facts, and to centralize responsibility in the personnel then on duty for accurate, effective, fair, impartial and uniform enforcement, and recording, thus making available experienced supervisory personnel, the best of facilities and access to information and records. In the absence of convincing evidence such as a birth certificate or driver's license a police officer on the street shall use his best judgment in determining age.

- a. Police procedure shall constantly be refined in the light of experience and may provide that the police officer may deliver to a parent thereof a minor, under appropriate circumstances.
- b. In any event such police officer shall within twenty-four (24) hours file a written report with the chief of police, or shall participate to the extent of the information for which he is responsible; said report shall be treated for purposes of juvenile records in accordance with state statutes.
- c. When a parent, immediately called, has come to take charge of the minor, and the appropriate information has been recorded, the minor shall be released to the custody of such parent. If the parent cannot be located, or fails to take charge of the minor, then the minor may be released to the juvenile authorities, except to the extent that in accordance with police regulations, approved in advance by juvenile authorities, the minor may temporarily be entrusted to a relative, neighbor or other person who will on behalf of a parent assume the responsibility of caring for the minor pending the availability or arrival of a parent. However, the police department shall have the discretion to refuse to turn the child over to persons other than natural parents or legal guardians, if circumstances warrant such refusal in their opinion.

5. **Penalty.**

- a. If a parent violates the parental responsibility section, this shall be treated as an offense by the parent. The penalty upon a plea of guilty, nolo contendere, or finding of a guilt shall be a fine of not less than fifty dollars (\$50.00) and not more than two hundred dollars (\$200.00), plus costs, or by imprisonment for not more than thirty (30) days, or by both such fine and imprisonment; and/or parental counseling classes, and/or community service, and/or restitution when damages are a result of/or are involved in the violation.
- b. Any minor who shall violate any of the provisions of this Curfew more than one time may be reported to the District Juvenile Court for the treatment, supervision and rehabilitation of such minor.

**Section 15-91. Original jurisdiction of municipal court in certain juvenile cases.**

The municipal court of Elk City may elect to have and possess original jurisdiction to hear and determine any offenses committed by persons under the age of eighteen (18) years of age and penalize juveniles found guilty as allowed by Title 10 of the Oklahoma Statutes, Section 7303-1.2 (E).

**Section 15-92. Allowing or encouraging a minor to commit offenses; Penalty.**

1. It shall be unlawful for any person to knowingly or willfully aid, abet, allow, encourage or, by omission of a duty, encourage or assist a minor to commit any municipal, state or federal offense.

2. Any person convicted of violating any provision in this section shall be punished by a fine of not less than one hundred dollars (\$100.00) and not more than two hundred dollars (\$200.00), plus costs, or by imprisonment for not more than thirty (30) days, or by both such fine and imprisonment.

**Section 15-93. Parental responsibility; Failure to control; Penalty.**

1. It shall be unlawful for any parent to fail to control a minor that is under the parent's supervision by, after notification of a prior offense committed by the minor, failing to prevent the minor from committing the same offense or more than one other offenses within one (1) year of the date the minor committed the first offense.

2. Any person convicted of violating any provision in this section shall be punished by a fine of not less than one hundred dollars (\$100.00) and not more than two hundred dollars (\$200.00), plus costs, or by imprisonment for not more than thirty (30) days, or by both such fine and imprisonment.

**Section 15-94. Commission of a crime in the presence of minors; Penalty.**

1. It shall be unlawful for any person to commit any municipal, state or federal offense in the presence of any person under eighteen (18) years of age.

2. Any person convicted of violating any provision in this section shall be punished by a fine of not less than one hundred dollars (\$100.00) and not more than two hundred dollars (\$200.00), plus costs, or by imprisonment for not more than thirty (30) days, or by both such fine and imprisonment.

**Section 15-95. Permitting crimes or disorderliness on premises; Penalty.**

1. No owner, operator, proprietor, manager or employee of any place shall permit minors who have congregated on the premises to commit any offense, or to carouse, make unnecessary noises, disturb, disrupt or annoy the people residing or carrying on business in the

immediate neighborhood or so as to disturb the peace.

2. Definitions. For purposes of this Section, the following definitions shall apply:
  - a. **Alcohol@** means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, from whatever source or by whatever process produced.
  - b. **Alcoholic beverage@** includes alcohol, spirits, liquor, wine, beer, and every liquid or solid containing alcohol, spirits, wine, or beer, and which contains one half of one (1) percent or more of alcohol by volume and which is fit for beverage purposes whether alone or when diluted, mixed, or combines with other substances. This term includes intoxicating beverages and low point beer as defined herein.
  - c. **Gathering@** is a party, gathering, or event, where a group of three or more persons have assembled or are assembling for a social occasion or social activity.
  - d. **Intoxicating Beverage@** includes beverage containing more than three and two-tenths percent (3.2%) alcohol by weight.
  - e. **Legal Guardian@** means (1) a person who, by court order, is the guardian of the person of a minor; or (2) a public or private agency with whom a minor has been placed by the Court.
  - f. **Low Point Beer@** means and includes beverages containing more than one-half of one percent (2 of 1%) alcohol by volume, and not more than three and two-tenths percent (3.2%) alcohol by weight, including but not limited to beer or cereal malt beverages obtained by the alcoholic fermentation of an infusion of barley or other grain, malt or similar products.
  - g. **Minor@** means any person under twenty-one years of age.
  - h. **Parent@** means a person who is a natural parent, adoptive parent, foster parent, or stepparent of another person.
  - i. **Premises@** means any residence or other private property, place, or premises, including any commercial or business premises.
3. Except as permitted by state law, it is unlawful for any minor to:
  - a. consume any alcoholic beverage at any public place or any place open to the public; or
  - b. consume any alcoholic beverage at any place not open to the public,

unless in connection with the consumption of the alcoholic beverage that minor is being supervised by his or her parent or legal guardian.

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

5. It is unlawful for any person having control of any premises, who knowingly hosts, permits, or allows a gathering to take place at said premises where at least one minor consumes an alcoholic beverage, whenever the person having control of the premises either knows a minor has consumed an alcoholic beverage or reasonably should have known that a minor consumed an alcoholic beverage had the person taken all reasonable steps to prevent the consumption of an alcoholic beverage by a minor as set forth in subsection (4) of this Section.

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

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

8. Any person convicted of violating any provision in this section shall be punished by a fine of not less than fifty dollars (\$50.00) and not more than two hundred dollars (\$200.00), plus costs, or by imprisonment for not more than thirty (30) days, or by both such fine and imprisonment.@

#### **Section 15-96. Truancy; Penalty.**

1. It shall be unlawful for a parent of a minor who is over the age of six (6) years and under the age of eighteen (18) years, to neglect or refuse to cause or compel such minor to attend and comply with the rules of a public, private or other school of the parent's choosing in which the minor is enrolled.

2. It shall be unlawful for any minor who is over the age of six (6) and who has not finished four (4) years of high school work, to neglect or refuse to attend and comply with the rules of some public, private or other school, or receive an education by other means for the full term the schools of the district in which the minor attends are in session.

Provided, that this section shall not apply:

a. If any such minor is prevented from attending school by reason of mental or

physical disability, as determined by the Board of Education of the district upon a certificate of the school physical or public health physician or, if no such physician is available, a duly licensed and practicing physician;

- b. If any such minor is excused from attendance at school, due to an emergency, by the principal of the school in which the minor is enrolled, at the request of the parent of the minor;
- c. If any such minor is excused from attending school by:
  - (1) The administrator of the school or district where the minor attends school, and
  - (2) The parent of the minor. Provided, further, that no minor shall be excused from attending school by such joint agreement between a school administrator and the parent of the minor unless and until it has been determined that such action is in the best interest of the minor and/or the community, and that said minor shall thereafter be under the supervision of the parent until the minor has reached the age of eighteen (18) years; or
- d. If any such minor is observing religious holy days and, prior to the absence, the parent of the minor submits a written request for the absence.

3. Any adult person convicted of violating any provision in this section shall be punished by a fine of not less than one hundred dollars (\$100.00) and not more than two hundred dollars (\$200.00), plus costs, or by imprisonment for not more than thirty (30) days, or by both such fine and imprisonment. Each separate day of violation shall constitute a separate offense.

4. Any minor convicted of violating any provision in this section shall be punished on the first offense by a fine of not more than fifty dollars (\$50.00); on the second offense by a fine of not more than one hundred dollars (\$100.00); and on every subsequent offense by a fine of not more than two hundred dollars (\$200.00); plus costs. Each separate day of violation shall constitute a separate offense.

#### Section 15-97. Prevention of Youth Access to Tobacco; Penalties.

##### 1. Definitions.

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

- a. “Cigarette” means any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and costs of or contains:

- (1) any roll of tobacco wrapped in paper or in any substance not containing tobacco,
- (2) tobacco, in any form, that is functional in the production, which because of its appearance, the type of tobacco used in the filter, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette.

The term “cigarette” includes “roll-your-own” (i.e. any tobacco which, because of its appearance type, packaging, or labeling is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes.) For purposes of this definition of cigarette, nine one-hundredths (0.09) of an ounce of “roll-your-own” tobacco shall constitute one individual “cigarette”.

- b. “Person” means any individual, firm, fiduciary, partnership corporation, trust, or association, however formed;
- c. “Proof of age” means a driver license, license for identification only, or other generally accepted means of identification that describes the individual as eighteen (18) years of age or older and contains a photograph or other likeness of the individual and appears on its face to be valid;
- d. “Sample” means a tobacco product or vapor product distributed to members of the public at no cost for the purpose of promoting the product;
- e. “Sampling” means the distribution of samples to members of the public in a public place;
- f. “Tobacco product” means any product that contains tobacco and is intended for human consumption excluding drugs or devices approved for cessation by the United States Food and Drug Administration. This includes e-cigarettes and vapor products, with or without nicotine;
- g. “Transaction scan” means the process by which a seller checks, by means of a transaction scan device, the validity of a driver license or other government-issued photo identification; and
- h. “Transaction scan device” means any commercial device or combination of devices used at a point of sale or entry that is capable of deciphering in an electronically readable format the information encoded on the magnetic strip or bar code of a driver license or other government-issued photo identification.
- i. Vapor product: shall mean noncombustible [products, that may or may not contain nicotine, that employ a mechanical heating element,



battery, electronic circuit, or other mechanism, regardless of shape or size, that can be used to produce a vapor in a solution or other form. “Vapor products” shall include any vapor cartridge or other container with or without nicotine or other form that is intended to be used with an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. “Vapor products” do not include any products regulated by the United States Food and Drug Administration under Chapter V of the Food, Drug, and Cosmetic Act.

2. Furnishing of tobacco products to minors prohibited – Proof of age – Fines – Multiple violations.

- a. It is unlawful for any person to sell, give or furnish in any manner any tobacco product or vapor product (see definition) to another person who is under eighteen (18) years of age, or to purchase in any manner a tobacco, a tobacco products or vapor product on behalf of any such person. It shall not be unlawful for an employee under eighteen (18) years of age to handle tobacco, tobacco products or vapor products when required in the performance of the employee’s duties.
- b. A person engaged in the sale or distribution of tobacco, tobacco products or vapor products shall demand proof of age from a prospective purchaser or recipient of an ordinary person would conclude on the basis of appearance that the prospective purchaser may be less than eighteen (18) years of age. If an individual engaged in the sale or distribution of tobacco, tobacco products or vapor products has demanded proof of age from a prospective purchaser or recipient who is not under eighteen (18) years of age, the failure to subsequently require proof of age shall not constitute a violation of this subsection.
- c. Any violation of subsection a or b of this sub-section 2 is an offense against the City of Elk City; upon conviction of any such offense, the violator shall be punished as follows:
  1. Not more than One Hundred Dollars (\$100.00) for the first offense;
  2. Not more than Two Hundred Dollars (\$200.00) for a second offense within a two year period following the first offense;
  3. Not more than Three Hundred Dollars (\$300.00) for the third or subsequent offense within a two-year period following the first offense.
- d. Proof that the defendant demanded, was shown and reasonably relied upon proof of age shall be a defense to any action brought pursuant to this section. A person cited for violating this section shall be deemed to have reasonable

relied upon proof of age and such person shall not be found guilty of such violation if such person proves that:

1. the individual who purchased or received the tobacco product or vapor product presented a driver license or other government-issued photo identification purporting to establish that such individual is eighteen (18) years of age or older; and
2. the person cited for the violation confirmed the validity of the driver license or other government-issued photo identification presented by such individual by performing a transaction scan by means of a transaction scan device.

Provided, that this defense shall not relieve from liability any person cited for a violation of this section if such person failed to exercise reasonable diligence to determine whether the physical description and picture appearing on the driver license or other government-issued photo identification was that of the individual who presented it. The availability of the defense described in this subsection does not affect the availability of any other defense under any other provision of law.

3. Purchase, receipt or possession of tobacco products and vapor products by minors prohibited – Falsifying proof of age.
  - a. It is unlawful for a person who is under eighteen (18) years of age to purchase, receive, or have in their possession a tobacco product or vapor product, or to present or offer to any person any purported proof of age which is false or fraudulent, for the purpose of purchasing or receiving any tobacco product or vapor products. It shall not be unlawful for an employee under age eighteen (18) years of age to handle tobacco products or vapor products when required in the performance of the employee's duties.
  - b. When a person is convicted or enters a plea and receives a referred sentence for a violation of subsections (a) of this sub-section 3, the total of any fines, fees, or costs shall not exceed the following:
    1. One Hundred Dollars (\$100.00) for the first an offense; and
    2. Two Hundred Dollars (\$200.00) for a second or subsequent offense within an one year period following the first offense
4. Distribution of tobacco product and vapor product samples restricted..
  - a. It shall be unlawful for any person or retailer to distribute tobacco, tobacco products, tobacco or tobacco product samples or vapor products samples to any person under eighteen (18) years of age.

- b. No person shall distribute tobacco, tobacco product or vapor product samples in or on any public street, sidewalk, or park that is within three hundred (300) feet of any playground, school, or other facility when the facility is being used primarily by persons under eighteen (18) years of age.
  - c. When a person is convicted or enters a plea and receives a deferred sentence for a violation of subsections a or b of this sub-section 4, the total of any fines, fees, or costs shall not exceed the following:
    - 1. One Hundred Dollars (\$100.00) for the first offense;
    - 2. Two Hundred Dollars (\$200.00) for a second offense; and
    - 3. Three Hundred Dollars (\$300.00) for the third or subsequent offense
  - a. It shall be unlawful for any person or retailer to distribute tobacco, tobacco products, tobacco or tobacco product samples or vapor products samples to any person under eighteen (18) years of age.
  - b. No person shall distribute tobacco, tobacco product or vapor product samples in or on any public street, sidewalk, or park that is within three hundred (300) feet of any playground, school, or other facility when the facility is being used primarily by persons under eighteen (18) years of age.
  - c. When a person is convicted or enters a plea and receives a deferred sentence for a violation of subsections a or b of this sub-section 4, the total of any fines, fees, or costs shall not exceed the following:
    - 1. One Hundred Dollars (\$100.00) for the first offense;
    - 2. Two Hundred Dollars (\$200.00) for the second offense; and
    - 3. Three Hundred Dollars (\$300.00) for the third or subsequent offense.
5. Display or sale of tobacco products and vapor products – Public access.
- a. It is unlawful for any person or retail store to display or offer for sale tobacco products or vapor products in any manner that allows public access to the tobacco products or vapor products without assistance from the person displaying the tobacco products or vapor products or an employee or the owner of the store. The provisions of this subsection shall not apply to retail stores which do not admit into the store persons under eighteen (18) years of age.
  - b. When a person is convicted or enters a plea and receives a deferred sentence for a violation of this sub-section 5, the total of any fines, fees, or costs shall not exceed Two Hundred Dollars (\$200.00) for each offense.
6. Report of Violations; Compliance Checks; Penalty.

- a. Any conviction for a violation of this Article and any compliance checks conducted by the Police Department pursuant to Subsection (b) of this section shall be reported in writing to the Alcoholic Beverage Laws Enforcement (ABLE) Commission within thirty (30) days of the conviction or compliance check. Such reports shall be compiled in the manner prescribed by the ABLE Commission. Convictions shall be reported by the [Court Administrator/Court Clerk] or his designee and compliance checks shall be reported by the Chief of Police or his designee.
- b. Persons under eighteen (18) years of age may be enlisted by the Police Department to assist in enforcement of this Article pursuant to the rules of the ABLE Commission.
- c.. Any person convicted of violating any provision in this sub-section 6 shall be punished by a fine of not less than Twenty-Five (\$25.00) and not more than Two Hundred Dollars (\$200.00), plus costs.

**Section 15-98. Original jurisdiction of municipal court in traffic cases; Minors.**

The municipal court of Elk City may elect to have and possess original jurisdiction to hear and determine any violations of traffic ordinances by any person of any age, including minors.

**Section 15-99. Parental accountability for involvement of minors in Municipal Court; Penalty.**

1. It shall be unlawful for any parent having legal custody of a minor, to fail, neglect or refuse to require such minor to appear in Municipal Court for an initial appearance, trial, hearing to explain non-performance of a court order, or for any other Municipal Court proceeding, or to pay fines or perform community service or any other sentence imposed in the Municipal Court, when the minor has been so directed or sentenced by the Municipal Court, the clerk thereof or members of the Elk City Police Department as the case may be. Upon notification that a case is pending against a minor in their legal custody, it shall be the duty of the parent to be aware of all scheduled court appearances or directives in such case.

2. Any person convicted of violating any provision in this section shall be punished by a fine of not less than one hundred dollars (\$100.00) and not more than two hundred dollars (\$200.00), plus costs, or by imprisonment for not more than thirty (30) days, or by both such fine and imprisonment.

**Article 8. Offenses Related to Smoking**

**Section 15-100. Possession of Lighted Tobacco.**

1. The possession of lighted tobacco in any form is a public nuisance and dangerous to public health and is hereby prohibited when such possession is in any indoor place used by or open to the public, in any enclosed indoor area where individuals other than employees are invited or

permitted, in any indoor workplace, within fifteen (15) feet of any entrance, exit or air intake of any such places, or in any vehicle providing public transportation, except where specifically allowed by law.

2. As used in this section, “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.

3. 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, exhausted directly to the outside with no air from the smoking space circulated to any nonsmoking area, 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, and the air from the smoking space is not exhausted within fifteen (15) feet of any entrance, exit or air intake.

### **Section 15-101. Permitted Smoking.**

1. Smoking is permitted in the following space if (1) the smoking space occupies the entire building or (2), if the smoking space shares space in the building with any indoor public places or indoor workplaces in which smoking is prohibited, is fully enclosed, exhausted directly to the outside with no air from the smoking space circulated to any nonsmoking area within the building, and under negative air pressure so that no smoke can drift or circulate into a nonsmoking area within the building when a door to an adjacent nonsmoking area is opened, and the air from the smoking space is not exhausted within fifteen (15) feet of any entrance, exit or air intake:

- a. The room or rooms where licensed charitable bingo games are being operated, but only during the hours of operation of such games;
- b. Up to twenty-five (25%) of the guest rooms at a hotel or other lodging establishment;
- c. 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;
- d. Workplaces where only the owner or operator of the workplace, or the immediate family of the owner or operator, performs any work in the workplace, and 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;

- e. Workplaces occupied exclusively by one or more smokers, if the workplace has only incidental public access;
- f. Private offices occupied exclusively by one or more smokers;
- g. 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;
- h. Medical research or treatment centers, if smoking is integral to the research or treatment;
- i. 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 Section 501 (c) (19) of the Internal Revenue Code, 26 U.S.C., Section 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;
- j. 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 the restaurant;
- k. A stand-alone bar, stand-alone tavern, or cigar bar that (1) 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, (2) admits no person under twenty-one (21) years of age except for members of a musical band employed or hired as provided in paragraph 2 of subsection B of Section 537 of Title 37 of the Oklahoma Statutes, and (3) is not located within, and does not share any common entryway or common indoor area with, any other enclosed indoor workplace, including a restaurant; and
- l. Until March 1, 2006, restaurants (any eating establishment regardless of seating capacity) may have designated smoking areas or may be designated as being a totally nonsmoking area. Beginning March 1, 2006, 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 that 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 recirculated 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 the subsection by the State Department of Health.

**Section 15-102. Posting Smoking Signs or Decals.**

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

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

- a. In privately owned facilities, the owner or lessee, if a lessee is in possession of the facilities, shall be responsible;
- b. In corporately owns facilities, the manager and/or supervisor of the facility involved shall be responsible; and
- c. In publicly owned facilities, the manager and/or supervisor of the facility shall be responsible.

**Section 15-103. Penalty for Smoking Offenses.**

Any person who knowingly violates this act is guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than Ten Dollars (\$10.00) nor more than One Hundred Dollars (\$100.00).”

**Sections 15-104 through 15-109. (Reserved for future use.)**

**Article 9. Penalty**

**Section 15-110. Penalty.**

Any person, firm or corporation who shall violate any provision of this Chapter shall be guilty of any offense and, upon conviction thereof, shall be punished by fine and costs as provided for in Section 1-40 of this Code, unless a separate and distinct penalty is otherwise specifically set forth in this Chapter. Each day's continuation of any such violation shall constitute a separate offense.

## CHAPTER 16

### OIL AND GAS DRILLING

Article 1. Administrative Provisions.

Article 2. Regulatory Provisions.

Article 3. Penalty.

#### **ARTICLE 1. ADMINISTRATIVE PROVISIONS**

##### **Section 16-1. Intent and Purpose.**

Whereas the imprudent operation of an oil and gas facility can constitute a menace to the public health, safety and welfare of the City of Elk City, it is the intent and purpose of the Chapter that oil and gas operations be reasonably regulated for the public good.

##### **Section 16-2. Definitions.**

For the purposes of this Chapter, the following definitions shall apply:

1. "City" shall mean the City of Elk City, Oklahoma;
2. "State" shall mean the State of Oklahoma, its branches, departments, agencies, boards or the officers thereof;
3. "Person" shall mean and include any person, firm, partnership, association, corporation, trust, cooperative, or other type of organization;
4. "Permittee" shall mean the person to whom is issued permit or permits under the terms of this Chapter;
5. "Well" shall mean, unless specifically qualified, any hole or holes, bore or bores, to any depth for the purpose of producing and recovering any oil, gas or liquefied matter, or for the injection or disposal of any of the foregoing;
6. "Natural production" shall mean the raising to the surface of the earth, by natural flow, petroleum or natural gas;
7. "Artificial production" shall mean the raising to the surface of the earth, by means other than natural flow, petroleum or natural gas;
8. "Deleterious substance" shall mean any chemical, salt water, oil field brine, waste oil, waste emulsified oil, basic sediment, mud or injurious substances produced or used in the drilling, development, producing, transportation, refining and processing of oil, gas or



condensate;

9. "Pollution" shall mean the contamination or other alteration of the physical, chemical, or biological properties of any natural waters of the City, or such discharge of any liquid, gaseous or solid substance into any water of the City as will or is likely to create a nuisance or render such waters harmful or detrimental or injurious to public health, safety, or welfare; to domestic, commercial, industrial, agricultural, recreational, or other beneficial uses; or to livestock, animals or aquatic life;

10. "Water" or "waters of the City" shall mean all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, which are contained within flow through or border upon the City or any portion thereof;

11. "Pressure maintenance" shall mean an operation by which gas, water or other fluids are injected into an oil or gas reservoir to maintain pressure or retard pressure decline therein for the purpose of facilitating recovery therefrom, and which has been approved by the Corporation Commission after notice and hearing;

12. "Enhanced Recovery" means a well producing in an enhanced recovery operation in accordance with Commission order.

13. "Corporation Commission" shall mean the Oklahoma Corporation Commission;

14. All technical or oil and gas industry words or phrases used herein and not specifically defined herein shall have that meaning customarily attributable thereto by prudent operators in the oil and gas industry;

15. "Abandoned well" shall mean any well inside the City Limits for which City bonds, insurance requirements or annual inspection fees have not been kept current; or which does not have on file State Corporation Commission Form 1003A which allows wells to remain shut-in; or those wells which are not exempt from plugging under State Corporation Commission rules; or a well which has not had operations for one (1) year, except that for purposes of Section 16-4, no filing fees shall be required for a previously drilled well which is an abandoned well because it has not had operation for one (1) year;

16. "Plugged and abandoned well" shall mean any well plugged and abandoned in compliance with municipal and/or Oklahoma Corporation Commission regulations at time of plugging.

### **Section 16-3. Compliance With Applicable Laws.**

No person shall drill an original well or re-enter an abandoned well or a plugged and abandoned well for any purpose, or permit to exist any well, structure, equipment, pipeline, machinery, tank or other appurtenance, in violation of any of the provisions of this ordinance or other City ordinances as may be applicable, or the laws, rules, regulations, operative standards or

directives of the State.

#### **Section 16-4. Oil and Gas Permits.**

It shall be unlawful and an offense for any person acting for himself or acting as agent, servant, employee, subcontractor, or independent contractor of any other person, to commence to drill an original well or re-enter any abandoned well or plugged and abandoned well within this City, or to work upon or assist in any way in the production or operation of any such well, without an oil and gas permit having first been issued by the authority of the City Manager or his designee in accordance with this Chapter.

#### **Section 16-5. Application and Filing Fee.**

1. Every application for an oil and gas permit to drill an original well or to re-enter an abandoned well or plugged and abandoned well shall be in writing, signed by the applicant or by some person duly authorized to sign same on his behalf, and it shall be filed with the City Manager or his designee and be accompanied by a filing fee of Five Thousand Dollars (\$5,000.00). No application shall request an oil and gas permit to drill more than one well. The application shall contain full information required by the City Manager or his designee, including the following:

1. Name and address of applicant and date of application;
2. Where applying for a proposed original well;
  - A map of the drill site and proposed surface facilities, including thereon the location of the proposed well, and distance therefrom to all existing dwelling houses, buildings, or other structures designated for the occupancy of human beings within a one thousand foot (1000') radius of the well bore, and the location of all existing oil, gas or fresh water wells within said one thousand foot (1000') radius.
3. A copy of the approved Drilling or re-entry Permit from the Corporation Commission and a copy of the staking plat;
4. A statement of the provisions for water for the drilling rig, from private pond, stream or City water and a copy of approved water resources board permit. A water tap, approved by the City, is required if City water is to be utilized; provided, that such water tap shall be underground and include a flow measurement gauge and backflow preventer, utilizing a sole use gate valve;
5. The name and address of the person within the State of Oklahoma upon whom service of process upon applicant may be made within this State; and in the case of any non-resident person who has no such service agent within this State, there shall be attached to the application the designation

of such a service agent resident in Beckham County, Oklahoma, and a consent that service of summons may be made upon such person in any action to enforce any of the obligations of the applicant hereunder.

**Section 16-6. Sale of Well Site Permittee.**

Whenever a well is to be sold by permittee, the permittee shall notify the City Manager or his designee in writing a minimum of 30 days after the date of sale.

**Section 16-7. Notification by Operator of Certain Operations.**

Any person operating a well within the City shall give at least three days advance notice to the City Manager or his designee before taking any of the following actions with regard to such well: removal of any casing, including removal for purposes of replacement; completing or recompleting the well in a different formation; or placing the well on artificial production.

**Section 16-8. Forms Filed With the Corporation Commission.**

Copies of all applications, notices, forms, records, logs and the like filed by permittee with the State Corporation Commission shall be filed with the City as well. The City Manager shall keep confidential all submitted material which the State allows to be kept confidential.

**Section 16-9. Service Companies.**

Service companies will adhere to disclosure rules as outlined by state statute. Upon request, materials shall be made available by service companies and shall remain confidential where such confidentiality is granted by the State. Failure to provide any such requested material shall be deemed a violation of this Chapter.

**Section 16-10. Issuance or Refusal of Permit.**

1. Each oil and gas permit issued under the terms of this ordinance shall:
  - a. By reference have incorporated therein all the provisions of this ordinance with the same force and effect as if this ordinance were copied verbatim therein;
  - b. By reference have incorporated therein all the provisions of applicable State law and the rules, regulations and standards adopted in accordance therewith relating to the protection of human beings, animals, and natural resources;
  - c. Specify that the term of such permit shall be a period of one (1) year from the date of issuance thereof, and for like periods thereafter upon the inspection and approval of the permittee's well and operations; provided that the term of such permit may be extended for an additional 6 months

upon the request of permittee, approval of the City Commission and the payment to the City of a sum of Two Thousand Five Hundred Dollars (\$2500).

- d. Specify such conditions imposed by the City Manager or his designee as are by this ordinance authorized;
- e. Specify that no actual operations shall be commenced until the permittee shall file and have approved the required bonds and certificate of insurance in the appropriate amounts as provided for elsewhere herein.

2. Upon the consideration of any application for an oil and gas permit required by the terms of this Ordinance, the City Manager or his designee shall recommend approval or disapproval thereof to the Mayor and City Commission, who shall review the matter at a regularly scheduled meeting, and thereupon uphold or reverse the recommendation with or without the addition of any conditions thereto.

3. If the permit is issued, it shall, in two (2) originals, be signed by the City Manager or his designee and the permittee, and when so signed shall constitute the permittee's license to drill and operate in the City and the contractual obligation of the permittee to comply with the terms of such permit, such bonds as are required, and applicable State law, rules regulations, standards and directives. One executed original copy of said permit shall be retained by the City Manager or his designee; and the other shall be retained by the permittee and shall be kept available for inspection by any City or State law enforcement official who shall demand to see same.

4. If the permit is refused, or if the applicant notifies the City Manager or his designee in writing that he does not elect to accept the permit as tendered and wishes to withdraw his application, or if the bonds of the applicant are not approved, then upon the happening of any of said events the cash fee filed with the application shall be refunded to the applicant, except that there shall be retained therefrom by the City the sum of Two Hundred Dollars (\$200.00) as processing fee.

5. If the City Manager or his designee finds that, in his judgment, a hazard to life or natural resources exists, he shall order immediate rectification of the cause. If the permittee takes no immediate measure to reduce the hazard, or if the situation be so perilous as to constitute an imminent threat to safety, then in either of these events, he may order the prompt cessation of activity, and if necessary, the clearance of the premises. If there is no hazard, fire or otherwise, existing, then if the permittee desires, he may continue circulating the hole with drilling fluids in order to protect the drilled hole from being lost.

6. A hearing shall be scheduled before the City Manager within twenty-four (24) hours after the issuance of said order. The City Manager shall determine if proper cause existed, and, if not, shall order the permittee's activity to resume without delay. If the City Manager determines that proper cause did exist for the order to cease activity to be issued, then he shall make whatever ruling is proper to assure rectification of the cause of the peril. Such ruling and

compliance with it by the permittee shall not be construed to absolve the permittee of any liability for any violation of this Chapter or for any damage or injury caused thereby.

7. Any permittee aggrieved by any order, directive or ruling issued by the City Manager or his designee may appeal the same to the City Commission. Such matter shall be placed on the next council agenda for consideration by the City Commission, in accordance with the requirements of the State Open Meeting Act. The lodging of such appeal shall not stay the enforcement of any of the provisions of this Chapter. The City Commission, upon hearing the matter, may issue whatever ruling or order is appropriate.

### **Section 16-11. Permittee's Insurance and Bonds.**

In the event a permit shall be issued by the City, no actual operations shall be commenced until the permittee shall file with the City a site restoration bond and insurance certificates as follows:

1. Permittee shall file with the City certificates of said insurance as stated below, and shall obtain the written approval thereof of the City Manager or his designee who shall act thereon promptly after the date of such filing.

2. Said insurance policy or policies shall not be cancelled without written notice to the City Manager or his designee at least thirty (30) days prior to the effective date of such cancellation. In the event said policy or policies are cancelled, the permit granted shall immediately thereupon terminate without any action on the part of the City Manager or his designee, and permittee's rights to operation under said permit shall cease until permittee files additional insurance as provided herein.

3. A site restoration bond shall be required in the principal amount of Fifty Thousand Dollars (\$50,000.00). Any person who drills or operates any well for the exploration, development or production of oil or gas within this City, shall furnish on forms approved by the City and maintain at all times a blanket site restoration bond or a blanket site restoration irrevocable letter of credit in the principal sum of Fifty Thousand Dollars (\$50,000.00). The bond or letter of credit must be executed by a reliable insurance company or bank authorized to do business in the State of Oklahoma, as surety or creditor, with the permittee as principal or debtor, running to the City for the benefit of the City and all persons concerned, conditioned that the permittee will comply with the terms and conditions of this Chapter in the drilling and operation of all oil or gas wells drilled or operated with the City. The bond or letter of credit must become effective on or before the date same filed with the City and remain in full force and effect for at least twelve (12) months subsequent to the expiration of the permit term, and, in addition, the bond or letter of credit must be conditioned that the permittee must promptly pay all fines, penalties, and other assessments imposed upon the permittee by reason of his breach of any of the terms, provisions or conditions of this Chapter, and that the permittee, after negotiation with the City, will financially support the restoration of the streets, sidewalks and other public property within the City which may be disturbed or damaged during the permittee's operations, to their former condition; and that the permittee must promptly clear all premises of

all litter, trash, waste and other substances, and must, after plugging and abandonment, grade, level and restore said property to the same surface condition, as far as possible, and existed prior to commencing operations; and further that the permittee shall indemnify and hold harmless the city from any and all liability attributable to granting the permit and that the permittee shall promptly pay all sums with respect to deductibles on covered losses under insurance policies required by this Chapter; and that the permittee shall comply with all of the terms of this Chapter concerning the plugging and abandonment of all such wells. Each bond or letter of credit submitted shall cover all wells drilled or operated by said person within the City as specifically described all wells covered by name, legal description, and oil and gas permit number, if any. For good cause shown, the City, after notice to a permittee and opportunity for hearing may require the filing of a blanket bond letter of credit for all wells within the City in an amount higher than Fifty Thousand Dollars (\$50,000.00), but not to exceed One Hundred Thousand Dollars (\$100,000.00). "Good cause" shall include, but shall not be limited to, a showing that the operator or permittee has previously violated the provisions of this Chapter, or that the operator has multiple wells such that in the exercise of ordinary prudence, the City shall require an additional amount.

4. In addition to the bond required in paragraph 3. of this Section, the permittee shall obtain Five Million Dollars (\$5,000,000.00) See page and Pollution Insurance per well for the benefit of the City and all persons concerned, conditioned that the permittee will comply with every applicable Federal and State Law, rules, regulations, standard or directive relating to the maintenance of the safe and beneficial physical, chemical and biological properties of any natural waters of the City; that the permittee shall obtain the necessary permits from the City and State with regard to any operations which have the potential of rendering such waters harmful or detrimental or injurious to the public health, safety and welfare; that the permittee shall bear all the cost necessary and incidental to the correction of any pollution to such waters caused by the permittee or permittee's agents, servants, employees, subcontractors or independent contractors; that the permittee shall pay all fines, penalties, assessments or judgments resulting directly or incidentally from the permittee's activities which result in pollution of City waters; that the permittee shall indemnify and hold harmless the City from any and all liability attributable to granting the permit where such liability results from the pollution of City waters.

5. In addition to the bond and insurance required in paragraphs 3. and 4. of this Section, the permittee shall carry a policy or policies of standard comprehensive public liability insurance, including contractual liability covering bodily injuries and property damage, naming the permittee and the City, issued by an insurer authorized to do business within the State, such policy or policies in the aggregate of Five Million Dollars (\$5,000,000) per occurrence.

### **Section 16-12. Testing of Water Wells.**

Baseline testing of producing fresh water wells within a one thousand foot (1000') radius of a proposed well may be required by City Commission as a provision of the oil and gas permit, upon agreement of the property owner.

### **Section 16-13. Conversion From Natural or Artificial To Enhanced Recovery.**

1. No person shall convert any well from natural or artificial production to a use for enhanced recovery without first obtaining an oil and gas permit.
2. No person shall re-enter any abandoned or plugged and abandoned well or drill an original well to be used for enhanced recovery without first obtaining an oil and gas permit.

### **Section 16-14. Enhanced Recovery**

1. An application for such permit as is required by the preceding section shall be in the same form as that required for a permit to drill an original well, and shall contain complete information required by the City Manager or his designee, including the following:

- a. A map of the well site, showing all equipment to be used there, location of pipelines, access road, and distances from the well to any and all fences, public roadways, and buildings within a radius of one thousand feet (1000');
- b. A map of the project showing: the location of all supply, disposal, injection and producing wells; all conduits; tank battery, pumping station and appurtenant equipment; all other wells in the project area and those located in the sections immediately adjacent to include producing, abandoned, plugged and abandoned, disposal and public or private fresh water supply wells.

2. Upon the completion of the application required hereunder, the City Manager or his designee shall have thirty (30) business days to review same and make a recommendation of approval or disapproval to the Mayor and City Commission.

3. A fee in the sum of One Thousand Dollars (\$1,000.00) shall be submitted along with every application required hereunder.

4. Fresh water wells located within a radius of four hundred feet (400') of any enhanced recovery well shall be tested semi-annually for the presence of deleterious substances, such as chloride, sulphates and dissolved solids. If any enhanced recovery well is in compliance with OCC Rule 3-305, (Testing and Monitoring Requirements for Enhanced Recovery Injection Wells and Disposal Wells), the City Manager or his designee may wave the testing of fresh water wells located within a radius of four hundred feet (400') of the inactive well. Such testing is the responsibility of the permittee and permittee's expense. The City Manager or his designee shall be notified five (5) days in advance of such testing and may be present therefore. Test results shall be filed with the City upon completion.

### **Section 16-15. Deepening and Sidetracking Wells From Existing Well Bores.**

re-entry of a well from an existing well bore is permitted upon proper approval from the

Corporation Commission and requires City Commission approval.

**Section 16-16. Annual Fee to Operate.**

An annual inspection fee is hereby levied upon each well operated or maintained under a permit issued by the City. Such fee shall be in the amount of Five Hundred Dollars (\$500.00).

**Sections 16-17 through 16-24.** (Reserved for future use.)

**ARTICLE 2. REGULATORY PROVISIONS.**

**Section 16-25. Compliance With Applicable Laws.**

No person shall drill an original well or re-enter an abandoned well or a plugged and abandoned well for any purpose, or allow to exit any well, structure, equipment, pipeline, machinery, tank or other appurtenance, in violation of any of the provisions of this ordinance or other City ordinances as may be applicable, or the laws, rules, regulations, operative standards or directives of the State.

**Section 16-26. Well Location.**

1. No permit shall be issued for the drilling of an original oil and gas well or the re-entry of an abandoned well or plugged and abandoned well if the well or the exterior of any tank or pressure vessel is nearer than four hundred feet (400') of any residence, commercial building, or producing fresh water well.

2. This four hundred feet (400') separation can be reduced to a three hundred feet (300') separation if written consent from the property owners within the reduced distance has been submitted with the drilling application. The 400' minimum separation from a water well cannot be reduced.

**Section 16-27. Streets and Alleys.**

No well shall be drilled, and no permit shall be issued for any well to be drilled, at any location which is within any of the streets or alleys of the City; and no street or alley shall be blocked or encumbered or closed in any drilling or production operation except with the written approval of the City Manager his designee, and then only temporarily.

**Section 16-28. Movement of Heavy Equipment.**

1. Vehicles associated with drilling and/or production in excess of three tons shall be restricted to such streets designated by the City as either truck routes or commercial delivery routes wherever capable of being used. The vehicles shall be operated on a truck route wherever capable of being used; they shall be operated on a commercial delivery route only when it is not possible to use a truck route to fulfill the purpose for which such vehicle is then being operated. Commercial delivery route means any street or highway so designated by the City for the use by



any commercial motor vehicle, truck-tractor, trailer, semi-trailer, or any combination thereof. All vehicle truck routes must be approved by the City Inspector before the oil and gas permit is issued. The City Inspector shall have the authority to require an alternate route to minimize the impact to surrounding uses.

2. No person shall move or cause to be moved, over, upon or across any pavement or paved street, or alley within City limits, any piece of machinery of extreme weight which may crack or injure such pavement, except as herein provided.

### **Section 16-29. Drilling Operations Equipment.**

All drilling, re-entry and operations at any well performed under this ordinance shall be conducted in accordance with the best practices of a reasonably prudent operator. All casing, valve, and blow-out preventers, drilling fluid, tubing, bradenhead, christmas tree and well head connections shall be of a type and quality consistent with and best practices of such reasonably prudent operator. Setting and cementing casing and running drill stem tests shall be performed in a manner and at a time consistent with the best practices of such reasonably prudent operator. Any permittee under this ordinance shall observe and follow the recommendations or regulations of the American Petroleum Institute and the State Corporation Commission.

### **Section 16-30. Fencing, Screening and Landscaping.**

Any person who owns, operates or maintains any producing well shall have the obligation to enclose said well, together with its surface facilities, by a sight restrictive fence sufficiently high and properly built to keep persons and animals out of the enclosure. All gates thereto shall be kept locked when authorized persons are not within the enclosure. Provided, however, that the City Inspector, upon written application by a permittee, may designate a different type of fence to be erected if he determines in a particular case that a sight restrictive fence is not necessary to protect the public health, safety and welfare and that a different type of fence would meet those objectives.

### **Section 16-31. Work Hours, Noise and Other Nuisances.**

1. No construction activities involving excavation of , alteration to, or repair work on any access road or well site shall occur between 9:00 P.M. and 6:00 A.M.. Truck deliveries of equipment and materials associated with drilling and/or production, well servicing, site preparation and other related work conducted on the well site shall be limited to such daytime hours except in cases of fires, blowouts, explosions and any other emergencies or where the delivery of equipment is necessary to prevent the cessation of drilling or production. Mobilization and demobilization and advancing the bore hole shall be allowed on a well site on Sunday.

2. All oil operations shall be conducted in such a manner as to eliminate, as far as practicable, dust, noise, vibration or noxious odors, and shall be in accordance with the best accepted practices incident to exploration for drilling for, and production of hydrocarbon substances. Proven technological improvements in exploration, drilling and production methods

shall be adopted as they become, from time to time, available, if capable of reducing factors of nuisance and annoyance.

### **Section 16-32. Motive Power.**

Motive power for all well pumping equipment shall be electricity; provided however, the City Manager or his designee may vary the requirements thereof to suit the application before him.

### **Section 16-33. Facilities.**

painted Big Elk brown and white and maintained in a good state of appearance and shall have posted in a prominent place as required by the Oklahoma Corporation Commission, a metal sign no less than two square feet in area upon which the following information shall be conspicuous; permittee's name; 24 hour emergency phone number; lease name; and location of the well bore by reference to the United States survey. In the event of a change in operator, it will be the new operator's responsibility to replace the sign within thirty (30) days after the change is effective.

### **Section 16-34. Derrick and Rig.**

City Manager or his designee. The permitting of any drilling rig or derrick to remain on the premises or drilling site for a period longer than sixty (60) days after completion or plugging and abandonment of a well is hereby prohibited, unless an extension is granted by the City Manager or his designee.

### **Section 16-35. Reduced Emission.**

1. After fracturing or re-fracturing, Operators shall employ appropriated equipment and processes as soon as practicable to minimize natural gas and associated vapor releases to the environment. All salable gas shall be directed to the pipe line as soon as practicable or shut in and conserved. All wells that have a pipe line shall be required to employ reduced emission completion techniques and methods, but Operators may request a variance from the City Inspector if they believe that reduced emission completion techniques or methods are not feasible or would endanger the safety of personnel or the public.

2. Flaring shall be required in some instances as an alternative to venting. If burning of gases by open flame is authorized by the City Inspector then such open flame shall not be located closer than four hundred (400') feet from any building not used in operations on the drilling site and such open flame shall be constructed in such a way as to minimize detrimental effects to adjacent property owners. Site plan showing the location of the flare shall be on file with the Fire Department prior to placement of the flare.

### **Section 16-36. Fire Prevention.**

, including foam producing chemicals of a particular kind and amount, as approved by the City Fire Department shall be maintained on the drilling site at all times during drilling and hydraulic

fracturing operations. All machinery, equipment and installations on all drilling sites within the City Limits shall conform with such requirements as may from time to time be issued by the City Fire Department. Windssocks will be installed on any drilling location or loading site.

### **Section 16-37. Storage Tanks and Separators.**

1. Storage tanks shall be constructed, operated and used in such manner as to protect the health, safety, and general welfare of the public. Storage tanks shall be vapor tight with a vapor recovery system and built to minimize size within state approved safety guidelines. Tank battery facilities shall be equipped with static electricity and lighting arrestor systems.

2. A permittee may use, construct and operate a steel conventional separator and such other steel tanks and appurtenances as are necessary for separating or treating oil or condensate with each of such facilities to be so constructed and maintained as to be vapor tight with a vapor recovery system. Each oil, gas separator shall be equipped with both a regulation pressure-relief safety valve and a bursting head. Site plan shall be on file with the Fire Department prior to placement of such equipment.

3. There shall be a minimum separation distance of at least twenty-five feet (25') between storage tanks (crude and water) and heater treaters or other equipment designed to be heated with burners or electric elements. The provisions of this subsection shall apply only to tanks or equipment installed, placed or replaced.

4. One hundred twenty days (120) after completion of the well, the tank battery, diking, fencing, and other surface equipment must be installed. Site plan shall be on file with the Fire Department prior to placement of such equipment.

### **Section 16-38. Impounding Around Tanks by Diking.**

1. A slope of not less than one percent (1%) away from the tank shall be provided for at least fifty feet (50') or to the dike base, whichever is less.

2. The volumetric capacity of the dike area shall not be less than the greatest amount of liquid that can be released from the largest tank within the diked area, assuming a full tank. To allow for volume occupied by tanks, the capacity of the diked area enclosing more than one tank shall be calculated after deducting the volume of the tanks, other than the largest tank, below the height of the dike.

3. To permit access, the outside base of the dike at ground level shall be no closer than ten feet (10') to any property line that is or can be built upon.

4. Walls of the diked area shall be of earth, steel, concrete or solid masonry designed to be liquid tight and to withstand a fully hydrostatic head. Earthen walls three feet (3') or more in height shall have a flat section at the top not less than two feet (2') wide. The slope of an earthen wall shall be consistent with the angle of repose of the material of which the wall is constructed. Dike areas for tanks containing Class 1 Liquids located in extremely porous soils

may require special treatment to prevent seepage of hazardous quantities of liquids to low-lying areas or waterways in case of spills.

5. A dike shall also be constructed to separate the crude storage tanks and water storage tanks from separators, heater treaters, and other vessels. The height of this dike shall meet the requirements specified above. The provisions of this subsection shall apply only to tanks or equipment installed, placed or replaced on or after the effective date of the ordinance by which this subsection was enacted.

6. Where provision is made for draining water from diked areas, such drains shall be controlled in a manner so as to prevent flammable or combustible liquids from entering natural water courses, public sewers, or public drains, if their presence would constitute a hazard. Control of drainage shall be accessible under fire conditions from outside the dike.

#### **Section 16-39. Pits.**

from the premises and the drilling site within sixty (60) days after completion of the well. No earthen pits shall be allowed. Cement lined haul-off pits may be dug in ground with approval in writing by the City Manager or his designee. A minimum of 8 inches of cement must be poured and verified for approval.

#### **Section 16-40. Open Hole Formation Testing.**

1. All open hole formation testing shall be done during daylight hours, with advance notification thereof made to the City Manager or his designee adequate to enable him to be present.

2. All open hole formation testing shall be done into steel tanks, or flared properly in the case of gas.

#### **Section 16-41. Disposal of Salt Water.**

1. Every permittee under this Chapter shall make sufficient provisions for the safe disposal of salt water or other deleterious substances which he may bring to or leave on the surface of the earth. Such disposal shall not result in pollution of the waters of the City and shall not result in any other environmental hazard, and shall incorporate the best available industry techniques and equipment.

2. In the event of any leakage or spillage of any pollution or deleterious substance, whatever the cause thereof, the permittee shall cause the City Manager or his designee to be notified thereof promptly. It shall be the responsibility of the permittee to take corrective action immediately, and provide further notification to the city once corrective action is completed.

#### **Section 16-42. Fracturing and Acidizing.**

In the completion of an oil and gas or service well, where acidizing or fracturing

processes are used, no oil, gas or other deleterious substances or pollutants shall be permitted to pollute any surface or subsurface fresh waters. All fluids produced shall be put into tankage.

#### **Section 16-43. Swabbing, Bailing and Purging.**

In swabbing, bailing or purging a well, all deleterious substances removed from the bore hole shall be placed in appropriate tanks and no substances shall be permitted to pollute any surface or subsurface fresh waters.

#### **Section 16-44. Rupture in Surface Casing.**

City Manager or his designee.

#### **Section 16-45. Depositing Oil Products.**

No person shall deposit, drain or divert into or upon any public highway, street or alley, drainage ditch, storm drain, sewer, gutter, paving, creek, river, lake or lagoon, any oil or oily liquid with petroleum content or any mud, rotary mud, sand, water or salt water, or in any manner permit by seepage, overflow or otherwise, any of such substances to escape from any property owned, leased or controlled by such person and flow or be carried into or upon any public highway, street or alley, drainage ditch, storm drain, sewer, gutter, paving, creek, river, lake or lagoon, within the City.

#### **Section 16-46. Safety Precautions.**

Persons drilling, operating, maintaining or plugging any well shall use all necessary care and take all precautions which shall be reasonably necessary under the circumstances to protect the public. The provisions of this Chapter shall be deemed to be the minimum requirements for the preservation of the public health, safety and welfare, and compliance with terms hereof shall not be deemed to relieve any person of any additional duty imposed by law. A Knox box type emergency switch shall be located on the site with location designated on the site plan on file with the Fire Department. All MSDS sheets for the chemicals on site shall be filed with the Fire Department to be updated and kept current as the chemicals on site change to meet the requirements of the well operations.

Blowout prevention equipment is required and shall be as follows:

1. For drilling operations:
  - a. The BOP stack shall be hydraulically operated BOPs equipped with the following: accumulator bottles capable of closing all rams and keeping them closed. Three (3) type preventers shall be used, one of which shall contain pipe rams to fit the drill pipe in use, one set shall be blind rams, and the third one shall be an annular type. A remote control station is required to operate the BOPs in case of emergency;

- b. The BOP, stack rated at no less than three thousand (3000) psi, shall be installed and pressure tested according to the API Bulletin RP 53 specifications using only water, prior to drilling out the surface casing shoe;
- c. Choke manifolds shall be considered as a part of the BOP system and will be installed, tested and maintained in accordance with specifications contained within API Standard RP 53.

2. For maintenance, remedial, recompletion or plugging operations the BOP requirement may be altered to conform to potential risk if approved by the City Manager or his designee in writing, but the requirement cannot be deleted.

3. A safety valve with appropriate threaded connections to fit any tubular string being moved in or out of the well and having an inside diameter at least as large as the inside diameter of the tubular string and with a working pressure rating equal to at least three thousand (3000) psi or greater than any well pressure that might possibly be encountered during the operations described above must be on the rig floor, in the open position, at all times.

4. Production Operations:

- a. Flowing wells shall be equipped with high-low pressure safety valves with sensing points to be determined by the flowing characteristics of each well;
- b. Beam pumping wells, producing in excess of ten (10) bbls of combined oil and water per day shall be equipped with sensing devices and appropriate equipment to shut down the pump if the stuffing box should develop a leak and to seal the tubing if the polish rod should part and allow the well to flow to the atmosphere;
- c. Other artificial lift methods, if used, should be protected by appropriate safety equipment to prevent accidental discharge of produced oil, gas and/or water to the atmosphere or drainage system;
- d. All pressure vessels should be manufactured in accordance with the appropriate API code in approved manufacturing facilities;
- e. All fired vessels must be equipped with flame arrestor;
- f. Injection and transportation systems must be protected with appropriate high-low safety shut-down equipment with sensing points to be determined according to the individual installation.

**Section 16-47. Accumulation of Vapor.**

The City Manager or his designee shall have the authority to require the immediate

shutting in or closing of any well if he finds that there exists, within a one hundred foot (100') radius of any well, any gas or gasoline vapor in a quantity sufficient to constitute, in his judgment, or in the judgment of the City Fire Chief, a fire hazard. The well shall remain shut or closed in until the hazard and its cause are removed.

#### **Section 16-48. Inspection of Pressure Lines.**

ager or his designee shall inspect all pressure lines in use at any well or at any project to assure that tubing, fittings, equipment or connections are reasonably tight, safe and free from leaks and be a minimum of forty-eight inches (48") below grade. Other lines on the location may be on or near the surface, (i.e. tank battery lines and well to battery flow lines.)

#### **Section 16-49. Ingress and Egress.**

Lease roads shall be maintained in such manner as to safely and comfortably allow for ingress and egress of City or State personnel traveling in a common passenger motor vehicle. All mud, dirt, gravel and other debris on City roads must be removed promptly.

#### **Section 16-50. Pipelines.**

1. The Public Works Director, or his designee and the Fire Chief, or his designee may exercise constant supervision of the pipelines, meters, valves, gauges, pumps, appliances and equipment located in the City and report to the City Manager all violations of this Section, and all dangerous, defective or unsuitably placed pipelines, meters, valves, gauges, pumps, appliances and equipment, and guard the public at all times from the dangers incident to the erection, maintenance and operation of all pipelines, meters, valves, gauges, pumps, appliances and equipment used in connection with the sale or distribution of natural or artificial gas to consumers in the City and its environs.

2. None of the provisions of this Section shall be construed or operate to prevent or render unnecessary the securing of any franchise for the erection, maintenance or operation of pipelines, meters, valves, gauges, pumps, appliances and equipment in, under or upon any of the streets, alleys or public places if the pipelines and the equipment referred to herein are used in the sale or distribution of natural or artificial gas to consumers in the City and its environs nor shall any provisions or any act or proceeding conducted under this Section be construed as a grant by the City of the right or privilege to use the streets, alleys or public places for the purposes provided. The City does not waive any of its rights to have the charges herein provided upheld as a tax. This Section, or any part of it, may be altered or repealed at any time, and no rights or privileges shall ever be acquired under it which may not be withdrawn, altered or modified by the City.

3. All pipelines, connections and fixtures installed or used for the purpose of the transportations of natural gas shall be equivalent to the specifications of the National Gas Safety Code, adopted and approved by the United States Department of Commerce and now in force, as to thickness, weight, size, strength and general character of material, workmanship and manner of installation. All pipelines used in connection with the drilling of wells, other than gas lines

and lines used for the transportation of petroleum or any of its products, shall be new lap-weld or seamless pipe and shall be equivalent to the specifications as now adopted by the American Petroleum Institute for lap-weld of Grade A seamless pipeline. All such lines shall be operated and maintained in a safe manner at all times so as to prevent all leakage or escape of their contents.

4. Pressure in any line shall not exceed those permitted by the rules, regulations or orders of the corporation commission now in force.

5. All ditches for pipelines shall be excavated in a manner that will make the smallest possible opening in the public property, provided that all ditches shall be constructed six inches (6") wider than the outside diameter of the pipe. The minimum space between the outside diameter of pipes shall be six inches.

6. On streets and alleys, all pipelines shall be buried to a minimum depth of forty-eight inches (48") below grade, the depth to be measured from the top of the pipe, and shall be approved by the Public Works Director.

7. Each owner or operator of a gas pipeline shall perform a leak survey at least once every six months for the purpose of determining whether it is in safe condition and free from leaks, breaks or open spaces, and make a report of the test supported by an affidavit by the person making the test to the Public Works Director. The test may be by the stench method, electrical detection method, or any other method other than a pressure method approved by the City Inspector or his designee; provided that each gas pipeline at the time of its installation shall be tested by the inspector, and a report of the test shall be filed with the Public Works Director before the operation of that line. Testing periods shall end on September 15 and March 15 of each year. No person shall continue the operation of any pipeline after the termination of any testing period provided herein without having it tested and making the required report. For failure to make the test and report, or if the report discloses or it otherwise appears that any line is leaking, defective or unsafe, the City Inspector or his designee may, within five days of such disclosure, or within five days after the closing of any testing period, close and shut the pipeline. These provisions may be replaced with a company pipeline integrity program report that is filed with the city.

8. In lieu of the actual removal of a pipeline or portion thereof located underneath any public or city property, right-of-way, easement or utility reserve, the owner of a pipeline may, upon acceptance by the City, relinquish ownership and abandon that portion beneath any public or city property, right-of-way, easement, or utility reserve by first, pumping the pipe full of water or cement, or material approved by the City Inspector or his designee, then properly disposing of any residue coming out of the pipe, and securely plugging each end of the pipe left beneath any public or city property, right-of-way, easement, or utility reserve. However, before abandoning and plugging the pipe, the owner shall file with the City Clerk a written transfer and assignment to the City of all his interest, possession and title in and to the abandoned pipe, and shall give 48 hours previous written notice to the Public Works Director as to when and where the owner proposes to plug the pipe. The work shall be subject to inspection and approval of the Public Works Director or his designee.



9. The Public Works Director, or his designee or the Fire Chief, or his designee may summarily declare any of the pipelines, meters, valves, gauges, pumps, appliances and equipment declared by this article to be a nuisance immediately upon the order given by the City Commission, or face a two hundred dollar (\$200) penalty.

10. Notification prior to construction, repair or replacement of a pipeline shall require a plan, applicable to federal DOT and OSHA requirements and approved by a professional engineer, which shall be filed with the City Inspector, City Clerk, and City Manager showing in detail the size of the pipeline, the depth and width and the exact location of the excavation or pipeline with particular reference to all structures or lines of the City or any public utility company, sidewalk, pavement or other public improvement.

11. Where a pipeline is laid in any public utility easement, the applicant for a pipeline permit shall first obtain written permission or consent from all owners of property through and over which the public utility easement runs before applying for a permit under the provisions of this division.

#### **Section 16-51. Loading Racks.**

1. As used in this article the term "loading rack" shall mean any platform or structure built alongside a railroad track for use in loading crude oil, gasoline, kerosene or other liquid petroleum products into tank cars.

2. No person shall construct a loading rack for crude oil, gasoline, kerosene, or other liquid petroleum products, except as permitted under this article.

3. No person shall commence construction of a loading rack, without obtaining a permit from the Public Works Director. Permits shall be issued only after approval by the Fire Chief. The fees for the permit shall be as established in Chapter 60, the General Schedule of Fees.

4. Only fire resisting materials shall be used in the construction of a loading rack or a building or structure used in connection with or on the same premises as loading racks.

5. All electrical wiring and electrical equipment shall be installed in loading racks in compliance with the electrical code in force in the City. All light outlets used in close proximity to loading racks shall be of a vapor-proof type, approved by the United States Bureau of Mines.

6. All motors used in connection with or near any loading racks shall be of an induction type or eccentrically safe that can be used in connection with an explosive atmosphere.

7. Each loading rack and the railroad track which is to be used with that loading rack shall be bonded and grounded into the same wire.

8. A filler head or dome of a type approved by the Fire Chief shall be used for

loading tank cars from any loading rack. The filler head or dome shall have a vertical vent not less than three inches in diameter and ten feet in height from the dome of the tank car.

9. Fire protection devices shall be maintained at all times at loading racks and approved by the Fire Chief, including:

- a. an adequate water supply;
- b. foam-producing chemicals with a minimum required amount of five pounds for each foot of length of the loading rack;
- c. any other foam equipment specifically required by the Fire Chief.
- d. Windssocks placed on all loading locations.
- e. Sufficient area lighting during operations with restrictive shields towards residential areas.
- f. Dyking and containment areas as required by the Fire Chief.
- g. Site plan shall be on file with the Fire Department prior to operations.
- h. MSDS sheets of all chemicals on site shall be on file and kept current and up to date with the Fire Department.

#### **Section 16-52. Applicability to Existing Conditions.**

1. This Chapter shall apply to any person drilling (bit turning) an original well, re-entering an abandoned well, or plugged and abandoned well, conducting natural or artificial production operations within the City Limits on or before the 15th day of May, 2013, and every such person shall have no longer than ninety (90) days to come into compliance with this Chapter; provided that:

- a. No initial permit fees shall be charged such person as would otherwise apply;
- b. No penalties shall be sought against any activity which violates this Chapter where such activity pre-existed the adoption of this Chapter and was otherwise in compliance with the applicable State Law, rules, regulations, standards and directives;
- c. The City Manager or his designee may allow for reasonable extensions or variations for compliance with this Chapter where to do so would be in the interest of fairness.

#### **Sections 16-53. Judgments/Hold Harmless.**

In the event of any lawsuits or judgments resulting from the actions, inactions of, or results of any activities by permittee, their designees, or their contractors, the City shall be held harmless pertaining to any such judgments resulting from any activities by the permittee.

**Sections 16-54 through 16-62. (Reserved for future use.)**

**Section 16-63. Penalties.**

Any person, firm or corporation who shall violate any provision of this Chapter shall be guilty of an offense and, upon conviction thereof, shall be punished by a fine and costs as provided for in Section 1-40 of the Code, unless a separate and distinct penalty is otherwise specifically set forth in this Chapter. Each day's continuation of any such violation shall constitute a separate offence. In addition to the foregoing penalties, except as to termination of permits and cessation of operations as provided for in this Chapter, which termination or cessation shall be effective without any action by City Commission and only with the notices provided for in those sections, it is further provided that the City Commission at any regular or special session or meeting thereof, may, provided ten (10) business days notice has been given to the permittee that revocation or suspension is to be considered at such meeting, revoke or suspend any permit issued under this Chapter and under which drilling or producing operations are being conducted in the event the permittee thereof has violated any provision of said permit or said bond. In the event the permit is revoked, the permittee may make application to the City Manager or his designee for re-issuance of such permit, and the action of the City shall be final. Any continuing offense shall be considered a public nuisance, the remedies for which under law shall be in addition to those hereinbefore enumerated."

## CHAPTER 17

### PARKS AND RECREATION

Article 1. Park Board.

Article 2. Miscellaneous Provisions.

Article 3. Penalty.

#### **Article 1. Park Board**

##### **Section 17-1. Park Board Created.**

(See Chapter 1, Section 1-57)

**Sections 17-2 through 17-8.** (Reserved for future use.)

##### **Section 17-9. RV Parking.**

RV camping or tent camping at Elk Lake is permitted upon payment of \$15.00 per night

#### **Article 2. Miscellaneous Provisions**

##### **Section 17-10. Public Parks.**

All places heretofore owned by the City and used as parks or lakes are hereby declared to be public parks or lakes within the meaning of this chapter, and are subject to all rules and regulations set out in this chapter.

##### **Section 17-11. Defacing Property.**

No person shall write upon or mark or deface in any manner or use in any improper way, any water closet, park seat, building, fence or other property in any park.

##### **Section 17-12. Driving in Parks.**

No person shall drive or ride upon the grass or footways or walks or elsewhere in a city park than upon roads provided for the use of automobiles and other vehicles.

##### **Section 17-13. Speed.**

No person shall drive or ride at a greater rate of speed than twenty (20) miles an hour within any city park.

**Section 17-14. Injuring Trees,etc.**

No person shall break, cut, mutilate or injure, remove or carry away any trees, shrubs, plants, flowers, stone, stone walk, bench, chair, seat, bower, stand, structure, fence, property or anything whatsoever in, upon, or near any park, or any street, avenue or highway around the same.

**Section 17-15. Nuisance or Indecency.**

No person shall commit any nuisance or any offense against decency and good morals in the parks.

**Section 17-16. Throwing Stones, Rubbish or Glass Containers;  
Glass Beverage Containers Prohibited in Lake Areas.**

No person shall throw stones, rubbish or glass containers of any kind into any lake or pond or stream or other place in the parks, except into receptacles designated for that purpose. No person shall bring or use glass beverage containers within lake areas owned by the City designated "No Glass Containers."

**Section 17-17. Molesting Animals.**

No person shall chase, kill, set snares for, pet, or tease any rabbit, duck, goose, squirrel, bird, fish or any other animal or thing belonging to the park or kept therein.

**Section 17-18. Bill Posting.**

No person shall paste, affix or inscribe any handbill, poster, card, device or inscription to or upon or against any fence, structure or property of or on any park or highway, street or avenue surrounding the same.

**Section 17-19. Disorderly Behavior.**

No person shall curse, swear or use abusive language or fight, throw stones or behave in a riotous or disorderly manner in any park.

**Section 17-20. Vending and Retailing.**

No person shall set up any booth, table, stand or other device for vending or retailing any article or services, without prior approval of the City Manager.

**Section 17-21. Fouling Water.**

No person shall foul in any manner any pool, spring, drinking fountain or stream in any park.

**Section 17-22. Keep to Right.**

All automobiles, vehicles or equestrians, when meeting on the driveways in any park, shall keep to the right, and also comply with all other requirements of the traffic ordinances of the City in the use of the driveways by automobiles or other vehicles.

**Section 17-23. Trespassing.**

No person shall go or walk upon any space in the parks reserved for flowers or other plants or otherwise invade any plot reserved by the City for shrubbery or flowers or for any other purposes.

**Section 17-24. Disturbing Picnics.**

No person shall disturb or interfere with any picnic or social gathering or program of any group of persons in any City park.

**Section 17-25. Domestic Fowls at Large.**

No person shall permit any domestic fowls to run at large in the parks.

**Section 17-26. Fishing Regulations.**

That the Oklahoma Fishing Regulations presently in effect and as subsequently modified or amended, is hereby adopted and incorporated in the Code of Ordinances of the City of Elk City, Oklahoma, as if set out at length herein, for the purposes of establishing locally appropriate rules and regulations for the control of fishing in City lakes within said municipality; subject only to the following exceptions:

- a. No trotlines, throwlines, juglines, or yo-yos shall be permitted;
- b. Length limit regulations shall be posted.

**Section 17-27. Prohibited Swimming Areas.**

No person shall swim in lake areas designated "No Swimming Areas".

**Section 17-28. Prohibited Boating Areas; Boating Regulations.**

No person shall operate a boat or other motorized watercraft in areas designated "No Boating" areas. Watercraft shall be operated in accordance with Oklahoma Boating Regulations.

**Section 17-29. No Wake Areas.**

For purposes of this section:

1. Wake shall be defined as the tracks of waves left by a watercraft or other object moving through the water that are cresting and showing white water, or may cause injury or damage to any person or property.
2. Watercraft shall be defined as every description of watercraft on water used or capable of being used as a means of transportation on water.
3. It shall be unlawful to operate watercraft in a manner as such to create a wake in areas designated "No Wake" areas.

**Section 17-30 Distances of Watercraft from Shoreline, Other Watercraft, Boat Ramps, Docks or Piers.**

1. For purposes of this section:
  - a. Wake shall be defined as the tracks of waves left by a watercraft or other object moving through the water that are cresting and showing white water, or may cause injury or damage to any person or property.
  - b. Watercraft shall be defined as every description of watercraft on the water used or capable of being used as a means of transportation on water.
2. Persons operating a watercraft shall, at all times, maintain a safe distance from other watercraft.
3. Persons operating a watercraft shall not create a wake within 150 feet of any watercraft.
4. Persons operating a watercraft shall not create a wake within 100 feet of the shoreline.
5. Persons operating a watercraft shall not create a wake within 150 feet of any boat, ramps, docks, or piers.

**Article 3. Penalty**

**Section 17-31. Penalty.**

Any person, firm or corporation who shall violate any provision of this Chapter shall be guilty of any offense and, upon conviction thereof, shall be punished by fine and costs as provided for in Section 1-40 of this Code, unless a separate and distinct penalty is otherwise specifically set forth in this Chapter. Each day's continuation of any such violation shall constitute a separate offense.

## CHAPTER 18

### PLANNING AND COMMUNITY DEVELOPMENT

- Article 1. Planning Commission.
- Article 2. Zoning.
- Article 3. Regulation of Land Subdivision.
- Article 4. Miscellaneous Provisions.
- Article 5. Regional Planning Commission.
- Article 6. Telecommunications Facilities
- Article 7. Penalty.

#### **Article 1. Planning Board**

##### **Section 18-1. Municipal Planning Board Created.**

(See Chapter 1, Section 1-56, this Code of Ordinances.)

##### **Section 18-2. Jurisdiction.**

1. The Municipal Planning Board shall have jurisdiction over all land within the corporate limits of the City of Elk City, Oklahoma.
2. The jurisdictional area of the Planning Board shall include, for the purposes of the regulation and review of land subdivision only, any lands outside the corporate limits of the City of Elk City, Oklahoma, whose any one (1) boundary, at any point, shall be at and within a distance of three (3) miles from the corporate limits of said community.

##### **Section 18-3. Rules and Regulations.**

1. The Planning Board shall prescribe and adopt rules and regulations governing the transaction of its business, and shall keep a public record of its regulations, transaction and findings.
2. Regular meetings shall be scheduled at least once each month.
3. Special meetings may be called by the Chairman of the Planning Board, in accordance with the State's "Open Meetings" laws.

##### **Section 18-4. Employees; Expenditures.**



1. The Planning Board shall have the authority to contract for necessary professional services, within the limits of the appropriation fixed by the City Commission; all compensation for such services shall also be fixed by said City Commission.

2. The Planning Board may incur other necessary expenses, within the limits of the City Commission appropriation, to carry out its purposes and responsibilities.

#### **Section 18-5. Project Review Procedures.**

All projects or matters that fall within the duties and powers of the Planning Board (as specific in this Code of Ordinances), shall be referred to said Planning Board for investigation and report, before any final action shall be taken thereon by the City Commission. If said Planning Board fails to make an investigation and report on any matter referred to it within sixty (60) days, or other agreed upon time, the City Commission may proceed to act upon such matter.

#### **Section 18-6. Duties and Powers.**

The Planning Board shall have the following duties and powers:

1. To prepare and recommend to the City Commission for adoption, a Comprehensive Plan for the future development of the City of Elk City, Oklahoma, and to ensure that said Plan, once prepared and adopted, is properly utilized and up-dated at appropriate intervals.

2. To make recommendations concerning the community's growth, improvement and beautification;

3. To investigate and report to the City Commission on all matters relating to the location and development of parks and recreational areas, streets, public ground and structures;

4. To investigate, prepare and recommend to the City Commission, for adoption, a suitable Zoning Ordinance to assist in the implementation of the community's Comprehensive Plan, and to assist said City Commission in administering said Zoning Ordinance;

5. To investigate, prepare and recommend to the City Commission, for adoption, rules and standards for use in regulating the subdivision of land within the Planning Board's jurisdictional area, and to assist said City Commission in administering said Land Subdivision Regulations; and

6. To investigate, prepare and recommend to the City Commission, for adoption, such other rules, regulations or standards as may be necessary to implement the Comprehensive Plan for the City of Elk City, Oklahoma.

#### **Section 18-7. Comprehensive Plan Adopted by Reference.**

The "Comprehensive Plan" - Volume One (1) as prepared by the South Western Oklahoma Development Authority-Contract Number CPA- OK-06-56-1077, or as amended by the City Commission, and Volume Two (2) as prepared by the South Western Oklahoma Development Authority-Contract Number CPA-OK-06-56-1082, or as amended by the City Commission are hereby adopted by reference and incorporated in the Code of Ordinances of the City of Elk City, Oklahoma, as if set out at length herein.

**Sections 18-8 through 18-9. (Reserved for future use.)**

**Article 2. Zoning**

**Section 18-10. Municipality's Power to Zone.**

1. For the purpose of promoting the health, safety and welfare of all citizens of the community, the City Commission is empowered to regulate and restrict the height, number of stories and size of structures, the percentage of lot that may be occupied, the size of yards and other open spaces, the density of population and the location and use of structures and land.

2. For any of the above purposes, the City Commission may divide the municipality into Zoning District of such number, shape and area as may be deemed most beneficial to the community. Within such Zoning Districts, the erection, construction, reconstruction, alteration, repair or use of structures or land may be regulated. All such regulations shall be uniform throughout each District, but the regulations in any Zoning District may differ from those in other Districts.

**Section 18-11. Relationship of Zoning to the Comprehensive Plan.**

Any Zoning Ordinance adopted by the City Commission shall be made subsequent to the preparation of, and in accordance with, the community's adopted Comprehensive Plan.

**Section 18-12. Planning Board to be Zoning Board.**

To avail itself of the powers of State Law, the Municipal Planning Board is hereby designated as the Zoning Board of the City of Elk City, Oklahoma.

**Section 18-13. Zoning Ordinance Adopted by Reference.**

The "Zoning Ordinance of the City of Elk City, Oklahoma" - Volume Three (3) of the Comprehensive Plan as prepared by the South Western Oklahoma Development Authority - Contract No. CPA- OK-06-56-1082, or as amended by the City Commission, is hereby adopted by reference and incorporated in the Code of Ordinances of the City of Elk City, Oklahoma as if set out at length herein.

**Sections 18-14 through 18-19. (Reserved for future use.)**

**Article 3. Regulation of Land Subdivision**

**Section 18-20. Subdivision Review Process.**

1. All subdivision plats, or replats of land laid out in plats or lots, and the streets, alleys or other portions of the same intended to be dedicated to public or private use, located within the jurisdictional area of the Municipal Planning Board, shall first be submitted to said Planning Board for its review.

2. If the subdivision plat or replat is located within the corporate limits of the City of Elk City, Oklahoma, final approval, prior to the filing of said plat or replat with the Beckham County Clerk, shall be obtained from the City Commission of the City of Elk City, Oklahoma.

3. If the subdivision plat or replat is located within the jurisdictional area of the community's Planning Board, but outside of the corporate boundaries of the City of Elk City, Oklahoma, approval of the community's Planning Board shall be obtained prior to the filing of said plat or replat with the Beckham County Clerk.

4. In reviewing subdivision plats or replats, the Planning Board and the City Commission shall utilize the definitions, procedures and design and improvement standards in the "Elk City Development Guide and Elk City Development Standards" adopted by and for the City of Elk City, Oklahoma, or the appropriate jurisdictional area and entity.

**Section 18-21. Subdivision Regulations Adopted by Reference.**

The "Elk City Development Guide and Elk City Development Standards" of the City of Elk City are hereby adopted by reference and incorporated in the Code of Ordinances of the City of Elk City, Oklahoma as if set out at length herein.

**Section 18-22. Jurisdiction.**

These regulation and development standards shall apply to the following forms of land subdivision:

1. The division of land into two or more tracts, lots, sites or parcels, any part of which, when subdivided, shall contain less than ten (10) acres in area;

2. A current subdivision of land previously subdivided or platted into tracts, lots, sites or parcels less than ten (10) acres in area;

3. When the dedication of any street or alley is involved, or off-site extension of utilities is required, regardless of the area involved.

**Sections 18-23 through 18-29. (Reserved for future use.)**

**Article 4. Miscellaneous Provisions**

**Section 18-30. Flood-Prone Areas.**

(See Chapter 4, this Code of Ordinances.)

**Sections 18-31 through 18-39. (Reserved for future use.)**

**Article 5. Regional Planning Commission**

**Section 18-40. Regional Planning Commission Created.**

1. There is hereby created a Regional Planning Commission of the City of Elk City, Oklahoma, as authorized in title 11, Sections 46-101 through 46-104, Oklahoma Statute 1991, et. req.

2. Said commission shall be composed of five members of the Elk City Planning and Zoning Board. The Mayor and City manager of the City of Elk City, Chairman of the Board of County Commissioners of Beckham County, Oklahoma, and the County Engineer shall be ex-officio voting members of the Regional Planning Commission but shall not be counted for purpose of a quorum. Members of the Regional Planning Commission shall serve without pay.

3. The qualifications, appointment and removal and terms, rules and regulations of the Elk City Regional Planning commission shall be the same as those established for the Elk City Planning Board.

**Section 18-41. Jurisdiction**

In addition to the jurisdiction of the Elk City Planning Board, the Regional Planning Commission shall have jurisdiction over a regional district which shall be construed to mean any land outside the incorporated city limits of the City of Elk City, Oklahoma, within an area whose any one boundary, at any point, shall be a distance of three (3) miles from the incorporated limits of Elk City.

**Section 18-42. Duties and Powers**

1. The Elk City Regional Planning Commission shall prepare from time to time plans for the systematic development and betterment of the regional district for residence, business or manufacturing purposes. It may consider and investigate any subject matter tending to the development and betterment of such regional district, and make recommendations as it may deem advisable concerning the adoption thereof any department of the City or County Government.

2. The Elk City Regional Planning Commission shall have the power to review and approve or reject, in accordance with its adopted subdivision regulations.

3. Before final action shall be taken by the City or County Government or department

thereof on the location and design of any public buildings, statue, memorial, park, parkway, boulevard, playground, public grounds, or bridge within such regional district, the question shall be submitted to the Regional Planning Commission for investigation and report.

4. All plans, plats, replats of land laid out in lots or blocks, and the streets, alleys, or other portions of the same intended to be dedicated to public or private use within such regional district, shall first be submitted to Elk City Regional Planning Commission and approved by it before it shall be entitled to record in the office of the County Clerk.

5. For large areas of rural land not served by water and sewer facilities by any governmental entities, the use of private roadways in either platted or unplatted area shall be recognized and authorized and building permits to property owners abutting upon the private roadways shall be issued without complying with standards as provided for dedicated streets under the following conditions:

- a. The private roadway easement shall be at least fifty (50) feet in width;
- b. The property abutting the private roadway shall contain not less than two (2) acres;
- c. The property shall be more than one-fourth (3) mile from sewer and water facilities furnished by the City of Elk City;
- d. The private roadway shall not be dedicated to the public but reserved for future dedication and, until such future dedication, be the private roadway of the abutting property owners;
- e. The owners of the property within the subdivision shall maintain the private roadway. Not the City of Elk City or the County shall have responsibility for maintenance and repair of the private roadway;
- f. If the property is platted, there shall be emblemized on the face of the plat, clearly conspicuous, a notice that the streets and drives have not been dedicated to the public, and that the streets shall be maintained by the private property owners within the subdivision, but that streets shall always be open to police, fire, and other official vehicles of all state, federal, county and municipal agencies;
- g. Every deed shall clearly acknowledge that the roadway is private and not maintained by any municipality or county;
- h. Prior to the sale of any parcel in the subdivision, a conspicuous sign shall be posted at the entrance of the subdivision: "Private roadway not maintained by Elk City or the County";
- i. At any time after use of such private roadway is recognized and authorized pursuant law, a petition of at least sixty percent (60%) of the owners, in area, to improve and dedicate the street shall bind all of the owners thereby to permanently improve the street or roadway in compliance with the applicable requirements of the City of Elk

City or the County. All other ordinances and Regional Planning Commission regulations pursuant to the provisions of this article relating to subdivisions not in conflict herewith shall be applicable in such cases;

- j. The Regional Planning Commission may require the developer of such property to reserve appropriate utility easements for water, sewer, and any other utility installations as may be required for present and future development.

**Section 18-43 through 18-49. (Reserved for future use.)**

**Article 6. Telecommunications Facilities**

**Section 18-50. Purpose.**

The purpose of these regulations for telecommunications facilities is:

1. To facilitate the provisions of telecommunications services throughout the City;
2. To enhance the ability to provide telecommunications services to the community quickly, effectively, and efficiently;
3. To encourage the location of towers in non-residential zone districts;
4. To minimize the total number of towers in the community;
5. To encourage the joint use of new and existing tower locations;
6. To ensure that towers are located in areas that minimize adverse impacts;
7. To ensure towers and antennas are configured in a way that minimizes adverse visual impacts by careful design and appropriate siting;
8. To encourage the attachment of antennas to existing structures;
9. To consider public health and safety of telecommunications facilities;
10. To avoid damage to adjacent properties from tower failure through careful engineering and locating of tower structures; and
11. To protect residential areas and lands by minimizing adverse impacts of towers.

**Section 18-51. Definitions.**

1. ACCESSORY SUPPORT FACILITIES--shall mean support buildings, and structures and equipment cabinets for telecommunications facilities containing electrical mechanical equipment and devices used for the reception of or transmission of voice, data, image, graphic, and video programming information between or among points by wire, cable, fiber optics, laser, microwave, radio, satellite, or similar facilities.

2. ALTERNATE TOWER STRUCTURE--shall mean manmade trees, clock towers, bell steeples, building structures, or building equipment normally maintained above the roof line of a structure, light poles or similar alternative design-mounting structures. An alternative tower structure must be compatible with the natural setting and surrounding structures, and must camouflage or conceal the presence of antennas and/or towers. This term also includes any antenna array attached to the alternative tower structure.

3. ANTENNA--shall mean any exterior transmitting or receiving devices mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signs, analog signals, radio frequencies, (excluding radar signals), wireless telecommunications signals, or other communication signals.

4. BACKHAUL NETWORK-- shall mean the lines that connect a provider=s tower/cell sites to one or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.

5. FAA- Federal Aviation Administration

6. FCC- Federal Communications Commission

7. TELECOMMUNICATIONS FACILITIES- shall mean the plant, equipment and property, included but not limited to, cables, wires, conduits, ducts, pedestals, antennae, towers, alternative tower structures, electronics and other appurtenances used to transmit, receive, distribute, provide or offer telecommunications services.

8. TELECOMMUNICATIONS SERVICE- shall mean the providing or offering for rent, sale or lease, or in exchange for other value received, of the transmittal of voice, data, image, graphic and video programming information between or among points by wire, cable, fiber optics, laser, microwave, radio, satellite or similar facilities, with or without benefit or any closed transmission medium.

9. TOWER- shall mean any structure designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers, and other similar structures. This term also includes any antenna or antenna array attached to the tower structure.

10. TOWER HEIGHT- shall mean, when referring to a tower or other alternative tower structure, the distance measured from the lowest point within ten (10) feet of the structure to the

highest point on the tower or other alternative tower structure, including the base pad and any antenna.

**Section 18-52. Permit required.**

Telecommunications facilities shall be regulated and permitted pursuant to this Ordinance.

1. A telecommunications facility shall obtain a permit as a condition for the siting, construction, or operation of the telecommunications facility. The fee for the permit shall be \$10.00 for each foot of tower height.
2. These regulations shall apply to all towers and antennas, as defined, except:
  - a. Any tower or antenna, not more than seventy (70) feet in height, owned or operated by a federally-licensed amateur radio station operator, if it is used exclusively as a receive-only facility;
  - b. Any antenna collocated on an existing telecommunications facility, except as expressly provided in this Ordinance;
  - c. A telecommunications facility located or collocated on property, which is owned by the City of Elk City and designated by the City of Elk City as a site suitable for location of a telecommunications facility.
3. Any violation of this Ordinance is hereby declared to be a nuisance. In addition to any other relief or penalty provided by law, the City of Elk City may apply to District Court for an injunction to prohibit the continuation of any violation of this Ordinance.

**Section 18-53. Collocation Requirements.**

1. All applicants for a telecommunications facility permit shall collocate on an existing facility if it is feasible to do so. An existing facility shall be deemed available for collocation if (1) the facility is within the search ring of the applicant or within a reasonable distance so as to fit into the applicant's design; (2) space is available on the facility; and (3) the applicant and the facility owner will lease space to applicant at a reasonable market rate.
  - a. If the applicant finds that collocation is not feasible, it shall submit to the City of Elk City a written statement of the reasons for the infeasibility. The City may retain a technical expert in the field of radio frequency (RF) engineering to determine whether collocation at the site is feasible. The cost for such a technical expert will be at the expense of the applicant.
2. A telecommunications tower shall not be permitted unless the owner of the proposed tower certifies to the City that the tower is available for use by other telecommunications service providers on a reasonable and non-discriminatory basis. Towers shall be designed and built to



accommodate a minimum of three telecommunications facilities.

3. To facilitate collocation and coordination of telecommunications sites, all telecommunications service providers shall, within ninety (90) days of the publications of this Ordinance, provide the City with their prospective antenna plans. Said plans shall include detailed maps showing the locations of all telecommunications towers serving any portion of the City and indicating coverage areas for current and, the extent possible, future telecommunications towers.

4. Providers shall also provide the City with any updates to the above documents within ninety (90) days of their creation.

### **Section 18-54. Telecommunications Facility Standards.**

1. **ATTRACTIVE NUISANCE.** No tower may be located within 250 feet of a playground, ball field or other area used for active recreation within a park or school. Where such locations are well suited for placement of towers on municipal property, special fencing may be required.

2. **COMPATIBILITY.** Telecommunications facilities shall either maintain a galvanized or finished or, subject to applicable standards of the FAA, be painted so as to reduce visual obtrusiveness. Dish antennas shall be of neutral, non-reflective color with no logos.

The exterior equipment buildings and/or metal equipment cabinets visible from residential areas or public rights-of-way must have a neutral aggregate finish or be painted to reflect the color and character of adjoining structures or blend with adjacent landscape and other surroundings.

3. **GUY WIRES** must be anchored no closer than 25 feet from any property line. Guy wires shall not cross or encroach any overhead telephone or electric power lines.

4. **HEIGHT.** No telecommunications tower shall exceed 200 feet in height, including antenna array.

5. **INTERFERENCE.** Applicants shall demonstrate that the planned telecommunications facility will not cause radio frequency interference with other existing or planned equipment. Such interference is prohibited.

6. **LANDSCAPING.** All telecommunications sites shall be landscaped with non-deciduous trees, at least six (6) feet in height, which will attain a height of at least fifty (50) feet in height at maturity. The trees shall be planted on ten-foot centers, on all sides of the site, on the outside of the required fence.

7. **LIGHTING.** Illumination of telecommunications towers is prohibited except as required by the FAA. Any required lighting shall be directed upward and away from adjoining properties. Ground level security lights shall not be more than twenty (20) feet in height.

8. **PARKING.** Each telecommunications site shall have a minimum of one space per

provider with no more than three parking spaces per site located adjacent to the ingress/egress point.

9. SECURITY FENCE. A fence not less than eight (8) feet, nor greater than ten (10) feet, from finished grade shall be installed around the site to completely enclose the towers and anchored location of guy wires, if used. Such features shall be constructed of chain link, woven wire, or solid metal.

10. SETBACK AND FALL ZONES. No new tower shall be sited within three-hundred (300) feet of any residential structure. Any new tower adjacent to a public right-of-way shall be set back a minimum of one (1) foot for each foot of tower height or seventy five (75) feet, whichever distance is greater.

11. SIGNS. Signs on telecommunications towers shall be limited to those displaying the name, registration number, and emergency contact number of the tower owner or signs required by the FCC regulations, or signs containing warning or safety instructions. Signs shall be limited to four (4) square feet. Advertising on signs is prohibited.

12. SPACING. No tower shall be located closer than 500 feet from other towers. Any new tower in excess of 100 feet in height shall be located a minimum of one mile from any existing tower in excess of 100 feet in height.

### **Section 18-55. Alternative Structure Standards.**

A telecommunications facility may be permitted on an alternative tower structure at least thirty (30) feet tall under the following conditions, which shall be in addition to the requirements of Sections 5 and 7.

1. The facility and its accessory support facilities comply with all zoning requirements applicable to the alternate structure and the provisions of Section 5 of this Ordinance;

2. If the facility or any accessory support facility is located upon the roof of a structure, each such facility shall be set back a distance of at least equal to the height of the telecommunications facility unless the facilities are screened or camouflaged in a manner that is compatible with the surrounding property. The top of the antenna or other facility shall not be more than thirty percent (30%) of the height of the structure, or seventy-five (75) feet, whichever is less.

3. The alternative structure must be similar in color, scale and character to adjoining buildings or structure or blend with the landscaping and other surroundings immediately adjacent to them so as to generally avoid the creation of unique visual objects that stand out in the environment; and

4. Prior to the installation of any building/roof mounted telecommunications facility, the applicant shall furnish to the City an engineer=s certifications that the structure will support and not be adversely affected by the proposed antenna and accessory support facility or equipment.

### **Section 18-56. Specific Standards.**

All telecommunications facilities shall be erected and operated in compliance with current FCC and FAA rules and regulations and other applicable federal, state, and local standards. Applicant must provide a copy of its FCC license or, if the applicant is not an FCC license holder, a copy of at least one letter from a FCC license holder to locate at least one antenna on the applicants tower.

1. ENVIRONMENTAL STANDARDS. Ground-mounted equipment for personal wireless service facilities shall not generate noise in excess of 50 DB at the property line. Roof-mounted or side-mounted equipment for personal wireless services shall not generate noise in excess of 50 DB at ground level at the base of the building closest to the antenna.

2. STRUCTURAL STANDARDS. Telecommunications tower structures must conform to the most current revision of EIA222 standards. Guyed telecommunications towers shall be designed and located such that, if the structure should fall, it will avoid habitable structures and public ways. An engineer=s certifications of the structural integrity of the tower and associated equipment shall be required.

3. WIND STANDARDS. Telecommunications facilities shall be designed and engineered to withstand wind loadings and other design standards as defined by BOCA and ANSI for the county in which the municipality is located.

### **Section 18-57. Permit Conditions.**

1. ABANDONMENT. A telecommunications service provider shall post a bond or other security sufficient to pay for the removal of any abandoned facility. No owner or occupant of property within the City shall permit, leave or cause to be left on any said property any telecommunications facility, which has been abandoned or discontinued for use. The provider shall remove its facility within ninety (90) days of the date that it discontinues its use of the facility. If the provider fails to remove the facility within the required time, the facility shall be deemed abandoned. The City shall have the authority to enter the premises and remove the abandoned facilities. All costs of removal that exceed the amount of the bond or security posted for that purpose shall be collected from the provider or property owner in the manner provided for summary abatement of nuisances. This requirement shall apply to collocated facilities unless the collocation agreement provides for the removal of abandoned facilities by the tower operator.

2. DEFECTIVE FACILITIES. Defective or unsafe antennas, telecommunications facilities shall be repaired or removed within three months at the owner or operator=s expense. If not removed, the City may remove at the expense of the owner or operator.

3. NON-CONFORMING USE. Existing towers that do not comply with the new regulations may continue. They may not be expanded or replaced unless they meet the new

regulations. If they are damaged or destroyed, they may be repaired or restored to their former use, location and physical dimensions without complying with the new regulations.

**Section 18-58. Permit approval process.**

1. PUBLIC NOTIFICATION. Except for a proposed telecommunications facility, which collocated on an existing tower, the applicant for a permit shall notify all property owners within three-hundred (300) feet of the outer boundary of the property proposed for the location of the facility. Such notice shall explain the character and dimensions of the proposed telecommunications facility and give an address for the property owners to submit written comments to the applicant. The notice shall include a drawing or other representation of the visual aspects of the proposed facility.

2. PERMIT TERM. The permit issued for any telecommunications facility which has a tower over fifty (50) feet in height shall be valid for fifteen (15) years. At the end of that period, the facility shall be removed by the carrier or a new permit shall be required.

**Section 18-59 through 18-64. (Reserved for future use.)**

**Article 7. Penalty**

**Section 18-65. Penalty.**

Any person, firm or corporation who shall violate any provision of this Chapter shall be guilty of an offense and, upon conviction thereof, shall be punished by fine and costs as provided for in Section 1-40 of this Code, unless a separate and distinct penalty is otherwise specifically set forth in this Chapter . Each day's continuation of any such violation shall constitute a separate offense.

## CHAPTER 19

### PUBLIC FACILITIES

- Article 1. Library Board.
- Article 2. Museum Board.
- Article 3. Civic Center Board.
- Article 4. Airport Board.
- Article 5. Miscellaneous Provisions.

#### **Article 1. Library Board**

##### **Section 19-1. Library Board Created.**

(See Chapter 1, Section 1-60.)

##### **Sections 19-2 through 19-9. (Reserved for future use.)**

#### **Article 2. Museum Board**

##### **Section 19-10. Museum Board Created.**

(See Chapter 1, Section 1-61.)

##### **Sections 19-11 through 19-19. (Reserved for future use.)**

#### **Article 3. Civic Center Board**

##### **Section 19-20. Civic Center Board Created.**

(See Chapter 1, Section 1-62.)

**Sections 19-21 through 19-29.** (Reserved for future use.)

**Article 4. Airport Board**

**Section 19-30. Airport Board Created.**

(See Chapter 1, Section 1-63.)

**Sections 19-31 through 19-39.** (Reserved for future use.)

**Article 5. Miscellaneous Provisions**

**Section 19-40 etc.** (Reserved for future use.)

## CHAPTER 20

### PUBLIC UTILITIES

- Article 1. General Provisions.
- Article 2. Water System.
- Article 3. Wastewater System.
- Article 4. Solid Waste Collection and Disposal System.
- Article 5. Miscellaneous Provisions.
- Article 6. Penalty.

#### **Article 1. General Provisions**

##### **Section 20-1. Municipal Utility Systems.**

The City of Elk City, Oklahoma shall provide water, wastewater and solid waste collection and disposal services to residents of said community.

##### **Section 20-2. Use of Municipal Utility Systems.**

Every resident, business or industry within the corporate limits of the City of Elk City, Oklahoma and every commercial or industrial establishment shall utilize the municipal utility system of said City, unless it is impossible to do so, and pay fees as established by the City Commission of the City of Elk City, Oklahoma.

##### **Section 20-3. Application for Municipal Services.**

Any person desiring to secure one (1) or more utility connections from the municipal systems shall make an application therefore to the City Clerk, on an application form to be provided by said clerk. The applicant shall give such reasonable information as the City Clerk may request and shall state in the application that he will abide by all ordinances, rules and regulations governing the utilities and services of the City of Elk City, Oklahoma.

##### **Section 20-4. Deposit for Municipal Utility Services.**

An applicant for services shall make a cash deposit. An applicant shall not be granted such service until he has paid to the City Clerk such deposit, which shall serve as a guarantee for the payment of charges for utilities, services and other amounts owed to the City in connection with such municipal services. When a customer's service is discontinued, the deposit or any part of such amount deposited which remains after all such charges and amounts due the City have been satisfied, shall be returned to the customer.

**Section 20-5. One (1) Premise to a Meter.**

Not more than one (1) premise may be connected to any one (1) water meter or sewer tap without special arrangements being made with the City of Elk City, Oklahoma. No customer shall make or permit to be made any subsidiary connection of another's premises with his water or sewer service.

**Section 20-6. Turning on Utilities.**

It shall unlawful for any person to turn on to any premises from any municipal system, without written permission of the City Clerk. Utilities shall not be turned on until the plumbing or electric wiring, as the case may be, has been inspected and approved by the building official or his designated representative, as provided by ordinance, and until any and all deposits and charges have been paid. The City Clerk will see that the utility is turned on when all requirements for service have been complied with.

**Section 20-7. Bills due when; Delinquency.**

1. All bills for utility service shall be due and payable on the 1st day of the calendar month following the service month when the service was rendered. They shall become delinquent if not paid on or before the 10th day of the month in which they become due. Service will be cut off if the bill is not paid by the 20th day of that month.

2. Bills rendered when service is discontinued, shall be due and payable to the City Clerk at the time bills are presented or sent to the customer.

**Section 20-8. Utilities may be Cut Off.**

1. Utilities may be cut off and service discontinued for any of the following reasons:
  - a. Violation of any ordinance provision relating to a municipality utility or service system, or violation of any ordinance provision or any provision of a Code adopted by reference relating to water and sanitary plumbing or electrical installations;
  - b. Any act or omission in regard to the water system or sanitary sewer system, the use of water or the disposal of liquid wastes, which jeopardizes the public health or safety, creates a public nuisance or interferes with the rights of others; or
  - c. Failure to pay a utility bill or other proper charge made in connection with a municipal utility system by the time specified by Section 20-7.



2. A particular service may be cut off for any act or omission in regard to the abuse of another system or service, which jeopardizes the public health or safety, creates a public nuisance or interferes with the rights of others.

3. The City reserves the right to cut off or reduce any utility or service to any customer when necessary to conserve water, protect life or property or repair or improve the system.

4. In case of emergency caused by a water shortage in the municipal water system, it shall be the duty of the City Manager to immediately give notice by publication to the system's water consumers, not to use water obtained from the system for any purpose other than for strictly domestic use, and other such use as the City Manager may designate, so long as the water shortage lasts. Thereafter, and until the governing body declares the emergency at an end, it shall be unlawful for any person, firm or corporation, during such emergency, to use water obtained from the municipal water system for any purpose other than strictly domestic use, and such other uses as the City Manager may have designated.

**Section 20-9. Turning Utilities on Again.**

When a customer's utility service has been cut off because of delinquency or act or omission of the customer, it may be turned on again only when all charges have been paid or other changes in the conditions justify it. A charge of fifty dollars (\$50.00) shall be made for turning a utility on again. A charge of fifty dollars (\$50.00) shall be made for turning a utility on again if a meter has been removed and must be replaced.

**Section 20-10. Fee for Transfer of Service.**

When any utility service is transferred from one premise to another, when such transfer affects a single customer, a transfer fee of twenty-five dollars (\$25.00) shall be paid by said customer.

**Section 20-11. Utilities to be Turned Back on Only by City Authority.**

When a utility has been turned off by City personnel, it shall not be turned on again without written permission of the City Clerk.

**Section 20-12. No Service Connection until Bills have been Paid.**

A person owing delinquent municipal utility bills or other charges in connection with a municipal utility system shall not be extended additional services until such bills and charges have been paid.

**Section 20-13. Customers to keep Service Pipes in good Repair.**

All customers using City utilities shall keep their service pipes and other apparatus in good repair and in proper operation, and shall not unnecessarily waste water nor contribute to unsanitary conditions.

**Section 20-14. City not Responsible for Utility Interruption or Stoppage.**

The City shall not be responsible for any damages due to stoppage or interruption of any utility or service.

**Section 20-15. City Personnel may Inspect Private Premises.**

The superintendent and other municipal personnel may enter any private premises served by municipal utilities at any reasonable time and inspect pipes, fixtures and/or wiring on the premises, or read and examine meters.

**Section 20-16. Interference with Fire Hydrants; Damage of Utility System.**

1. It shall be unlawful for any person, unless duly authorized by the City, to open, turn on or off, interfere with, attach any pipe or hose to, or connect anything with, any fire hydrant belonging to the City.

2. It shall be unlawful for any person to, in any manner, obstruct access to any fire hydrant by placing around or thereon brick, lumber, dirt or other thing. The owner or occupant of property adjacent to a fire hydrant shall maintain complete clearance in front of, 7 feet of clearance to each side and 4 feet of clearance to the rear of a fire hydrant to insure unobstructed visibility thereof.

3. It shall be unlawful for any person to damage, destroy or tamper with, any pipes, lines, meters or other equipment or property which is a part of a municipal utility system.

**Sections 20-17 through 20-29. (Reserved for future use.)**

**Article 2. Water System**

**Section 20-30. "Water System" Defined.**

As used in this Article, the term "water system," "waterworks," or "water distribution system" shall mean the water works utility system of the City of Elk City, Oklahoma.

**Section 20-31. Meters.**

1. Water from the waterworks system shall be furnished to customers only through meters. All meters shall be set only under the direction of the proper city authorities.

2. All tapping meters and boxes shall be paid for by the consumer, including all necessary fittings, work and material used in connection therewith. The City will furnish all meters and necessary fitting for installing same together with suitable box for same where necessary.

3. The City will keep in good repair at its own expense all water meters of its own installation, excepting where meters have been damaged by carelessness or wrong doing of the user, when same shall be repaired and charged against the consumer.

4. Any person, firm or corporation receiving water through a meter supplied by the City, who desires to have the accuracy of same tested, may do so by making a deposit of five dollars (\$5.00) with the City Clerk. The City will then make a proper test of such meter and if after proper test it is found to be incorrect more than two percent (2%) in favor of the City, the deposit of five dollars (\$5.00) shall be returned to the consumer and correction made only for that month for which the bill was last rendered. If, however, the meter is found to be correct, the five dollars (\$5.00) shall become the property of the City and be paid to the credit of the water fund. In case of a meter failing to register the monthly water reading due the City it shall be determined by an average of three (3) previous months that the meter registered. In all cases where the consumer's piping or plumbing is divided, thus necessitating the use of two (2) meters, each meter shall be handled and regarded as for separate and distinct consumers to each of which will apply the regular water rates and minimum charges until such plumbing or piping is so arranged as to permit the use of but one meter. Under no circumstances shall be consumption shown by two or more meters in use by the same consumer be added or "lumped" in order to reduce the net sum due the City.

**Section 20-32. City to Make and Maintain Water Connection.**

The City shall make, inspect and maintain all connections to its water lines. It shall be unlawful for any person, other than a duly authorized agent or employee of the City to make a connection to any water line belonging to or controlled by the City, except as otherwise provided for in this Code.

**Section 20-33. Utility Customer to Install and Maintain Service Line.**

Each consumer of water furnished by the City shall lay his own pipeline from the premises to the meter box for the purpose of conveying water to such point on his premises as he may desire; he shall thereafter be required to keep the same in good repair and sanitary condition.

**Section 20-34. Right of Entry to Premises Served by System.**

Consumers taking water from the City shall, at all reasonable hours, grant any person authorized by the City free access to all parts of the premises to which water is delivered, for the purpose of inspection and examination of fixtures or to read the meter.

**Section 20-35. Right to Turn Off Water in Mains; City not Liable for Damages.**

1. The City reserves the right to turn off the water in its mains at any time, for the purpose of making repairs or in the event of a breakdown in equipment.

2. All persons taking water from the mains shall do so at their own risk and the City shall not be held responsible for any accident or damage of any kind or character occasioned by pressure in the water mains, the shutting off of the water, or failure to keep water under pressure in the mains.

**Section 20-36. Tampering with or Injuring Waterworks Property.**

1. It shall be unlawful for any person to injure or deface, or in any way tamper with any hydrant, meter, valve, pipeline or any part of the waterworks system, or to turn the water off or on from any main at any time or place, unless he is duly authorized so to do by the city.

2. It shall be unlawful for any person or persons, except duly authorized officers and employees of the City of Elk City, Oklahoma, to scale, climb, or to go upon the City's water tower.

**Section 20-37. Main Valves.**

All main valves throughout the entire water system are for the exclusive use of the City in making repairs, extensions and other improvements; and no person, firm or corporation shall under any circumstances, use or tamper with them without the written consent of the superintendent of the department. All fire hydrants and public hydrants of all kinds are directly under the control of the City. Any person, firm or corporation who shall tamper with or secure water from any of these places in any other way than that for which are intended shall be guilty of an offense and shall be punished accordingly.

**Section 20-38. Service Liability.**

Each and every person using water from the municipal water system shall be liable to the City of Elk City, Oklahoma, for all water used according to the rates and minimum charges established by resolution of the Elk City Public Works Authority.

**Section 20-39. Theft of Water.**

Any person who, by fraud or stealth, obtains water in any way from the municipal waterworks system of the City of Elk City, Oklahoma, or who turns on the water service without authority of Ordinance or duly authorized official, shall be guilty of an offense. The amount of water that has been obtained by any person, by fraud or stealth, or without permission from a proper municipal official, as provided by Ordinance, shall be estimated by the amount used by such person during the last month previous that the meter operated and registered correctly all water; such person shall pay for the same at the rate fixed by the City for the particular class of service obtained, before any further water connection is made. In all cases of fraud or stealth, the City shall have the right to install apparatus, locks and instruments which are necessary to prevent theft at the expense of the consumer, and shall maintain the same so long as deemed necessary by the City, not exceeding one (1) year from such installation.

**Section 20-40. Inspection of Water Main Taps.**

1. When application for water service is made in proper form and has a certificate of inspection issued for it, the City Inspector shall then, if water main is abutting said property, issue a permit to tap said main, giving full and complete description of the kind and character of materials to be used in making said tap. Said permit shall then be given to the plumber who is to do the work who shall keep same in his possession until such time as the work is completed, when same shall be returned to the office of the City Clerk.

2. Immediately on the completion of such tapping of service and before the same has been covered, the plumber or person in charge will notify the City Inspector that same is ready for inspection upon which notice the City Inspector will immediately make such inspection of tap with water pressure on, in order to ascertain if same has been installed in a workmanlike manner with such materials and according to such specifications as are hereinafter set forth.

After such inspection is completed the plumber will then cut off the water at the curb line value as provided for such and the work will be back earthed, carefully tamped in, leaving sufficient surplus loose earth for the filling and settling due to rainfall and traffic. Water shall be added as the ditch is filled and the dirt shall be carefully tamped down.

For such inspection, the plumbing shall not make collection for work in making service connection or tap until said inspection is completed and the City Inspector gives him a "clearance slip".

After inspection has been made, the person occupying the premises to which service has been run will call at the office of the City Clerk and make a deposit as herein provided, when the Inspector will issue orders as are necessary to have the water turned on. Until this is done, the water will remain cut off at the curb.

**Section 20-41. Prohibition of Running Water during Fire.**

It shall be unlawful for any person, firm or corporation to permit, allow or in any manner acquiesce in the running of water through an open faucet, for any purpose, during a period when the Fire Department equipment is at the scene of a fire.

**Section 20-42. Water Rates: Within the City.**

All water rates, tap fees, meter deposits, etc.; used from the municipal waterworks system of the City of Elk City, Oklahoma, shall be established by resolution of the Elk City Public Works Authority.

**Section 20-43. Water Rates and Service: Outside the City.**

1. On all sales of water delivered through the Elk City Public Works Authority's system, outside the corporate limits of the City, a triple charge of the rates as authorized in Section 20-42 shall be made.

2. From and after March 7, 1977, no water tap will be installed, or water service furnished, to any user applying therefore beyond the corporate limits of the City of Elk City.

3. From and after September 4, 2012, no service connection will be installed or water service furnished to any user applying therefore on the transmission lines from the Elk City Water Plant to the City of Elk City.

**Sections 20-44 through 20-49. (Reserved for future use.)**

**Article 3. Wastewater System**

**Section 20-50. Declaration of Public Utility.**

The sanitary sewer system of the City of Elk City is hereby declared to be a public utility and a proper source of revenue for the upkeep and maintenance of said system and for other purposes.

**Section 20-51. Collection and Disposal declared to be a Municipal Function.**

The fee for the use of the sanitary sewers shall be billed to each user monthly, along with the bill for water and other services, and the City is directed not to accept payment of the water bill unless such payment is accompanied with the sewer user fee.

**Section 20-52. Conduct.**

No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy,

uncover, deface or tamper with any structure, appurtenances or equipment which is a part of the sewage works. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

**Section 20-53. Industrial Waste.**

At the present time there are no significant industrial users in the City of Elk City, Oklahoma. If an industrial user should desire to locate in the City and make use of the sewerage system, an Industrial Cost Recovery System will be initiated at that time to compensate for his use of the system.

**Section 20-54. Sewer Rates.**

All sewer rates tap fees, etc.; shall be established by resolution of the Elk City Public Works Authority, Elk City, Oklahoma.

**Sections 20-55 through 20-79. (Reserved for future use.)**

**Article 4. Solid Waste Collection and Disposal System**

**Section 20-80. Collection and Disposal declared to be a Municipal Function.**

1. The collection and disposal of garbage, trash and refuse is hereby declared to be a municipal function of the City as a protection of the public health; the police powers of the City shall be invoked when necessary for the enforcement of this Chapter.

2. The City may collect and dispose of refuse, as it deems necessary, provided that such disposal shall be an approved method of incineration (no open burning) or by landfill and daily cover.

3. All metered customers shall pay a minimum garbage fee.

4. The fee for garbage collection and/or disposal shall be billed monthly, along with the bill for water and other services.

**Section 20-81. Purpose.**

It is the purpose of this Article and it is hereby declared to be the policy of the City, pursuant to the authority of the Oklahoma Solid Waste Management Act (Title 63 O.S. 1981, Sections 2251-2265, inclusive), to regulate the collection and disposal of solid wastes in a manner that will protect the public health and welfare, prevent air and water pollution, prevent the spread of disease

and the creation of nuisances, conserve the natural resources and enhance and preserve the beauty and quality of the City's environment.

**Section 20-82. Definitions.**

1. Person. Any individual, corporation, company, firm, partnership, association, trust or other legal entity, however constituted or organized.
2. Refuse. Tree trimmings, junked building materials and roofing materials, manufacturing waste, rocks, dirt and other waste material not defined as "solid waste" or "trash".
3. Trash. Paper, rags, containers of paper, tin cans, yard and house sweepings and all other household waste, but not tree trimmings, building and manufacturing waste, sewage and rocks, raw dirt, rainwater and other liquid refuse properly disposable through the sanitary sewers of the City.
4. Solid Waste. All putrescible and nonputrescible refuse in solid or semi-solid form, including but not limited to, garbage, refuse, rubbish, ashes or incinerator residue, street refuse, dead animals, demolition wastes, construction wastes, solid or semi-solid commercial and industrial wastes and hazardous wastes (including explosives, pathological wastes, chemical wastes, herbicide and pesticide wastes).
5. Solid Waste Management System. The entire process of storage, collection, transportation, processing and burying solid wastes at or in a site approved by the Oklahoma State Department of Health.

**Section 20-83. Solid Waste Collection System.**

The Elk City Public Works Authority will provide dumpsters designed and placed at City designated locations for use by residential and commercial users.

**Section 20-84. Repair or Replacement of Equipment.**

The aforementioned dumpsters are owned exclusively by the Elk City Public Works Authority and are made available to users who shall use and maintain the same in a reasonable manner and in accordance with the following regulations:

1. A user shall be responsible to the City for any damage to such equipment caused deliberately by user or by user's negligence.
2. The billing for such damage or replacement charges may be by lump sum on a single monthly billing or may be prorated with installment payments over several months if the City



selects.

**Section 20-85. Preparation of Materials for Collection by City.**

1. It shall be the duty of each person within the City of Elk City to deposit all garbage and trash from such person's premises in the dumpsters as provided by the City for collection. Every person placing garbage or small items of trash in any dumpster shall drain all water and other liquids from such garbage and trash and securely wrap it in paper or other suitable material before placing it in any of said containers.

2. Other types of refuse, unusual or large pieces of refuse, collapsed boxes, collapsed cartons, tree limbs, branches, furniture and other articles too large to be placed in dumpsters, shall be the sole responsibility of the individual or firm possessing same, except as otherwise provided in Section 20-87 of this Chapter.

3. Under no circumstances shall lawn grass or weed clippings or the like be dumped or scattered on or about the surface of any alley, street or sidewalk or other public or privately owned property.

**Section 20-86. Material not Included.**

No waste building material such as stone, mortar, bricks, sand, or lumber from construction, repair, or reconstruction operations, will be removed by the collector. Such wastes or rubbish shall be removed by the contractor, owner, or occupant of the building or premises under repair, construction, or reconstruction operations, at his own proper expense; and at no time shall such materials be placed in any garbage container or on, or in any other property or vacant lot, or in any street or alley in such a manner as to obstruct the street or alley so as to inconvenience or endanger the public.

**Section 20-87. Other Wastes not Included.**

Dead animal bodies too large to go into garbage containers as specified above. Discarded automobile bodies, frames, other heavy or bulky refuse, and all industrial wastes shall be disposed of in such manner and place and within such time as shall be designated by the City Manager.

**Section 20-88. Violations.**

The following acts, among others, are hereby declared to be and constitute a nuisance and in violation of this Article, to wit:

1. The throwing, placing, dumping, or depositing of any garbage or refuse of any kind

on lots, vacant or occupied, driveways, or other private property, whether such premises are owned or occupied by the person so offending or not.

2. The throwing, placing, dumping, or depositing of any garbage or refuse of any kind on or in any gutter, street, sidewalk, parkway, driveway, curb, alley, park, or any other public property of the City of Elk City.

3. The burning of any garbage, trash or other refuse within the City of Elk City is prohibited.

It shall be unlawful for any owner, lessee, agent, tenant, or occupant of any premises to permit any woods, briars, brush or other vegetation to grow, or remain upon any sidewalk, gutter or park space abutting upon any premises owned by, or controlled by, them or any of them, so as to become offensive or emit foul or obnoxious odors, or to hinder traffic, or to become a breeding or harboring place for insects or rodents, or to become in any way hazardous or injurious to the public health. It shall be unlawful for any person to permit or cause to remain in, on, or about his premises, or any other premises, private or public, any garbage or stagnant water combination or residue thereof, which is unsanitary, emits odors, or serves as food or breeding places for flies, insects, rodents, stray animals, or may be injurious to public health. It shall be unlawful for any person, firm, or corporation to haul, transport, discharge, dump, or unload any garbage, or other waste matter at any place within the City of Elk City, or within its jurisdiction, other than at such places as may be designated by the City Manager. Except under conditions of emergency to be determined by the City Commission, it shall be unlawful for any person other than persons regularly employed by the City of Elk City and under the direct supervision of the City Manager, to collect, remove, or dispose of, any garbage, within or for the City of Elk City.

### **Section 20-89. Collection Rates.**

Rates for solid waste collection and disposal services of the City of Elk City, Oklahoma, shall be as established by resolution of the Elk City Public Works Authority.

### **Section 20-90. Collection of Rates and Charges.**

1. To facilitate the collection of the solid waste rates and charges levied and assessed in this Chapter, the clerk or other designated agent of the City is hereby further directed to include said charges on the same bill by which the City bills for and collects for its sewer, water or other services, to the end that the rates and charges herein levied shall be paid and collected by the City at the same time. The rates and charges levied shall be shown on said bill as a separate and distinct item of charge.

2. In the event any owner, occupant or person in charge of any user unit against whom a charge has been herein levied and assessed fails or otherwise refuses to pay said charge, the clerk or other person responsible, is hereby directed to terminate all services rendered thereto, including

water services. No services thus terminated shall be reconnected or renewed until such time as all charges have been paid in full to the then current date.

**Section 20-91. Who may Remove Solid Waste?**

It shall be unlawful for any person, except under contract as is hereinafter provided for, to remove or cause to be removed, any solid waste materials from any garbage can or other receptacle used for the deposit of same, or to transport, haul, carry or otherwise move over any of the streets, alleys or other public ways, any solid waste materials.

**Section 20-92. Burning of Solid Waste.**

It shall be unlawful for any person to start or maintain any fire or cause any fire to be started or maintained for the purpose of burning or incinerating any solid waste, unless approved by the State Department of Environmental Quality and the City of Elk City.

**Section 20-93. Dumpster Enclosures.**

1. In the event a commercial business or industry desires to provide an enclosure for dumpsters serving their commercial business or industrial use, such enclosure shall be constructed as follows:

- a. The inside dimensions of all such dumpster enclosures must be eight feet (8') by eight feet (8') per each required dumpster;
- b. Dumpster enclosures may have only three solid sides (left/right/back);
- c. Dumpster enclosures may not have roofs or tops;
- d. Entry gates on the front side are allowed; provided, the commercial business or industrial user shall be charged an additional \$25.00 fee for each service if the City must open the access gate;
- e. There will be no extra fee for each service for entry gates required to be open at all times by the commercial business or industrial user except on days designated for in-house inspection in accordance with the commercial business or industrial user's company policies; provided, commercial business and industrial users with this policy are required to notify the City of Elk City at least one full day ahead of the in-house inspection. Failure to provide such notice will result in a \$25.00 extra fee for each service.

**Sections 20-94 through 20-99.** (Reserved for future use.)

**Article 5. Miscellaneous Provisions**

**Sections 20-100 through 20-109.** (Reserved for future use.)

**Article 6. Penalty**

**Section 20-110. Penalty.**

Any person, firm or corporation who shall violate any provision of this Chapter shall be guilty of any offense and, upon conviction thereof, shall be punished by fine and costs as provided for in Section 1-40 of this Code, unless a separate and distinct penalty is otherwise specifically set forth in this Chapter. Each day's continuation of any such violation shall constitute a separate offense.

## CHAPTER 21

### STREETS AND OTHER PUBLIC AREAS

Article 1. Use and Obstruction.

Article 2. Sign Regulation.

Article 3. Penalty.

#### **Article 1. Use and Obstruction**

##### **Section 21-1. Trees and Shrubbery.**

1. The owner of any premises abutting on any street shall trim all trees and shrubbery growing in the public right-of-way and on any part of the premises adjacent to any street or alley, in such a manner that the boughs or limbs thereof shall not obstruct free and convenient passage and travel along any streets, sidewalks or alleys. When such premises are occupied by some person other than the owner, such occupant shall trim the trees and shrubbery in the same manner as herein required of the owner.

2. It shall be unlawful for any person to injure any tree or shrubbery within any public right-of-way; provided, that this shall not prohibit the lawful and proper care and removal of such trees and shrubbery.

##### **Section 21-2. Rights-of-Way and Easements.**

1. It shall be unlawful for any person, firm or corporation to obstruct or otherwise prevent access to, any publicly-used street, alley, easement or other municipally-owned property, whether platted or unplatted; provided that the City of Elk City, Oklahoma, may prevent or provide access to such streets, alleys, easements and municipally-owned properties from time to time, in public interest.

2. The City Commission may permit certain streets, alleys, easements and municipal properties which are dedicated, but not required for traffic or other public access or use, to be fenced or otherwise made inaccessible to the public (as in the case of land being farmed or grazed as a part of a larger field or pasture); provided, that said City Commission or any of its officers or employees shall have the right of ingress, egress and easement for the purpose of installing or maintaining utilities, cleaning, grading, mowing or any other activity which is in the public interest.

3. Persons, companies, corporations or individuals who have fenced in, or are farming or grazing dedicated, but unopened, streets, alleys, easements or municipally-owned properties, as permitted above, shall:

- a. Not construct any building, structure, earthworks or ponds, not in any other way disturb the general grade and slope of the land;
- b. Maintain the property so that no nuisance is created:
- c. Immediately relinquish any rights presumed to be held concerning the property upon notice by the City of Elk City, Oklahoma; and
- d. Permit access to the property at any time when requested to do so by a municipal officer or employee.

**Section 21-3. Obstructions.**

1. It shall be unlawful for any person to use or obstruct the sidewalks, streets, alleys, easements or public rights-of-way of the City of Elk City, Oklahoma, in any manner so as to interfere unduly with pedestrian or other lawful traffic and parking thereon, or to interfere unduly with the purpose(s) of said easement or right-of-way.

2. It shall be unlawful for any person, firm or corporation to deposit, throw or sweep into or upon streets, alleys, parking areas or sidewalks any paper, rubbish, grass, weeds, tree trimmings, dirt, trash, crates, boxes or other refuse of any kind.

3. It shall be unlawful for the owner or occupant of property abutting upon a sidewalk or sidewalk area to permit the sidewalk or sidewalk area adjacent to the property to become a hazard to persons using the sidewalk.

4. It shall be unlawful and an offense for any person to permit to be open or leave open any cellar door, manhole or grating of any kind in or upon any street, sidewalk or alley of the City of Elk City, Oklahoma.

5. It shall be unlawful for any person to make any excavation or cutting in any street, sidewalk, alley or public grounds, or to remove any earth or construction material therefrom, except where authorized to do so by the City Commission; excavations so authorized shall be properly guarded and protected to prevent said excavations from being or becoming dangerous to life and limb.

6. It shall be unlawful for any person, firm or corporation to obstruct any street, sidewalk, alley or drainage easement by placing any approach, driveway or other obstruction or substance whatever that will obstruct or prevent the natural flow of water through the easement or into the storm sewers or drains, or dam the same so as to back any water upon the streets, alleys, sidewalks or gutters.

#### **Section 21-4. Drainage of Polluting Substance.**

It shall be unlawful for any residence, business or industry to allow drainage of a polluting substance (as defined by 82 O.S. 1981, as amended, 926.1) into any street, alley, sidewalk or public right-of-way of the City of Elk City, Oklahoma.

#### **Sections 21-5 through 21-9. (Reserved for future use.)**

### **Article 2. Sign Regulations**

#### **Section 21-10. Definitions.**

1. "A-Frame Sign" means a stationary outdoor sign with two (2) faces attached at one surface on each face to form a triangle with one side parallel to the grade.
2. "Advertising Sign" means an outdoor structure, object, display, lighting device, figure, painting, drawing, message, pictorial picture, plaque, poster, billboard, or other thing which is used to advertise, identify, display, or attract attention to an object, person, institution, organization, business, product, service, event or location by any means including words, letters, figures, designs, symbols, fixtures, colors, illumination or projected images.
3. "Average Grade" means the grade of the finished ground level at the midpoint of each exterior surface of a sign, or a structure, in the event that the sign is attached to the structure.
4. "Awning, Canopy, or Marquee Sign" means a projecting sign attached to, hung from, or painted on a canopy or covered structure which extends beyond the building line or property line.
5. "Back-to-Back Sign" means a structure with two (2) parallel signs with their faces oriented in opposite directions located not more than ten (10) feet apart. A back-to-back sign shall constitute one (1) off-premise sign.
6. "Billboard" means any freestanding sign, or a sign that is attached to or part of a building and is an off-premise sign.
7. "Board" means the Planning and Zoning Board of the City of Elk City, Oklahoma.
8. "Building/Electrical Inspector" means the designated authority for enforcement of this Ordinance.
9. "City" means the City of Elk City, Beckham County, Oklahoma.

10. "Community Service Sign" means any sign which solicits support for or advertises a non-profit community use or social institution. Such signs may include, but shall not be limited to seasonal holidays, such as Christmas or Easter, school activities, charitable programs or religious activities.

11. "Cultural Facilities" means establishments such as museums, art galleries, public libraries, botanical and zoological gardens and theaters of the performing arts, which, although they may charge an admission fee, are essentially non-profit and principally funded through public expenditures, grants and donations.

12. "Erect" means to construct, build, raise, assemble, replace, affix, attach, create, paint, draw or in any way bring into being or establish.

13. "Floodway" means the channel of a stream and adjacent land areas which are required to carry and discharge the flood waters and flood flows of any river or stream associated with the regulatory flood.

14. "Free-standing Sign" means any sign which is not attached to or on the walls, face, or exterior of a building, except as provided in the definition of a standard roof sign.

15. "Hanging Sign" means a sign which is suspended over a sidewalk, street, or other public right-of-way. An overhanging sign may or may not be a projecting sign.

16. "Historic Building/Structure" means any building/structure which is officially designated as historically or architecturally significant by a unit of local, state or federal government.

17. "Home Occupation Sign" means any non-illuminated name plate sign not exceeding one (1) square foot in area.

18. "Official Sign" means any sign erected by or at the direction of any governmental body.

19. "Off-premise Sign" means any sign other than on-premise sign.

20. "On-premise Sign" means any sign which advertises only goods, services, facilities, events or attractions available on the premises where located, or identifies the owner or occupant or directs traffic on the premises.

21. "Outdoor Advertising Sign" - see advertising sign.

22. "Political Sign" means a temporary sign announcing or supporting political candidates or issues in connection with any national, state, or local election.



23. "Portable Sign" means any sign designed or constructed to be easily moved from one location to another, including signs mounted upon or designed to be mounted on a trailer, wheeled carrier, or other non-motorized mobile structure.

24. "Premises" means any lot or unplatted tract, or any combination of contiguous lots or unplatted tracts held under single ownership.

25. "Projecting Sign" means a sign affixed to any building, wall, roof, marquee or other structural element which extends or projects more than twelve (12) inches from such wall, roof, marquee or other structural element.

26. "Public Information Sign" means any sign which is intended to identify community, civic, or social events and is not any of the following signs: commercial, political, official, or real estate.

27. "Real Estate Sign" means a temporary sign (a) displayed during and in connection with construction operations, (b) pertaining to the lease or sale of a lot or building upon which placed and not exceeding sixty-four (64) square feet, and (c) pertaining to the sale of an addition or a sub-division, the area of which sub-division exceeds one (1) acre of land for a period not to exceed two (2) years.

28. "Residential Name Plate Sign" means a sign permitted for the sole purpose of identifying the inhabitant residing therein, the house name, or identifying the address of the house. The sign may contain no advertising of any kind and may not exceed two (2) square feet in area.

29. "Roof Sign" means a sign attached to a roof extending more than three (3) feet above the ridge line.

30. "Sloping Roof Sign" means a sign affixed to the roof of any building, which does not project more than twenty-four (24) inches from the roof or extend more than five (5) feet above the ridge line of the roof to which it is attached.

31. "Temporary Sign" means a sign that is not permanently affixed to a building, structure or the ground.

32. "Traffic Control Sign" means a permitted sign for the purpose of identifying parking areas and directing the flow of traffic on private property.

33. "Wall Sign" means a sign affixed to a wall, marquee, or other structural element of any building, which does not project more than twenty-four (24) inches from the wall, marquee or other structural element, or extend more than five (5) feet above the wall, marquee or other structural element to which it is attached.

**Section 21-11. Administrative Provisions.**

1. Enforcement. The provisions of this Ordinance shall be enforced and administered by the City Building/Electrical Inspector. The Building/Electrical Inspector shall have the authority to order the painting, repair, or removal of a sign.

2. Violations, Penalties. Any person, firm or corporation violating or failing to comply with any of the terms or provisions of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction shall be fined not more than fifty dollars (\$50.00). Each day such violation shall be continued or shall be allowed to exist, shall constitute a separate offense.

3. Licenses. Any person, firm or corporation engaged in the business of constructing, erecting, repairing, altering, installing, or relocating commercial signs within the corporate limits of the City of Elk City, Oklahoma, shall obtain a Commercial Sign Contractor's License therefore, which license shall be in the sum of fifty dollars (\$50.00).

4. Permits. No person, firm or corporation shall erect, construct, install or relocate any sign within the incorporated city limits without a permit first having been obtained.

a. Duration. When a permit is issued, it shall be valid and need not be re-issued so long as the sign for which it is issued is left in its original location and is maintained in accordance with this Ordinance.

b. Permit Fees. A permit of forty dollars (\$40.00) shall be paid on all signs requiring a permit. No permit fee shall be required for a sign fifteen (15) square feet or less over a show window or door of a store or business establishment, containing only the name of the proprietor and nature of the business; nor shall a permit be required for ground signs, provided such signs are not over fifteen (15) square feet in area.

5. Variance Procedure.

a. The Elk City Board of Adjustment shall have the authority to grant a variance to the height, spacing and setback requirements of this Ordinance in cases where it is determined that strict compliance with the provisions herein will inflict unusual and practical difficulties. The Elk City Board of Adjustment may grant a variance only to those height, spacing and setback requirements established in this Ordinance.

b. When application for a variance is made to the Elk City Board of Adjustment, a public hearing on the request shall be held. Written notice of all public hearings on variance requests shall be given to all owners of property, or to persons rendering the property for City taxes, affected by such variances, located within two hundred (200) feet of any property,

within not less than ten (10) days before any such hearing shall be published in a newspaper of general circulation, not less than ten (10) days before any such hearing is held.

- c. No notices of any application for a variance shall be given, and no hearings shall be held by the Elk City Board of Adjustment until a filing fee accompanying such application is paid. The filing fee (payable in cash, certified check or cashier's check), shall be fifty dollars (\$50.00).

**Section 21-12. Classification of Signs.**

This section concerns the categories of permanent and temporary signs governed by the provisions of this Ordinance.

Signs requiring a permit under the provisions of this Ordinance are as follows:

- 1. Back-to-Back Signs
- 2. Billboard Signs
- 3. Canopy Signs
- 4. Hanging Signs
- 5. Marquee Signs
- 6. Portable Signs
- 7. Projecting Signs
- 8. Roof Signs
- 9. Sloping Roof Signs
- 10. Wall Signs

Signs not requiring a permit under the provisions of this Ordinance are as follows:

- 1. A-Frame Signs
- 2. Community Service Signs
- 3. Home Occupation Signs

4. Official Signs
5. Political Signs (temporary)
6. Public Information Signs (temporary)
7. Residential Name Plate Signs
8. Traffic Control Signs (on private property)
9. Real Estate Signs (temporary)

### **Section 21-13. General Sign Regulations.**

This section concerns general regulations pertaining to signs.

1. Identification of Signs: Every outdoor advertising display sign hereafter erected, constructed, or maintained, for which a permit is required, shall be plainly marked with the name of the person, firm or corporation erecting and maintaining such sign.

2. Location Restriction: It shall be unlawful for any person, firm or corporation to place, erect, construct or use any signs in R-1, R-2, or R-3 Zoning Districts, except residential name plates, lease or sale signs, and temporary signs displayed during construction and in connections with construction operations, and temporary signs pertaining to the sale of an addition or subdivision.

- a. No outdoor advertising display shall be erected, constructed or maintained so as to obstruct any fire escape, any window or door, or opening used as a means of egress,
- b. No sign shall be attached to a fire escape, nor be placed in such a manner as to interfere with any opening required for legal ventilation.
- c. No sign shall be erected on or over public property in a manner which interferes with any fire hydrant, traffic light, or street light, or which hampers the functions of the Fire Department.
- d. No person shall place or maintain a flashing light or flashing electric light of any kind or color within five hundred (500) feet of the center line of any Federal or State maintained street or highway unless a permit is granted by the State Highway Commission for such flashing light or flashing electric sign.

- e. No sign will be permitted in those areas identified as floodway or the 100 year-flood plain without compliance with the requirements for a special development permit.

3. Fastening and Anchoring: All signs shall be securely fastened or anchored to a building wall, structural framing, or other foundation with a sufficient number of bolts or anchors to resist stress resulting from dead weight of the sign and wind loads.

- a. Trees, rocks, bridges, fences, windmills, towers, utility poles and dilapidated buildings shall not be used for sign supports.

4. Materials: All signs shall be constructed of durable and securely attached to framework and supports made of wood, metal, or other material of equivalent strength.

5. Electric Wiring: Electrically illuminated signs, or signs which are equipped in any way with electrical devices or appliances shall conform to the provisions of the City Electrical Code.

6. Sign Inspections: The City Building/Electrical Inspector shall have the right to visit any site where a sign is being erected, or enter any building where a sign is being constructed for installation within the City for the purpose of making any inspection necessary.

7. Public Right-Of-Way: Signs projecting from a building or extending over public right-of-way in industrial or commercial business district(s) shall maintain a clear height of nine (9) feet above the sidewalk grade and all such signs shall not extend more than two (2) feet of the curb-line. Freestanding signs shall maintain a ten (10) feet setback from the curb- line or zero (0) feet from the property line, whichever is greater. A maximum height of thirty-five (35) feet shall be allowed at the property line.

- a. In no instance shall a sign extend into the right-of-way of any State maintained street or highway.
- b. No pole, post or standard use to support any sign or floodlight shall be set in or upon any sidewalk, street, or other public property.

8. Maintenance of Area Beneath Signs: For all freestanding signs, a one hundred (100) square feet sign area beneath the sign shall be mowed and maintained in a neat and clean condition.

9. Sign Area Calculation: In calculating the area of a sign, the perimeter of the area shall be a line including the outer extremities of all letters, figures, characters and delineations or a line including the outer extremities or the framework of background upon which sign is placed, whichever line includes the larger area.

10. Free-standing Billboard Signs in Downtown Elk City. Effective with the passage of this Sign Ordinance, free-standing billboard signs and roof signs will no longer be allowed in the downtown area bounded by Second Street (North boundary), Madison Avenue (East boundary), Seventh Street (South boundary), and Adams Avenue (West boundary).

**Section 21-14. Specific Regulations.**

1. A-Frame Signs.

Location: Allowed in commercial and industrial districts.

Size: Eight (8) square feet per sign.

Number: One (1) sign per location.

Two (2) signs per corner location.

Setback: Behind property line; minimum of six (6) feet behind curb.

2. Back-to-Back Signs. (see Billboard Signs)

3. Billboard Signs.

Location: Allowed in all commercial and industrial districts, except where otherwise restricted herein.

Size: Not to exceed four hundred (400) square feet per sign face in industrial districts and in commercial districts.

Height: Shall maintain a clearance from grade of nine (9) feet, except ground signs with the base of the sign within three (3) feet of average grade. Maximum overall height of thirty-five (35) feet.

Setback: Behind property line.

Light fixtures and catwalks may overhang the setback lines no more than six (6) feet; however, no part of the face or its support structure shall overhang the setback lines.

All billboards shall maintain a minimum setback distance of one hundred (100) feet from any residentially zoned district.

Additionally, all billboards shall be setback from the following facilities as specified:

- a. City Parks - three hundred (300) feet from the park boundary.
- b. Cultural Facilities - three hundred (300) feet from the facility boundary.
- c. Historic Building/Structure - three hundred (300) feet from the building/structure.

All billboards shall be setback a distance of not less than fifteen (15) feet from the railing of

any overpass or bridge on any road, street or highway.

Spacing: Billboard signs shall not be erected along major thoroughfares closer than five hundred (500) feet apart along the same side of the street or road.

4. Canopy Signs:

Signs on free-standing canopy or detached accessory island canopy may be placed at any location on the canopy, provided that such signs shall not project beyond the width or length thereof.

5. Hanging Signs.

All permanent signs shall be erected so as not to overhang any street or alley.

Location: May be hung perpendicular to, suspended from or attached to buildings, walls or canopies. Signs may also be suspended under a marquee.

Height: Shall maintain a clear height of nine (9) feet above the sidewalk grade and shall not extend more than two (2) feet of the curb- line.

6. Marquee Signs.

Marquee signs not more than four (4) feet tall, excluding any top ornament supported directly by the marquee or awning, may extend around three (3) sides of a marquee or awning.

7. Political Signs.

Political signs shall be subject to the following restrictions:

- a. Shall not exceed thirty-two (32) square feet on each of a maximum two (2) sides, in residential districts.
- b. Shall not be placed on a right-of-way, traffic sign, dumpsters, or signal or utility pole in any district.
- c. Shall be placed only on private property after obtaining the permission of the property owner.
- d. Shall not block or interfere with the view of drivers of vehicles at intersections of streets or streets and alleys.
- e. Shall be "temporary" and "free-standing" only.

8. Portable (or wheeled) Signs.

Portable signs shall be permitted in commercial and industrial districts subject to the following regulations:

- a. Sign shall be secured to the ground at a minimum of four (4) separate points.
- b. Illuminated portable signs may be white or yellow, maximum of sixty (60) watts and shall meet all requirements of the City Electrical Code.
- c. Sign shall be set back ten (10) feet from the curb or zero (0) feet from the property line, whichever is the greater. Any location not meeting this setback requirement will not be allowed to use a portable sign.

9. Projecting Signs. (see requirements for hanging signs)

10. Public Information Signs.

Location: Subject to approval of the City Council.

Number: Subject to approval of the City Council.

Size: Shall be a maximum of six (6) square feet.

Height: Bottom of sign not to exceed nine (9) feet above average grade.

11. Residential Name Plate Signs.

Purposes: To indicate the address and/or name of the occupant.

Size: Shall not exceed two (2) square feet per single family and duplex structure or one-half (1/2) foot per each multi-family unit.

Height: No part of the sign shall extend above eight (8) feet from average grade.

12. Roof Signs.

Roof signs shall be subject to the following restrictions:

- a. Shall not exceed thirty-two (32) feet in total height above that portion of the roof over which they are erected.
- b. All such signs shall be constructed entirely of steel, including the upright supports and braces, except that only the ornamental molding and battens behind the steel facing and the decorative lattice work may be of wood construction.
- c. An open space of not less than three (3) feet shall be maintained below the bottom of the sign and the roof, except for necessary vertical supports.
- d. All metal parts shall be grounded as a protection against lightening.



- e. No roof sign shall be allowed to extend over a sidewalk, street, or other public property.
- f. Sloping roof signs shall not project horizontally beyond the perimeters of the roof. Not more than twenty-five percent (25%) of any sloping roof area shall be devoted to this type sign.

13. Traffic Control Signs. (on private property)

All traffic control signs shall be of uniform design and shall conform to the overall sign program for the entire site. No Traffic control sign shall contain advertising. Such signs may be either free standing or wall mounted and if lighted, shall be indirect.

Height: No part of such sign shall extend above seven feet (7') from average grade.

Size: Shall be of uniform size(s) recommended in the "Texas Manual on Uniform Traffic Control Devices for Streets and Highways".

14. Wall Signs.

Wall signs are attached, on-premises signs and shall be governed by the following restrictions:

Shall not project horizontally beyond the perimeters of the wall or extend more than five feet (5') above the wall to which it is attached. Wall signs shall not project more than twenty-four inches (24") from the wall.

**Section 21-15. Prohibited Sign Locations and Types.**

The following signs shall be prohibited in all districts:

1. Search lights, except that they may be permitted for a period not to exceed ten (10) days for grand openings or other special occasions.

2. Any sign which resemble official traffic signs or signals, or which bear the word "Stop," "Go Slow," "Caution," "Danger," "Warning," or similar words or any sign which by reason of size, color, location, movement, or manner of illumination, may be confused with a traffic control sign, signal or device.

3. No lighted sign shall be permitted within one hundred (100) feet of a residential district unless lighting is shielded from view in the direction of the residential district.

4. No sign shall be erected nearer than six (6) feet to any telephone cable, power line or

street light standard.

5. Signs containing statements, words or pictures of an obscene, indecent or immoral nature.

6. Double-Decker Type Signs.

### **Section 21-16. Exempted Signs.**

The provisions of this ordinance shall apply to the following signs, except that no license, bond, or permit will be required for:

1. A legal sign in existence, or for which a permit has been issued, before the effective date of this ordinance.

2. Holiday displays - temporary displays, commonly associated with any national, local or religious holiday or celebration.

3. Home occupation signs - two (2) non-illuminated name plate not exceeding two (2) square feet in area which is used to identify legal home occupations.

4. Official signs - federal, state or local government traffic, directional and informational signs and notices issued by any court, person or officer in performance of a public duty.

5. Political signs - see Section 21-14 (7) of this ordinance.

6. Public Utility signs - signs giving information about the location of underground electric transmission lines, telegraph or telephone properties and facilities, pipelines, public sewers or water lines.

7. Real estate signs - temporary signs advertising the sale, lease, or development of the property on which it is located. Such signs shall not exceed sixty-four (64) square feet.

8. Residential name plate signs - signs indicating the name and/or address of the occupants of the residence, not to exceed two (2) square feet in area.

9. Safety, warning and directional signs - signs warning of construction, excavation, or similar hazards, and parking lot and other private traffic directional signs, each not to exceed the uniform sizes recommended by the State of Oklahoma.

10. Such signs are limited to directing pedestrian and vehicular traffic within the premises on which they are located and are not intended to advertise a product or service.

### **Section 21-17. Non-Conforming Signs.**

Any sign which existed and/or was permitted or erected prior to effective date of this ordinance and which does not conform to the intent and specifications of this ordinance is a non-conforming sign. A non-conforming sign may remain in place so long as it is kept in good repair and maintained in safe condition.

**Section 21-18. Maintenance and Removal of Signs.**

1. Maintenance

All signs shall be maintained in a safe, presentable or structurally sound condition at all times, including replacement of defective parts. All pennants, banners, streamers, spinning or similar moving devices shall be kept in presentable condition at all times. The owner of any property on which a sign is located and those responsible for maintenance of the sign shall be equally responsible for the condition of the sign and for the condition of the area in the immediate vicinity of the sign and shall be required to keep this area clean, sanitary and free from noxious or offensive substances, rubbish, and flammable waste materials.

2. Removal of signs

The Building Official may order the removal of any sign that is not maintained in accordance with the provisions of this ordinance. If any sign is installed, erected, or constructed in violation of the terms of this ordinance, the Building Official shall notify, by registered mail or written notice served personally, the owner or lessee thereof to alter such sign so as to comply with this ordinance and to secure necessary permit therefore, or to remove the sign. If such order is not complied with within ten (10) days, the Building Official shall remove the sign at the expense of the owner or lessee thereof.

3. All abandoned sign and their supports shall be removed within ninety (90) days from the date of abandonment.

4. All damaged signs shall be removed within ninety (90) days from the date of such damage except in times of natural disaster. The Building Official shall have the authority to grant a one time extension, not to exceed ninety (90) days, for abandoned, non-damaged signs, provided such extension is requested in writing.

**Section 21-19. (Reserved for future use.)**

**Article 3. Penalty**

**Section 21-20. Penalty.**

Any person, firm or corporation who shall violate any provision of this Chapter shall be

guilty of any offense and, upon conviction thereof, shall be punished by fine and costs as provided for in Section 1-40 of this Code, unless a separate and distinct penalty is otherwise specifically set forth in this Chapter. Each day's continuation of any such violation shall constitute a separate offense.

## CHAPTER 22

### TRAFFIC

- Article 1. Oklahoma Highway Traffic Safety Code Adopted.
- Article 2. Traffic Regulations.
- Article 3. Impoundment of Vehicles.
- Article 4. Vehicle and Equipment Prohibitions.
- Article 5. Traffic Control Devices.
- Article 6. Parking, Stopping and Loading.
- Article 7. Bicycles.
- Article 8. Pedestrians.
- Article 9. Miscellaneous Provisions.
- Article 10. Penalty.

#### **Article 1. Oklahoma Highway Traffic Safety Code Adopted**

##### **Section 22-1. Oklahoma Highway Traffic Safety Code Adopted.**

1. The Oklahoma Highway Traffic Safety Code (Title 47 of the 1981 Oklahoma Statutes, as amended, and every ten (10) years' recodification thereof) is hereby adopted and incorporated in the Code of Ordinances of the City of Elk City, Oklahoma, as if set out at length herein, for the purposes of establishing locally appropriate rules and regulations for the control of traffic within said municipality.

2. The definitions of words used in this Chapter shall be the same as those definitions in Title 47, Oklahoma Statutes, 1981, Sections 1-101 through 1-186 (as amended).

##### **Sections 22-2 through 22-4. (Reserved for future use.)**

#### **Article 2. Traffic Regulations**

##### **Section 22-5. City Commission May Adopt and Enforce Regulations.**

1. The City Commission is hereby empowered to adopt and enforce regulations necessary to make the provisions of this Chapter and any other traffic or related Ordinances of the City of Elk City, Oklahoma, effective, and to adopt and enforce temporary regulations to cover emergencies or special conditions.

2. No person shall willfully fail or refuse to comply with any lawful order or direction of the Chief of Police, any police officer, fireman or any other authorized municipal employee.

### **Section 22-6. Speed Regulations.**

1. No person shall drive a vehicle on any street within the corporate limits of the City of Elk City, Oklahoma, at a speed greater or less than is reasonable or prudent under the conditions then existing (including, among other things, the condition of the vehicle, roadway, weather, visibility, amount of traffic, presence of pedestrians and any obstruction of view).

2. No person shall drive any vehicle upon a street at a speed greater than will permit him to bring it to a stop within the assured clear distance ahead.

3. No person shall drive any vehicle, except an authorized emergency vehicle (as provided in this Chapter), at a speed greater than:

- a. fifteen (15) miles an hour on any street adjacent to any school, or in any school zone, between eight o'clock a.m. and four o'clock p.m. on days when school is in session; and
- b. thirty (30) miles per hour on other streets and on streets adjacent to schools at other times than that specified immediately above, unless otherwise posted.

4. The Municipal Court may levy a fine of not more than ten dollars (\$10.00), together with court costs of fifteen dollars (\$15.00) for exceeding the posted speed limit by no more than ten (10) miles per hour upon any portion of the National System or Interstate and Defense Highway, federal-aid primary highways, and the state highway system located on the outskirts of the City determined by reference to (a) low land use density; (b) absence of any school or residential subdivision requiring direct ingress or egress from the highway; (c) low traffic volume on the highway; and, a scarcity of retail or commercial business abutting the highway.

### **Section 22-7. Citation Tags; Failure to Comply.**

1. Police officers are hereby authorized to give notice to persons violating provisions of this Chapter, by delivering citation tags to violators or, in cases where vehicles without drivers are parked or stopped in violation of this Chapter, by affixing such tags to the vehicles by means of which the violation occurred. Such citation tags shall indicate briefly the charge, shall bear the registration number of the vehicle and shall direct the violator to present the tag at the police station or other designated place within five (5) days, or such other reasonable time as may be specified thereon. Nothing in this Section shall abridge the power to arrest any violator, to take him into custody or to file a complaint against him at any time.

2. The City Commission may require that police officers use serially-numbered citation tags furnished by the City Clerk, and said City Commission may also regulate the use and handling of citation tags.

3. If a violator of any provision of this Chapter who has been given a citation tag as provided above, fails to appear, in accordance with the instructions of such tag, the Chief of Police or his authorized agent shall send a letter or other written notice to the owner of the vehicle involved, informing him of the violation, warning him to appear and directing that, in the event such letter or notice is disregarded for a period of five (5) days, a complaint will be filed and a warrant of arrest issued; provided that nothing in this Section shall abridge the power to file a complaint against him prior to the expiration of such time.

4. In the event any person fails to comply with a citation tag given to such person, or attached to a vehicle, the Chief of Police shall have a complaint entered against such person before the Municipal Judge, and said Judge shall issue a warrant for his arrest.

### **Section 22-8. Authorized Emergency Vehicles.**

1. The driver of any authorized emergency vehicle, when responding to an emergency call when in the pursuit of an actual or suspected violator of a law or Ordinance, or when responding to, but not upon returning from, a fire alarm, may exercise the following privileges:

- a. Park or stand (irrespective of the provisions of this Chapter);
- b. Proceed past a red or stop signal or sign (slowing down as may be necessary for safe operation);
- c. Exceed the maximum speed limits so long as he does not endanger life or property; or
- d. Disregard regulations governing direction of movement or turning in specific directions.

2. The exemptions herein granted to an authorized emergency vehicle shall apply only when the driver of any such vehicle is making use of audible and/or visual signals, except that an authorized emergency vehicle, operated as a police vehicle, need not be equipped with, or display, a red light visible from the front of the vehicle.

3. Upon the immediate approach of any authorized emergency vehicle making required use of audible and/or visual signals, or of a police vehicle properly and lawfully making use of an audible signal only, the driver of every other vehicle shall yield the right-of-way, immediately drive to a position parallel to, and as close as possible to, the right hand edge or curb of the roadway clear of any intersection, or shall clear the roadway in the safest possible manner, and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer.

4. This Section shall not operate to relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway, nor shall such provisions protect the driver from the consequences of reckless disregard for the safety of others.

#### **Section 22-9. Duties of Policemen and Firemen.**

1. It shall be the duty of the Chief of Police and any police officers to enforce the traffic regulations of the City of Elk City, Oklahoma, and all of the State vehicle laws applicable to traffic in said municipality, to make arrests for traffic violations, to investigate accidents, to cooperate with other municipal officials in the administration of the traffic laws and in developing ways to improve traffic conditions, and to carry out those duties specifically imposed upon said officers by this Chapter and any other traffic or related Ordinances of said municipality.

2. The Chief of Police and his assistants are hereby authorized to direct all traffic by voice, hand or signal, in conformance with traffic laws and Ordinances. In the event of a fire, other emergency or to expedite traffic or safeguard pedestrians, such officers may direct traffic as conditions may require, notwithstanding the provisions of the traffic laws and Ordinances.

3. Firemen, when at the scene of a fire, may direct or assist the police in directing traffic.

#### **Section 22-10. Stopped School Bus.**

1. No person shall pass any school bus (as defined by State Law) when such bus is stopped for the purpose of discharging or taking on passengers, and is displaying flashing red lights, as required by State Law.

2. All persons shall stop upon approaching a stopped school bus (as described in Subsection 1, above), regardless of the direction of said approach.

#### **Section 22-11. Accident Reports; Leaving an Accident Scene.**

1. The driver of a vehicle which is in any manner involved in an accident resulting in bodily injury to, or death of, any person, or damage to any vehicle or other property to an apparent extent of more than fifty dollars (\$50.00), shall, as soon as practicable, report such accident to the Chief of Police or to the Police Department. Making out a written report of the accident in the Police Department, as soon as practicable after the accident (to be forwarded to the State Department of Public Safety in accordance with the law), shall be deemed compliance with this Section.

2. Leaving the scene of an accident, as defined by current State Law, shall be unlawful within the corporate limits of the City of Elk City, Oklahoma.



**Section 22-12. Driving by Unauthorized Persons Prohibited.**

1. It shall be unlawful for any person who does not have a valid driver's license, as required by State Law, to operate a motor vehicle within the corporate limits of the City of Elk City, Oklahoma.

2. It shall also be unlawful and an offense for any person to permit an unlicensed driver to operate a motor vehicle within the corporate limits of the City of Elk City, Oklahoma.

3. It shall be unlawful and an offense for any person to authorize, or knowingly permit, any vehicle owned by him or under his control, to be driven upon any of the streets or highways of the City of Elk City, Oklahoma, by any person who is not authorized, under the Laws of the State of Oklahoma, to operate such vehicle.

**Section 22-13. Careless Driving.**

It shall be unlawful for any person to drive a vehicle within the corporate limits of the City of Elk City, Oklahoma in violation of the conditions outlined in Title 47 of the Oklahoma Statutes, as amended, Section 11-801(a).

**Section 22-14. Reckless Driving.**

1. It shall be unlawful for any person to drive a vehicle within the corporate limits of the City of Elk City, Oklahoma in violation of the conditions outlined in Title 47 of the Oklahoma Statutes, as amended, Section 11-901(a).

2. Any person, firm or corporation who shall violate any provision of this Section shall be guilty of an offense and, upon conviction thereof, shall be punished by fine not to exceed five hundred dollars (\$500.00) plus costs and may be imprisoned for any amount of time not to exceed sixty (60) days. Each day such violation is committed or continues to exist shall constitute a separate offense and shall be punishable as such.

**Section 22-15. Driving While Ability Impaired.**

1. It shall be unlawful for any person to drive a vehicle within the corporate limits of the City of Elk City, Oklahoma in violation of the conditions outlined in Title 47 of the Oklahoma Statutes, as amended, Section 761.

2. Any person, firm or corporation who shall violation any provision of this Section shall be guilty of an offense and, upon conviction thereof, shall be punished by fine not to exceed Seven Hundred Fifty Dollars (\$750.00) plus costs and may be imprisoned for any amount of time not to exceed sixty (60) days. Each day such violation is committed or continues to exist shall constitute a separate offense and shall be punishable as such.

**Section 22-16. Driving While Under Influence of Intoxicating Liquor or Drugs-Actual Physical Control.**

1. It shall be unlawful for any person to drive a vehicle within the corporate limits of the City of Elk City, Oklahoma in violation of the conditions outlined in Title 47 of the Oklahoma Statutes, as amended, Section 11-902(a+b).

2. Any person, firm or corporation who shall violate any provision of this Section shall be guilty of an offense and, upon conviction thereof, shall be punished by fine not to exceed Seven Hundred Fifty Dollars (\$750.00) plus costs and may be imprisoned for any amount of time not to exceed sixty (60) days. Each day such violation is committed or continues to exist shall constitute a separate offense and shall be punishable as such.

**Section 22-17. Vehicles Not to be Driven on Sidewalk.**

The driver of any vehicle shall not drive upon any sidewalk or sidewalk area, except at a permanent or temporary driveway.

**Section 22-18. Following Too Closely.**

The driver of any vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of both vehicles and the traffic upon, and the condition of, the roadway.

**Section 22-19. Backing.**

1. The driver of any vehicle shall not back the same unless such movement can be made with reasonable safety and without interfering with other traffic.

2. The driver of any vehicle shall not back the same a greater distance than is necessary to permit it to enter the immediately available proper driving lane; no extended backing shall be permitted.

**Sections 22-20 through 22-24. (Reserved for future use.)**

**Article 3. Impoundment of Vehicles**

**Section 22-25. Purpose and Effect of Impoundment.**

Impoundment of vehicles under authority of the provisions of this Article shall be construed as an enforcement procedure for protection of the public peace, safety, welfare and safeguarding of property, and shall be used generally for the prevention and removal of traffic hazards, prevention and abatement of public nuisances existing from traffic law violations, protection of the public

rights in the use of streets and thoroughfares in the City of Elk City, Oklahoma, from obstructions placed and left in derogation of those rights, and for safeguarding and protecting recovered stolen vehicles.

**Section 22-26. Place of Impoundment.**

Every vehicle that is impounded under the provisions of this Article shall be removed to the nearest garage, or other place of safekeeping designated by the City Manager, and shall not be removed to any other place.

**Section 22-27. Duration of Impoundment.**

1. Unless otherwise provided hereinafter, any vehicle impounded under the provisions of this Code of Ordinances shall be stored and held safely until a written order for its release, signed by the Chief of Police (or his designated representative); has been issued.

2. The written order for release shall be conditioned upon:

- a. Payment of all impoundment costs and accrued storage charges assessed against the vehicle, by the person to whom the release is issued; and
- b. Payment of all fines and costs due the City of Elk City, Oklahoma because of traffic law or other law violations involving the vehicle, or proper security posted for said fine or law violation.

**Section 22-28. Redemption and Release of Vehicle.**

The person holding the written order for release shall be entitled to obtain possession of the vehicle upon presentation of the order for release at the place of impoundment, together with payment (or tender of payment) of all impoundment costs and accrued storage charges due.

**Section 22-29. Authority to Impound Vehicles.**

1. The Chief of Police of the City of Elk City, Oklahoma, and members of the Municipal Police Department, are hereby authorized, within the limits set forth in this Chapter, to impound vehicles under the circumstances hereinafter enumerated.

2. No impoundment shall be valid unless made under order of an authorized police officer, and in strict adherence to the procedures established in this Article or by other policies of the City of Elk City, Oklahoma.

**Section 22-30. Causes for Impoundment.**

1. A disabled vehicle upon a street or highway may be impounded under the following circumstances:

- a. If left unattended and improperly parked on a street or highway;
  - b. If left unattended longer than forty-eight (48) hours on the shoulder of any highway; or
  - c. If the person in charge of the vehicle is physically incapacitated to such extent as to be unable to provide for its custody or removal.
2. An unattended vehicle left upon any bridge, viaduct, causeway or within the structure of a grade separation, may be impounded.
3. Whenever the driver, or person in charge, of any vehicle is placed under arrest, taken into custody and detained by police under circumstances which leave, or will leave, a vehicle unattended within the corporate city limits, of the City of Elk City, the vehicle may be impounded.
4. A vehicle left unattended upon any street, alley or thoroughfare, and so parked illegally as to constitute a definite hazard or obstruction to the normal movement of traffic, shall be impounded.
5. When any derelict vehicle is discovered by the Police Department to have been parked upon any street in the City of Elk City, Oklahoma, for a period of seventy-two (72) hours, or more, the Police Department is authorized to impound the vehicle, and if the owner of the vehicle may be ascertained by reasonable diligence, the owner shall be notified of the action by the Police Department.
6. A trespassing, unattended vehicle found may be impounded when the required complaint has been properly made and filed. The owner or legal occupant who complains shall sign a complaint against the person parking the vehicle on the owner's (or legal occupant's) property; if the identity of the person parking the vehicle is unknown, then the complaint may be filed against the registered owner of the vehicle. The complaint shall be verified and shall allege that the complaining party is the owner or legal occupant of the property upon which the vehicle is parked or standing. Upon filing of the complaint by the property owner or legal occupant, and if there appears to be proper cause to believe a violation has occurred, the Police Department shall cause the vehicle to be impounded and placed in storage.
7. Any unattended vehicle parked at the street curbing of any zone where parking is prohibited, and where official signs are in place giving notice thereof in violation of the prohibition, may be impounded.
8. Any vehicle illegally parked in such a manner that it blocks a fire escape, ladder or exit, or blocks ready access to a fire hydrant, shall be impounded.
9. Any unattended vehicle illegally parked in any street intersection, shall be

impounded. A disabled vehicle in an intersection with the person in charge of the vehicle being present, shall be moved out of the intersection and to the nearest available legal parking space at the street curbing.

10. Whenever a stolen vehicle is located by police and the registered owner cannot be found within a reasonable time, not exceeding eight (8) hours, or cannot be determined from the registration papers or other identification in the vehicle (or from records or information available from reports of stolen cars), the vehicle may be removed to the nearest authorized place of impoundment and the registered owner of the vehicle notified of the location of the place of impoundment as soon as possible by the Police Department. If the registered owner is identified, located and notified of the recovery of the stolen vehicle, the owner shall be given the right to make his own arrangements for the removal of the vehicle within a period of twenty-four (24) hours from the time he is actually notified of its recovery; if the owner is unable or unwilling to effect the removal within the time specified, the vehicle may be impounded.

**Sections 22-31 through 22-34. (Reserved for future use.)**

**Article 4. Vehicle and Equipment Prohibitions**

**Section 22-35. Injurious or Obstructive Vehicles or Objects.**

1. No vehicle or object which injures, or is likely to injure, any street within the City of Elk City, Oklahoma, shall be driven or moved on any street within said municipality.

2. No person shall drive any vehicle which is in such condition, so constructed or so loaded as to cause, or be likely to cause, a delay in traffic or constitute a hazard to persons or property, without having obtained a permit from the Office of the City Clerk.

**Section 22-36. Size and Weight of Vehicles; Truck Routes.**

1. No person shall drive or convey through any street any vehicle, the width, height, length, weight or load of which exceeds that authorized by State Laws, except in accordance with a permit issued by State authority.

2. The City Commission may prescribe routes through the municipality for the use of trucks in general or trucks of particular kinds and/or other vehicles, which are not ordinary private passenger vehicles, passing through the City of Elk City, Oklahoma.

3. The City Commission shall see that appropriate and adequate signs are placed along such routes so that drivers of such vehicles may follow the routes. When such signs are erected and in place, the driver of a truck or other vehicle for which a route has been so prescribed, while passing through the City of Elk City, Oklahoma, shall keep on such route and shall not deviate there from, except in case of emergency.

**Section 22-37. Intent and Purpose.**

Whereas the imprudent operation of utility vehicles, golf carts and similar vehicles can be dangerous and can constitute a menace to the public health, safety and welfare of the City of Elk City, it is the intent and purpose of this section and pertinent sections following that utility vehicles, golf carts and similar vehicles be reasonably regulated for the public good.

**Section 22-38. Definitions.**

For the purposes of Sections 22-37 through 22-39, the following definitions shall apply:

1. "All-terrain vehicle" shall mean a vehicle powered by an internal combustion engine manufactured and used exclusively for off-highway use traveling on four or more low-pressure tires, and having a seat designed to be straddled by the operator and handlebars for steering;

2. "Golf cart" shall mean any four-wheeled internal combustible or electrical vehicle that is powered by an electric motor that draws current from rechargeable storage batteries or other sources of electrical current and whose top speed is greater than 20 miles per hour but not greater than 25 miles per hour designed primarily for the operation on a recreational golf course which is not registered with the State of Oklahoma;

3. "Low-speed electrical vehicle" shall mean any four-wheeled electrical vehicle that is powered by an electric motor that draws current from rechargeable storage batteries or other sources of electrical current and whose top speed is greater than 20 miles per hour but not greater than 25 miles per hour and is manufactured in compliance with the National Highway Traffic Safety Administration standards for low-speed vehicles in 49 C.F.R. 571.500;

4. "Maintenance utility vehicle" shall mean a vehicle powered by either an internal combustion engine or electrical vehicle that is powered by an electric motor that draws current from rechargeable storage batteries or other sources of electrical current and whose top speed is greater than 20 miles per hour but not greater than 25 miles per hour utilized for transportation of City employees or equipment during routine maintenance of City-owned property or facilities;

5. "Mini-truck" shall mean a foreign-manufactured import or domestic-manufactured vehicle powered by an internal combustion engine with a piston or rotor displacement of 1,000 cubic centimeters or less, which is 67 inches or less in width, with an unladen dry weight of 3,400 pounds or less, traveling on four or more tires, having a top speed of approximately 55 miles per hour, equipped with a bed or compartment for hauling and having an enclosed passenger cab;

6. "Utility vehicle" shall mean a vehicle powered by an internal combustion engine, manufactured and used exclusively for off-highway use, equipped with seating for two or more people and a steering wheel, traveling on four or more wheels.

**Section 22-39. Special Provisions; Exceptions.**

1. Notwithstanding the definitions of the terms "motor vehicle" and "motorcycle" contained in the Motor Vehicle License and registration act, Title 47 O.S. 1975, § 562, motor-driven cycles, known and commonly referred to as "mini-bikes," "trail bikes," all terrain vehicles and other similar trade names, shall not be permitted to be operated on the streets or highways of the City of Elk City.

2. The provisions of this section shall also apply to those motor-driven or operated vehicles known as golf carts, go-karts, power lawn mowers and other motor vehicles which are manufactured principally for use off the streets and highways. However, this shall not prohibit occasional necessary movement of such golf carts, go-karts, power lawn mowers and other vehicles on streets, and shall not prohibit the use of mini-bikes and trail bikes used by participants in parades.

3. Nothing in section 22-37 through 22-39 shall be interpreted to prohibit farm vehicles from using the City streets or highways.

4. Golf carts, utility vehicles, side-by-side four wheelers and small vehicles commonly known as mini-trucks are prohibited from operating on Federal and State highways and City streets or highways within the limits of the City of Elk City, except as follows:

a. When such vehicle is operated by a person 16 years of age or older possessing a valid operators license during the daylight hours only. (Daylight hours are determined to be 1/2 hour after sunrise and 1/2 hour before sunset as listed by the National Oceanic and Atmospheric Administration);

b. When such vehicle is operated on a Federal or State highway only if making a perpendicular (90°) crossing of a Federal or State highway located within the limits of the City of Elk City;

5. Every person operating golf carts, utility vehicles, side-by-side four wheelers and small vehicles commonly known as mini-trucks upon a street shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle under the laws of this state declaring rules of the road applicable to vehicles or by the Traffic Ordinances of the City applicable to the driver of a vehicle, except as to special regulations in this section and except as to those provisions of law and ordinances which by their nature can have no application.

6. All golf carts, utility vehicles, side-by-side four wheelers and small vehicles commonly known as mini-trucks operating in the limits of the City of Elk City shall have a Slow Moving Vehicle emblem which shall be affixed to the rear portion of the aforementioned vehicles. Golf carts and utility vehicles shall be equipped with a lap safety belt for each occupant of the golf cart or utility vehicle. Passengers under the age of six years old are restricted from riding upon golf carts or utility vehicles, unless the driver of the golf cart or utility vehicle is

twenty-one(21) years of age or older.

7. All golf carts, utility vehicles, side-by-side four wheelers and small vehicles commonly known as mini-trucks operating in the limits of the City of Elk City shall be restricted from operating on a street or highway with a posted speed limit greater than 35 MPH and shall not be driven at a speed greater than 35 MPH.

8. City-owned maintenance utility vehicles may be operated anywhere within the City limits of the City of Elk City by City employees and inmates incarcerated with the Oklahoma Department of Corrections who reside in Elk City serving time in the Prerelease Work Program while performing authorized City functions. Operation of City-owned maintenance utility vehicle on any street or highway with speed limits posted greater than thirty-five (35) MPH must be authorized by the City Manager or his/her designee, and

- a. Driven only while performing specific tasks;
- b. Operated during normal business hours daytime only); and
- c. Utilized only as determined by the City Manager or his/her designee.

9. Owners of all golf carts, utility vehicles, side-by-side four wheelers and small vehicles commonly known as mini-trucks operated on any City street of the City of Elk City will be required to;

- a. Purchase a City permit for such operation from the Oklahoma Tax Commission (tag agency). (The permit will be valid for a period of 12 months from the date of purchase); and
- b. Carry liability insurance issued through a licensed insurance company.

**Sections 22-40 through 22-44. (Reserved for future use.)**

## **Article 5. Traffic Control Devices**

### **Section 22-45. Installation of Traffic Control Devices.**

The City Commission shall have traffic-control signs, signals and devices placed and maintained, when and as required under the ordinances of the City of Elk City, Oklahoma, to make the provisions of such Ordinances effective.



**Section 22-46. Specifications for Traffic Control Devices.**

All traffic-control signs, signals and devices shall conform to the Manual on Uniform Traffic Control Devices, Current Edition, approved by the Oklahoma State Department of Transportation. All signs and signals required hereunder for a particular purpose shall, so far as practicable, be uniform as to type and location throughout the municipality. All traffic-control devices so erected and not inconsistent with the provision of State Law or this Chapter, shall be official traffic control devices.

**Section 22-47. Turn Signs and Indicators.**

1. The City Commission is hereby authorized to determine those intersections at which drivers of vehicles shall not make a right, left or U-turn, and shall have placed proper signs at such intersections. The making of such turns may be prohibited between certain hours of any day and permitted at other hours, in which event, the same shall be plainly indicated on said signs.

2. Whenever authorized signs are erected, indicating that no right, left or U-turn is permitted, no driver of a vehicle shall disobey the directions of any such sign.

3. Unless otherwise indicated by such signs, a right turn on red or stop shall be permitted after the vehicle has come to a complete stop.

**Section 22-48. Designation and Marking of One-Way Streets.**

Whenever the City Commission designates any street, alley or part thereof as a one-way street or alley, said City Commission shall have signs placed, giving notice thereof. Signs indicating the direction of lawful traffic movement shall be placed at every intersection where movement of traffic in the opposite direction is prohibited.

**Section 22-49. Marking of Traffic Lanes.**

1. The City Commission is hereby authorized to have traffic lanes marked upon the roadway of any street where a regular alignment of traffic is necessary.

2. Where traffic lanes have been marked, it shall be unlawful for the operator of any vehicle to fail or refuse to keep such vehicle within the boundaries of any such lanes, except when lawfully passing another vehicle, preparing to make a lawful turning movement or as otherwise authorized by Ordinance.

**Section 22-50. Designation and Marking of Crosswalks.**

The City Commission shall have the authority to designate, by appropriate devices or lines upon the surface of the roadway, crosswalks at intersections or other places where, in its opinion, there is particular danger to pedestrians crossing the roadway.

**Section 22-51. Unauthorized Signs or Devices.**

1. No person shall place, maintain or display, upon or in view of any highway, an unauthorized sign, signal, marking or device which purports to be, is an imitation of, or resembles an official traffic-control device or railroad sign or signal, which attempts to direct the movement of traffic, which projects any flashing or revolving beams of light, or which hides from view or interferes with the effectiveness of any official traffic-control device or any railroad sign or signal.

2. No person shall place or maintain, nor shall any public authority permit, upon any highway, any traffic sign, signal or device bearing thereon any commercial advertising.

3. This Section shall not be deemed to prohibit the placement, upon private property, of signs giving useful directional information and of a type that cannot be mistaken for official signs.

4. Every such prohibited sign, signal, marking or device is hereby declared to be a public nuisance, and the City Commission is hereby empowered to remove the same, or cause it to be removed.

#### **Section 22-52. Classification of Streets.**

1. The City Commission may adopt (by Resolution) a Street Classification System for the City of Elk City, Oklahoma. Whenever such a system is adopted, it shall be the duty of said City Commission to have stop signs placed and maintained, or if deemed more appropriate at any intersection, yield signs, on each and every street involved in the implementation of the Classification System (unless traffic at any intersection is controlled at all times by traffic-control signals).

2. The City Commission is hereby authorized to determine and designate intersections where a particular hazard exists and to determine:

- a. Whether vehicles shall stop at one (1) or more entrances to any such intersection, in which event it shall cause to be erected a Stop sign at every such place where a stop is required; or
- b. Whether vehicles shall yield the right-of-way to vehicles on a different street at such intersection, in which event, it shall cause to be erected a yield sign at every place where obedience thereto is required.

3. Every stop and yield sign shall be erected as near as practicable to the nearest line of the crosswalk on the near side of the intersection or, if there is no crosswalk, then as near as practicable to the nearest line of the intersecting roadway.

#### **Sections 22-53 through 22-64. (Reserved for future use.)**

### **Article 6. Parking, Stopping and Loading**

**Section 22-65. Stopping or Parking Prohibited in Specified Places.**

1. No person shall stop or park a vehicle, except when necessary to avoid a conflict with other traffic or in compliance with law, Ordinance, the directions of a police officer or traffic-control device, or in an emergency situation, in any of the following places:

- a. On any sidewalk;
- b. In front of, or obstructing any driveway;
- c. Within an intersection;
- d. Within fifteen (15) feet of a fire hydrant (except in an officially-marked parking space);
- e. Within or on a crosswalk;
- f. Within twenty (20) feet of the driveway entrance to any fire station;
- g. Near any street work or excavation, when stopping or parking would obstruct traffic;
- h. On the roadway side of any vehicle stopped or parked at the edge or curb of a street (double- parking or double-stopping);
- i. In any alley where less than ten (10) feet of the roadway will be left available for the movement of vehicular traffic; or
- j. At any place where official signs prohibit stopping.

2. The City Commission is hereby authorized to establish parking time limits, and to prohibit parking on designated streets and parts of streets by having appropriate signs placed thereon.

**Section 22-66. Angle Parking.**

1. The City Commission shall determine upon what streets and parts of streets, angle parking shall be permitted, and shall have such streets marked or signed.

2. On those streets which have been so signed or marked for angle parking, no person shall park or stand a vehicle other than at the angle to the curb or edge of the roadway indicated by such signs or markings or outside of the area enclosed by said markings.

**Section 22-67. Standing or Parking Close to Curb; Brakes.**

1. Except as otherwise provided in this Article, every vehicle stopped or parked upon a roadway where there are adjacent curbs, shall be so stopped or parked with the right-hand wheels of such vehicle parallel to, and within eighteen (18) inches of, the right-hand curb; provided that every vehicle stopped or parked upon the left-hand side of a one-way street where there are adjacent curbs, shall be parked or stopped with the left-hand wheels parallel to, and within eighteen (18) inches of, the left-hand curb.

2. Adequate brakes shall be set on all parked vehicles.

**Section 22-68. Parking on Private Property.**

1. It shall be unlawful to place or park a motor vehicle or a trailer upon the posted private property of another, without first obtaining permission from the person in charge of such property, except where said placing or parking is involuntary.

2. A landowner, or other person in charge of the land, may cause any motor vehicle or trailer which is left on private property after posted hours, to be removed and impounded by an appropriate wrecker service. The Police Department or any police officer is also authorized to remove any unauthorized vehicles from private property upon direction of the owner of the property or persons in charge of the property. The City of Elk City, Oklahoma, any landowner or person in charge of the property shall not be liable for any damages which may occur to the trespassing vehicle or trailer under the terms of this Section, while the same is trespassing, while it is being removed from his property or while it is in storage.

**Section 22-69. Certain Truck Parking Prohibited.**

It shall be unlawful to place or park any truck in excess of one ton or in excess of one axle, or any vehicle other than passenger automobiles, pick-ups, vans, or other similar vehicles on any residential street, or alley, or within twenty-five (25) feet of any such residential street or alley within the City of Elk City, except for the purposes of loading and unloading. Provided however, it shall be unlawful for any vehicle to be parked on any street where signs clearly prohibit such parking.

**Section 22-70. Presumption in Reference to Illegal Parking.**

1. In any prosecution charging a violation of any law or regulation governing the standing or parking of a vehicle, proof that the particular vehicle described in the complaint was parked in violation of any such law or regulation, together with proof that the defendant named in the complaint was, at the time of such parking, the registered owner of such vehicle, shall constitute in evidence a prima facie presumption that the registered owner of such vehicle was the person who parked or placed such vehicle at the point where, and for the time during which, such violation occurred.

2. The foregoing stated presumption shall apply only when the procedure of giving a citation tag has been followed.

**Section 22-71. Loading Zones.**

1. The City Commission is hereby authorized to determine the location of passenger and freight curb loading zones, and shall have appropriate signs placed, indicating the same and stating the hours during which the provisions of this Section are applicable. By the same authority, such loading zones may be changed or discontinued.

2. When such a loading zone is established upon the request of any person, firm or corporation, the City Commission shall not have signs placed until the applicant has paid to the City Clerk an amount of money estimated by said City Commission to be adequate to reimburse the City for all costs of establishing and signing the same.

3. No person shall stop, stand or park a vehicle for any purpose or length of time other than for the expeditious unloading and delivery or pickup and loading of materials in any place marked as freight curb loading zone during hours when the provisions applicable to such zones are in effect.

**Sections 22-72 through 22-79. (Reserved for future use.)**

**Article 7. Bicycles**

**Section 22-80. Traffic Laws Applicable to Persons Riding Bicycles.**

Every person riding a bicycle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by the Laws of this State declaring the rules of the road applicable to vehicles, or by the Ordinances of the City of Elk City, Oklahoma, applicable to the driver of a vehicle, except as to special regulations in this Article and to those provisions of laws or Ordinances which, by their nature, can have no application.

**Section 22-81. Bicycle Equipment.**

Every bicycle in use at nighttime shall be equipped with a lamp on the front which shall emit a white light visible from all distances, up to five hundred (500) feet to the front, and with a red reflector on the rear of a type which shall be visible from all distances up to three hundred (300) feet to the rear, when directly in front of lawful upper beams of headlamps on a motor vehicle.

**Section 22-82. Obedience to Traffic Control Devices.**

1. Any person operating a bicycle shall obey the instructions of official traffic-control signals, signs and other control devices applicable to vehicles, unless otherwise directed by a police officer.

2. Wherever authorized signs are erected indicating that no right, left or U-turn is permitted, no person operating a bicycle shall disobey the direction of any such sign, except where such person dismounts from the bicycle to make any such turn, in which event, such person shall then obey the regulations applicable to pedestrians.

### **Section 22-83. Riding on Bicycles.**

1. No bicycle shall be used to carry more persons at a time than the number for which it is designed and equipped.

2. Every person operating a bicycle upon a roadway shall ride as near to the right side of the roadway as practicable, exercising due care when passing a vehicle standing or proceeding in the same direction.

3. Wherever a usable path for bicycles has been provided adjacent to a road way, bicycle riders shall use such path and not the roadway.

4. No person shall operate a bicycle at a speed greater than is reasonable and prudent under the conditions then existing.

5. The operator of a bicycle emerging from an alley, driveway or building shall yield the right-of-way to all approaching pedestrians, and upon entering a roadway, shall yield the right-of-way to all vehicles approaching on such roadway.

6. The City Commission is authorized to have signs placed on any traffic way prohibiting the riding of bicycles thereon by any person; when such signs are in place, no person shall disobey the same.

### **Section 22-84 through 22-89. (Reserved for future use.)**

## **Article 8. Pedestrians**

### **Section 22-90. Application of Article.**

Pedestrians shall be subject to traffic-control signals, but, at all other places, shall be granted those rights and be subject to those restrictions in this Article.

### **Section 22-91. Pedestrians.**

1. When traffic control signals are not in place or in operation, the driver of a vehicle shall yield the right-of-way, slowing down or stopping, if need be, to so yield to a pedestrian crossing the roadway within a crosswalk.

2. No pedestrian shall suddenly leave any place of safety, and walk or run into the path of a vehicle.

3. Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle.

**Section 22-92. Drivers to Exercise Due Care.**

Notwithstanding the foregoing provisions of this Article, every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian upon any roadway, shall give warning by sounding the horn when necessary, and shall exercise proper precaution upon observing any child or confused or incapacitated person upon a roadway.

**Section 22-93 through 22-99. (Reserved for future use.)**

**Article 9. Motor Vehicle Security Verification**

**Section 22-100. Security Verification Required; Exemptions.**

1. The owner of a motor vehicle registered in this state and operating said vehicle within the City's boundaries, shall carry in such vehicle at all times a current owner's security verification form listing the vehicle, or an equivalent form which has been used by the Oklahoma Department of Public Safety the form shall be produced by any driver thereof upon request for inspection by any law enforcement officer and, in case of a collision, the form shall be shown upon request to any person affected by said collision.

2. The following shall not be required to carry an owner's or operator's security verification form or an equivalent form from the Oklahoma Department of Public Safety during operation of the vehicle and shall not be required to surrender such form for vehicle registration purposes:

- a. any vehicle owned or leased by the federal or state government, or any agency or political subdivision thereof.
- b. any vehicle bearing the name, symbol or logo of the business, corporation or utility on the exterior and which is in compliance with the Compulsory Insurance Law according to records of the Oklahoma Department of Public Safety which reflect a deposit, bond, self-insurance, or fleet policy.

- c. any vehicle authorized for operation, under a permit number issued by the Interstate Commerce Commission, or the Oklahoma Corporation Commission.
- d. any licensed taxicab, and
- e. any vehicle owned by a licensed motor vehicle dealer.

**Section 22-101. Definitions.**

1. "Owner's Policy". An owner's policy of liability insurance:
  - a. shall designate by explicit description or by appropriate reference all vehicles with respect to which coverage is thereby to be granted.
  - b. shall insure the person named therein and insure any other person, except as provided in subparagraph c of this paragraph, using an insured vehicle with the express or implied permission of the named insured, against loss from the liability imposed by law for damages arising out of the ownership, maintenance, operation or use of such vehicle.
  - c. may provide for exclusions from coverage in accordance with existing laws, and
  - d. shall be issued by an authorized carrier providing coverage in accordance with Section 7-204 of Title 47 of the Oklahoma Statutes.
  
2. "Operator's Policy". An operator's policy of liability insurance shall insure the named person against loss from the liability imposed upon him by law for damages arising out of the operation or use by him of any motor vehicle not owned by him, subject to the same limits of liability required in an owner's policy.
  
3. "Security". Security means:
  - a. a policy or bond meeting the requirement of Section 7-204 of Title 47 of the Oklahoma Statutes.
  - b. a deposit of cash or securities having the equivalency of limits required under Section 7-204 of Title 47 of the Oklahoma Statutes as acceptable limits for a policy or bond, or
  - c. self-insurance, pursuant to the provisions of Section 7-503 of Title 47 of the Oklahoma Statutes, having the equivalency of limits required under Section 7-204 of Title 47 of the Oklahoma Statutes as acceptable limits for a policy



or bond.

4. "Compulsory Insurance Law". Compulsory Insurance Law is the law requiring liability insurance in conjunction with the operation of a motor vehicle in this state as found in Article VI, Chapter 7 of Title 47 of the Oklahoma Statutes.

5. "Security Verification Form". A security verification form is a form, approved by the State Board for Property and Casualty Rates, verifying the existence of security required by the Compulsory Insurance Law of the State of Oklahoma.

**Section 22-102. Possession of Security Verification Form while Operating or Using certain Vehicles Required.**

Every operator of a motor vehicle registered in this state, shall while operating or using such vehicle within the City's boundaries, carry either an operator's or an owner's security verification form issued by a carrier, providing the operator is not excluded from coverage thereon; or an equivalent form issued by the Department of Public Safety, reflecting liability coverage.

**Section 22-103. Failure to Maintain Security an Offense.**

1. Any owner or operator who fails to produce for inspection a valid and current security verification form or equivalent form which has been issued by the Oklahoma Department of Public Safety upon request of any peace officer of the Elk City Police Department shall be guilty of an offense.

2. A sentence imposed for any violation of this section may be suspended or deferred in whole or in part by the court.

3. Any person producing proof in court that a current security verification form or equivalent form which has been issued by the Oklahoma Department of Public Safety reflecting this liability coverage for such person was in force at the time of the alleged offense shall be entitled to dismissal of such charge.

4. Upon conviction, bond forfeiture or deferral of sentence, the court clerk shall forward an abstract to the Oklahoma Department of Public Safety within ten (10) days reflecting the action taken by the court.

**Sections 22-104 through 22-109. (Reserved for future use.)**

**Article 9 . Miscellaneous Provisions**

**Section 22-110. Obedience to Chapter.**

1. It shall be unlawful for any person, firm or corporation to authorize or knowingly to permit any vehicle registered in his or its name, to be driven or be parked in violation of any provision of this Chapter.

2. The parent or guardian of any child or ward shall not authorize or knowingly permit any such child or ward to violate any of the provisions of this Chapter.

**Section 22-111. Public Officials and Employees.**

1. The provisions of this Chapter shall apply to the driver of any vehicle owned by or used in the service of the United States Government, and any State, county, municipal or other governmental unit or agency, as well as to other vehicles; it shall be unlawful for any said driver to violate any of the provisions of this Chapter, except as otherwise permitted in this Chapter or by State Laws.

2. This Chapter shall not apply to the military forces of the United States and organizations of the National Guard when performing military duty.

**Section 22-112. Necessity of Signs.**

No provisions of this Chapter for which signs are required shall be enforced against an alleged violator if, at the time and place of the alleged violation, an official sign is not in proper position and sufficiently legible to be seen by an ordinary observant person. Whenever a particular Section does not state that signs are required, such Section shall be effective even though no signs are erected or in place.

**Section 22-113. Equipment, Licensing and Inspection of Vehicles.**

1. It shall be unlawful to operate a vehicle which is not equipped as required by law upon any street within the City of Elk City, Oklahoma. It shall also be unlawful to fail to use such equipment in the manner required by law, use it in a manner prohibited by law or to operate a vehicle which has equipment prohibited by law upon any street within said City.

2. It shall be unlawful to operate a vehicle of any kind upon a street of the City of Elk City, Oklahoma, unless such vehicle is licensed and displays a valid license plate thereon, as required by State Law.

3. It shall be unlawful to operate a motor vehicle, or any combination of such vehicles licensed by the Oklahoma Tax Commission, unless said vehicle or vehicles bear a valid, official State Inspection Sticker issued by an official inspection station licensed by the Oklahoma Department of Public Safety; provided that such sticker is required by current State Law.

**Section 22-114. Inspection of Vehicles.**

Police officers shall have authority to inspect and test any vehicle upon the streets of the City at any time, with reasonable cause, to determine whether it is safe, properly equipped and whether its equipment is in proper adjustment and repair.

**Section 22-115. Motorcycles.**

A person operating a motorcycle, motor scooter or motor bicycle shall ride only upon the permanent and regular seat attached thereto and shall not carry any other person, nor shall any other person ride on the vehicle, unless it is designed to carry more than one (1) person, in which event, a passenger may ride only upon the permanent and regular seat if designed for two (2) persons, or upon another seat firmly attached to the rear or side of the operator.

**Section 22-116. Construction Zones.**

1. Municipal personnel, contractors or utility companies, while repairing or improving the streets of the City of Elk City, Oklahoma, or when installing, improving or repairing lines or other utility facilities in the streets, are here-by authorized, subject to control by the City Commission, to close any street, or section thereof, to traffic during such activity and shall erect, or cause to be erected, proper control devices and barricades to warn the public that such street has been closed to traffic.

2. When any street has been closed to traffic under the provisions of Subsection 1 (above) and traffic-control devices or barricades have been erected, it shall be unlawful for any person to drive any vehicle under, over, around or through such traffic-control devices or barricades, or otherwise to enter the closed area (except that the provisions of this Subsection shall not apply to persons while engaged in such construction, maintenance and repair, to persons entering therein for the protection of lives or property or to persons having their places of residence or business within such closed area, who may travel through such area at their own risk).

3. Whenever construction, repair or maintenance of any street, utility line or facility is being performed, and the street is not closed to traffic in accord with this Section, the municipal personnel, contractor or utility company concerned shall erect warning devices for the public. Every person using such street shall obey such warning devices.

**Section 22-117. Persons Working on Streets.**

1. Unless specifically made applicable, the provisions of this Chapter, except those relating to reckless driving and driving while intoxicated, shall not apply to persons, teams, motor vehicles and other equipment while actually engaged in work upon the surface of a street, or to persons, motor vehicles and other equipment while actually engaged in construction, maintenance or repair of public utilities; provided that all highway and public utility operations shall be protected by adequate warning signs, signals, devices or flagmen.

2. However, the provisions of this Chapter shall apply to such persons and vehicles when traveling to or from such work.

**Section 22-118. Riding or Clinging to Vehicles.**

1. No person shall ride upon any vehicle or portion thereof not designed or intended for the use of passengers. This provision shall not apply to any employee engaged in the necessary discharge of a duty or a person riding within truck bodies in space intended for merchandise.

2. No person riding upon any bicycle, coaster, roller skates, sled or toy vehicle shall attach the same or himself to any vehicle upon a roadway.

**Section 22-119. Dangerous Objects in Streets.**

1. It shall be unlawful for any person to place, cause to be placed, or let fall and remain, in or upon any street, any scrap iron, nail, tack, glass, stick or other thing which is likely to injure persons, damage property or render a street unsafe for traffic.

2. Any person, firm or corporation who shall violate any provision of this Section shall be guilty of an offense and, upon conviction thereof, shall be punished by fine not to exceed five hundred dollars (\$500.00) plus costs and may be imprisoned for any amount of time not to exceed sixty (60) days. Each day such violation is committed or continues to exist shall constitute a separate offense and shall be punishable as such.

**Section 22-120. Funerals.**

1. No driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated.

2. This provision shall not apply at intersections where traffic is controlled by traffic-control signals or police officers.

**Section 22-121. Eluding a Police Officer.**

1. It shall be unlawful and an offense for any operator of a motor vehicle who has received a visual and/or an audible signal (red light and/or a siren) from a police officer driving a motor vehicle, with insignia showing the same to be an official police, sheriff or Highway Patrol car, directing the operator to bring his vehicle to a stop, to willfully increase his speed or extinguish his lights in an attempt to elude such police officer, to willfully attempt, in any other manner, to elude the police officer, or to elude such police officer.

2. Any person, firm or corporation who shall violate any provision of this Section shall be guilty of an offense and, upon conviction thereof, shall be punished by fine not to exceed five hundred dollars (\$500.00) plus costs and may be imprisoned for any amount of time not to exceed sixty (60) days. Each day such violation is committed or continues to exist shall constitute a separate offense and shall be punishable as such.

**Section 22-122. Following Fire Apparatus Prohibited.**

The driver of any vehicle, other than when on official business, shall not follow any fire apparatus traveling in response to a fire alarm, closer than five hundred (500) feet, or drive into or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm.

**Section 22-123. Crossing Fire Hose.**

No vehicle shall be driven over any unprotected hose of any Fire Department when laid down on any street or private driveway to be used at any fire or alarm of fire, without the consent of the Fire Department official in command.

**Section 22-124. Obstruction of Driver's View.**

1. No person shall drive a vehicle when it is so loaded, or when there are, in the front seat, such a number of persons exceeding three (3) as to obstruct the view of the driver to the front or sides of the vehicle, or as to interfere with the driver's control over the driving mechanism of the vehicle.

2. No passenger in a vehicle shall ride in such position as to interfere with the driver's view ahead or to the sides or to interfere with his control over the driving mechanism of the vehicle.

**Sections 22-125 through 22-134. (Reserved for future use.)**

**Article 10. Penalty**

**Section 22-135. Penalty.**

Any person, firm or corporation who shall violate any provision of this Chapter shall be guilty of an offense and, upon conviction thereof, shall be punished by fine and costs as provided for in Section 1-40 of this Code, unless a separate and distinct penalty is otherwise specifically set forth in this Chapter. Each day's continuation of any such violation shall constitute a separate offense.

## CHAPTER 23

### TRANSPORTATION

Article 1. Railroads.

Article 2. Miscellaneous Provisions.

Article 3. Penalty.

#### **Article 1. Railroads**

##### **Section 23-1. Railroads to Improve Certain Streets and Alleys.**

1. When a railway occupies or crosses any portion of a street with its tracks either on or adjacent thereto, the railroad company shall improve as much of the street as is occupied by its tracks and two (2) feet on either side thereof, in a manner satisfactory to the City Commission.

2. Whenever a railroad company crosses or occupies an alley with its tracks, such company shall improve, drain, grade and/or pave such alley, in order to eliminate problems created by the presence of its tracks.

3. When more than one (1) track crosses a street within a distance of one hundred (100) feet (measuring from inside rail to inside rail), the railroad company shall grade, drain and curb the street area between its tracks and surface, in a manner satisfactory to the City Commission.

4. Railroad companies shall keep all such improvements made by them in good state of repair at all times.

##### **Section 23-2. Climbing on Trains.**

1. It shall be unlawful for any person to climb upon, hold to, or in any manner attach himself to, any train or railroad car, while such is in motion within the City of Elk City, Oklahoma, unless such person is acting in the line of duty.

2. It shall also be unlawful to board any train or railroad car (passenger, freight or other) without a proper ticket or the permission of the person in charge of the train or railroad car, or not in the line of duty.

##### **Section 23-3. Speed of Trains.**

It shall be unlawful for any person to operate or drive a train or railroad car(s) at a speed greater than twenty-five (25) miles per hour within the corporate boundaries of the City of Elk City, Oklahoma.

**Section 23-4. Loitering on Railroad Premises.**

It shall be unlawful for any person not acting within the line of duty, not having any proper business or not being on any proper mission requiring his presence there, to loiter anywhere within a railroad yard or upon other railroad premises.

**Section 23-5. Blocking of Streets by Trains.**

It shall be unlawful for the operator of any train to block any street intersection within the corporate boundaries of the City of Elk City, Oklahoma, at any time, for more than five (5) minutes; provided, that this shall not apply to cars in motion, other than those engaged in switching.

**Sections 23-6 through 23-19. (Reserved for future use.)**

**Article 2. Miscellaneous Provisions**

**Sections 23-20 through 23-29. (Reserved for future use.)**

**Article 3. Penalty**

**Section 23-30. Penalty.**

Any person, firm or corporation who shall violate any provision of this Chapter shall be guilty of any offense and, upon conviction thereof, shall be punished by fine and costs as provided for in Section 1-40 of this Code, unless a separate and distinct penalty is otherwise specifically set forth in this Chapter . Each day's continuation of any such violation shall constitute a separate offense.

## CHAPTER 24

### WARDS AND BOUNDARIES

Article 1. Ward Boundaries.

Article 2. Corporate Boundaries.

Article 3. Zoning District Boundaries.

#### Article 1. Ward Boundaries

##### Section 24-1. Ward Boundaries Established.

1. The boundary line of the wards within the City of Elk City are hereby changed as follows:

##### Ward 1

All territory lying East of the centerline of Washington Avenue and North of Country Club Road/HWY 66 centerline and East of the centerline of N. Main Avenue and North of the W. "B" Avenue centerline and East of the Madison Avenue centerline and Monroe Street centerline and North of the 7<sup>th</sup> Street centerline and East of Van Buren Avenue centerline and North of the 20<sup>th</sup> Street centerline excluding the NW1/4 of Section 26, T11N, R21W, I.M. but including all territory North of the Farmrail Railroad located in this quarter section and all territory East of the centerline of S. Main Avenue/HWY 6 and North of the centerline of Cattleman Road, Beckham County, Oklahoma, lying within the corporate limits of the City of Elk City.

##### Ward 2

All territory lying West of the centerline of Washington Avenue and North of Country Club Road centerline and West of the centerline of N. Main Avenue and North of the "C" Avenue centerline excluding an area West of the Walker Avenue centerline, South of the centerline of an alley South of "D" Avenue and East of the Lusk Avenue centerline. Includes all territory lying West of the centerline of an alley West of Garrett Street and North of the centerline of "A" Avenue and West of the centerline of Pioneer Road and North of the centerline of W. 2<sup>nd</sup> Street and West of the centerline of Western Drive and North of the centerline of W. 3<sup>rd</sup> Street, Beckham County, Oklahoma, lying within the corporate limits of the City of Elk City.

##### Ward 3

All territory lying South of 7<sup>th</sup> Street and West of Van Buren Avenue and East of Washington Street, East of Randall Avenue and South of 20<sup>th</sup> Street and West of Main Avenue/HWY 6 and East of Pioneer Road, South of Cattleman Road and West of N2030



Road and East of Main Avenue/HWY 6, NW1/4 of Section 26, T11N, R21W, I.M. excluding area North of Farmrail Railroad and all territory described beginning at the intersection of the centerline of "C" Avenue and Main Avenue; thence West along said centerline to the centerline of Walker Avenue; thence North along said centerline to the centerline of the alley North of "C" Avenue; thence West along said centerline to the centerline of Lusk Avenue; thence South along said centerline to the centerline of "C" Avenue; thence West along said centerline to the centerline of the alley West of Garrett Street; thence South along said centerline to the centerline of "A" Avenue; thence East along said centerline to the centerline of Peace Avenue; thence South along said centerline to the centerline of Wynn Street; thence East along said centerline to the centerline of Lincoln Avenue; Thence South along said centerline to the centerline of 2<sup>nd</sup> Street; thence East along said centerline to the centerline of Calloway Avenue; thence South along said centerline to the centerline of 6<sup>th</sup> Street; thence East along said centerline to the centerline of Oliver Avenue; thence South along said centerline to the centerline of 8<sup>th</sup> Street; thence East along said centerline to the centerline of Walker Avenue; thence South along said centerline to the centerline of 10<sup>th</sup> Street; thence East along said centerline to the centerline of Washington Street; thence North along said centerline to the centerline of 7<sup>th</sup> Street; thence East along said centerline to the centerline of Monroe Avenue; thence North along said centerline to the centerline of 5<sup>th</sup> Street; thence West along said centerline to the centerline of Madison Avenue; thence North along said centerline to the centerline of "B" Avenue; thence West along said centerline to the centerline of Main Avenue; thence North along said centerline to the centerline of "C" Avenue, Beckham County, Oklahoma, lying within the corporate limits of the City of Elk City.

#### Ward 4

All territory lying West of Randall Avenue centerline and South of 3<sup>rd</sup> Street centerline and North of 20<sup>th</sup> Street centerline, plus territory of NE1/4 of Section 36 and the SE1/4 of Section 24, T11N, R22W, I.M. and all territory described beginning at the intersection of the centerline of Washington Street and 10<sup>th</sup> Street; thence South along centerline of Washington Street to the centerline of the Farmrail Railroad; thence West along said centerline to the centerline of Randall Avenue; thence North along said centerline to the centerline of 3<sup>rd</sup> Street; thence West along said centerline to Western Drive centerline; thence North along said centerline to 2<sup>nd</sup> Street; thence East along said centerline to the centerline of Pioneer Road; thence North along said centerline to the centerline of "A" Avenue; thence East along said centerline to the centerline of Peace Avenue; thence South along said centerline to the centerline of Wynn Street; thence East along said centerline to the centerline of Lincoln Avenue; Thence South along said centerline to the centerline of 2<sup>nd</sup> Street; thence East along said centerline to the centerline of Calloway Avenue; thence South along said centerline to the centerline of 6<sup>th</sup> Street; thence East along said centerline to the centerline of Oliver Avenue; thence South along said centerline to the centerline of 8<sup>th</sup> Street; thence East along said centerline to the centerline of Walker Avenue; thence South along said centerline to the centerline of 10<sup>th</sup> Street; thence East along said centerline to the centerline of Washington Street, Beckham County, Oklahoma, lying within the corporate limits of the City of Elk City.

**Sections 24-2 through 24-4. (Reserved for future use.)**

**Section 24-5. Corporate Boundaries Map.**

1. A map depicting the current corporate boundaries of the City of Elk City, Oklahoma, shall be maintained and displayed in the Office of the City Clerk.
2. This map shall reflect all current annexation and de- annexation Ordinances and orders, all plat and/or street vacation orders, and shall represent the official map of the corporate boundaries of the City of Elk City, Oklahoma.
3. This map may be combined with the official Zoning Districts Map (See Article 3 of this Chapter). All dedicated streets and alleys shall be shown on this map; vacated streets and alleys shall not be shown on said map, but shall be redrawn by the methods provided by Oklahoma Statutes.
4. This map shall be available for public inspection.

**Sections 24-6 through 24-9. (Reserved for future use.)**

**Article 3. Zoning Boundaries**

**Section 24-10. Zoning District Boundaries.**

1. A map showing the boundaries of all current Zoning Districts within the entire corporate boundaries of the City of Elk City, Oklahoma, shall be maintained in the Office of the City Clerk, if a Zoning Ordinance is in effect within said municipality.
2. This map shall reflect all current Zoning Ordinance provisions (See Chapter 18, this Code of Ordinances) and all current Ordinances re-zoning land, and shall represent the official Zoning Districts Map for the City of Elk City, Oklahoma.
3. This map may be combined with the official map of the corporate limits of the City of Elk City, Oklahoma. (See Article 2 of this Chapter).
4. This map shall be available for public inspection.

**Section 24-11 through 24-19. (Reserved for future use.)**