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CHAPTER 1

GENERAL PROVISIONS

ARTICLE 1

USE AND CONSTRUCTION OF THE CODE

SECTION 1-101 HOW CODE DESIGNATED AND CITED.

The ordinances embraced in this and the following chapters and sections shall constitute and be designated as "Fairview Municipal Code 2013" and may be so cited. The Code may also be cited as the City Code or in the provisions which follow, as the "Code."

State Law Reference: Adoption and revision of codes and codes of ordinances, 11 O.S. Secs. 14-108, 14-109.

SECTION 1-102 RULES OF CODE CONSTRUCTION; DEFINITIONS.

A. In the construction of this code and all ordinances, the following rules of construction and definitions shall be observed unless inconsistent with the manifest intent of the city council or the context clearly requires otherwise:

1. "Administrative regulations" means written orders which are issued by approval of the City Manager of the City;
2. Administrator" see "City Manager"
3. "And/or" means "or," and "or" may be read "and" if the sense requires it;
4. "Bond" means an obligation in writing, binding the signatory to pay a sum certain upon the happening or failure of an event;
5. "Building" means any structure intended to have walls and a roof;
6. "Building official" means the person appointed by the City Manager and designated as the city's building official;
7. "Business" means any profession, trade, occupation and any other commercial enterprise conducted for monetary reward;

8. "City" means the City of Fairview, in the County of Major and State of Oklahoma;
9. "City limits" means within the city and includes not only the corporate limits of the city but also any property which it owns or which is under its jurisdiction;
10. "City Manager" or "manager" means the City Manager of the city;
11. "Clerk" means the City Clerk;
12. "Council" means the governing body of the city, the city council;
13. "County" means Major County, Oklahoma;
14. "Definitions" given within a chapter or article apply only to words or phrases used in such chapter or article unless otherwise provided;
15. "Designee," following an official of the city, means the authorized agent, employee or representative of such official;
16. "Gender" Words importing the masculine gender include the feminine and neuter as well as masculine;
17. "Health officer" means administrator of the cooperative department of the county and the city;
18. "Keeper" means one in possession of or who has the care, custody or superintendence of a thing, place or business whether or not the owner or proprietor, and includes any person, firm, association, corporation, club and copartnership whether acting by themselves or by a servant, agent or employee;
19. "Law" means applicable federal law and court decisions, court decisions and provisions of the constitution and statutes of the state and ordinances of the city, and, when appropriate, any and all rules and regulations promulgated thereunder;
20. "Manager" means the City Manager of the city;
21. "May" is permissive and discretionary;

22. "Mayor" means the mayor of the city;
23. "Month" means a calendar month;
24. "Number" Words used in the singular include the plural and the plural includes the singular;
25. "Oath" means any form of attestation by which a person signifies that he is bound in conscience to perform an act or to speak faithfully and truthfully, and includes an affirmation or declaration in cases where by law an affirmation may be substituted for an oath;
26. "Occupant" means tenant or person in actual possession;
27. "Operate" means carry on, keep, conduct, maintain, manage, direct or superintend;
28. "Ordinances" mean the ordinances of the city and all amendments and supplements thereto;
29. "Owner" means one who has complete dominion over particular property and who is the one in whom legal or equitable title rests; when applied to a building or land, "owner" means any part owner, joint owner, owner of a community or partnership interest, life tenant, tenant in common, or joint tenant, of the whole or part of such building or land;
30. "Person" means any individual, natural person, joint stock company, partnership, voluntary association, club, firm, company, corporation, business trust, organization, or any other bodies corporate or politic or group acting as a unit, or the manager, lessee, agent, servant, partner, member, director, officer or employee of any of them including an executor, administrator, trustee, receiver, or other representative appointed according to law;
31. "Personal property" means any money, goods, movable chattels, things in action, evidence of debt, all objects and rights which are capable of ownership, and every other species of property except real property;
32. "Preceding" and "following" means next before and next after, respectively;

33. "Proprietor" means an owner of the property or premises, including any person, firm, association, corporation, club, partnership or other group acting as a unit, whether acting by themselves or by a servant, agent or employee;
33. "Public Place" means and includes any public street, road or highway, alley, lane, sidewalk, crosswalk, or other public way, or any public resort, place of amusement, stadium, athletic field, park, playground, public building or grounds appurtenant thereto, school building or school grounds, public parking lot or vacant lot, the elevator, lobby, halls, corridors and areas open to the public of any store, office or apartment building, or any other place commonly open to the public;
34. "Real property" means land together with all things attached to the land so as to become a part thereof;
35. "Shall". The word "shall" is mandatory;
36. "Sidewalk" means that portion of a street between the curbline and the adjacent property along the margin of a street or other highway, designed, constructed and intended for the use of pedestrians to the exclusion of vehicles;
37. "Signature and subscription" means the name of a person, mark or symbol appended by him to a writing with intent to authenticate the instrument as one made or put into effect by him;
38. "State" means the State of Oklahoma;
39. "Statutes" means the Oklahoma Statutes as they are now or as they may be amended to be;
40. "Street" means all streets, highways, avenues, boulevards, parkways, roads, lanes, viaducts, bridges and the approaches thereto, docks built on the public street, alleys, courts, places, squares, curbs, sidewalks, recreation and park lands used for vehicular traffic, or other public ways or thoroughfares in this city, over which it has jurisdiction, which have been or may hereafter be dedicated and open to public use, or such other public property so designated in any law of this state;

41. "Tenant" means any person occupying the premises, building or land of another in subordination to such other person's title and with his express or implied assent, whether he occupies the whole or a part of those premises, building or land, whether alone or with others;
42. "Tense" Words used in the past or present tense include the future, past, and present where applicable unless the context clearly indicates otherwise;
43. "Time" means the hour of the day according to the official time of the day;
44. "Time of performance" means the time within which an act is to be done as provided in any section or any order issued pursuant to any section, when expressed in days, and is computed by excluding the first and including the last day. If the last day is a Sunday or legal holiday, that day shall not be counted in the computation. When the time is expressed in hours, the whole of Sunday or a legal holiday from midnight to midnight is excluded;
45. "Treasurer" means the city treasurer;
46. "Watercourse" means any drain, ditch and stream, flowing in a definite direction or course in a bed with banks;
47. "Week" means seven (7) days;
48. "Writing" and "written" means any representation of words, letters or figures, whether by printing or otherwise, capable of comprehension by ordinary visual means; and
49. "Year" means a calendar year.

B. Words and phrases are construed according to the common and approved usage of the language, but technical words and phrases and others that have acquired a peculiar and appropriate meaning in the law are construed and understood according to such meaning.

SECTION 1-103 CATCHLINES OF SECTIONS; CITATIONS.

The catchlines of sections in this code are printed in CAPITAL LETTERS and citations included at the end of sections are intended to indicate the contents of the section and original historical source respectively, and shall not be deemed or taken to be titles and official sources of such sections; nor as any part of the

section, nor, unless expressly so provided, shall they be so deemed when any of the sections, including the catchlines, or citations, are amended or re-enacted.

SECTION 1-104 EFFECT OF REPEAL OF ORDINANCES.

A. The repeal of an ordinance shall not revive any ordinances in force before or at the time the ordinance repealed took effect.

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

SECTION 1-105 SEVERABILITY OF PARTS OF CODE.

It is hereby declared to be the intention of the Council that the sections, paragraphs, sentences, clauses and phrases of this code are severable, and if any phrase, clause, sentence, paragraph, or section of this code or of any ordinance in the code is declared unconstitutional, illegal or otherwise invalid by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this code of ordinances.

SECTION 1-106 AMENDMENT TO CODE; EFFECT OF NEW ORDINANCES; AMENDATORY LANGUAGE.

A. All ordinances passed subsequent to this code or ordinances which amend, repeal or in any way affect this code of ordinances may be numbered in accordance with the numbering system of this code and printed for inclusion therein. When subsequent ordinances repeal any chapter, section or subsection or any portion thereof, the repealed portions may be excluded from this code by omission from reprinted pages.

B. Amendments to any of the provisions of this code may be made by amending the provisions by specific reference to the section of this code in substantially the following language: "Be it ordained by the Council of the City of Fairview, Oklahoma, that Section__ of the code of ordinances of the City of Fairview, Oklahoma, is hereby amended to read as follows:" (Set out new provisions in full).

C. When the Council desires to enact an ordinance of a general and permanent nature on a subject not heretofore existing in the code, which the City desires to incorporate into the code,

a section in substantially the following language may be made part of the ordinance:

Section _____. Be it ordained by the Council of the City of Fairview, Oklahoma, that the provisions of this ordinance shall become and be made a part of the code of ordinances of the City of Fairview, Oklahoma, and the sections of this ordinance may be re-numbered to accomplish this intention.

D. All sections, articles, chapters or provisions of this code desired to be repealed may be specifically repealed by section or chapter number, as the case may be.

State Law Reference: Enactment of ordinances, 11 O.S. Sections 14-103 et seq.

SECTION 1-107 ALTERING CODE.

It is unlawful for any person to change or amend by additions or deletions any part or portion of this code, or to insert or delete pages or portions thereof, or to alter or tamper with this code in any manner whatsoever which will cause the law of the City to be misrepresented thereby. Any person violating this section shall be punished as provided in Section 1-108 of this Code.

Section 1-108 GENERAL PENALTY.

A. Except as otherwise provided by state law, whenever in this code or in any ordinance of the city an act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or whenever in the code or ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is provided therefor, the violation of any provision of this code or of any ordinance, upon conviction, shall be punished by a fine of not exceeding:

1. The maximum fine or deferral fee in lieu of a fine for traffic-related offenses relating to speeding or parking shall not exceed Two Hundred Dollars (\$200.00). The maximum fine or deferral fee in lieu of a fine for alcohol-related or drug-related offenses shall not exceed Eight Hundred Dollars (\$800.00). For all other offenses, the maximum fine or deferral fee in lieu of a fine shall not exceed Seven Hundred Fifty Dollars (\$750.00).

2. Each day or any portion of a day during which any violation of this code or of any ordinance shall continue shall constitute a separate offense.

B. Any person who shall aid, abet or assist in the violation of any provision of this code or any other ordinance shall be deemed guilty of a misdemeanor and upon conviction shall be punished as provided in this Section.

C. Subject to the provisions of Chapter 15, Section 15-406, or other limitation as imposed by law, costs may be charged and collected by the municipal court not of record not to exceed the sum of Thirty Dollars (\$30.00), any state authorized assessments or fees, and fees and mileage of jurors and witnesses.

State Law Reference: Maximum fine levied in courts not of record, \$200.00, 11 O.S. Section 14-111. Maximum fine levied without jury trial, \$100.00, 11 O.S. Section 27-119. Maximum fine levied by court with non-lawyer judge with appropriate CLE, \$100.00, 11 O.S. Section 27-119.

SECTION 1-109 FINES RECOVERABLE BY CIVIL ACTION.

All fines shall be recoverable by civil action before any court of competent jurisdiction in addition to any other method provided by law.

SECTION 1-110 ORDINANCES IN EFFECT IN OUTLYING TERRITORY OF CITY.

All ordinances of the City now in effect within the City are hereby extended to all real property belonging to, or under the control of, the City outside the corporate limits of the City, and shall be in full effect therein, insofar as they are applicable. All ordinances of the City which shall go into effect in the future, shall also apply to, and be in full effect within the boundaries of all outlying real property, insofar as they may be applicable. Any words in any ordinance indicating that the effect of an ordinance provision is limited to the corporate limits of the City shall be deemed to mean and include also the outlying real property belonging to, or under the control of, the City, unless the context clearly indicates otherwise.

SECTION 1-111 SCHEDULE OF FEES AND CHARGES CREATED; FINE SCHEDULE/BOND SCHEDULE.

A. There is hereby created a schedule of fees and charges, which shall contain those fees and charges for the various licenses, permits and other fees and charges as designated by the City Council. Where a fee or charge is authorized to be collected by the City in any ordinance the amount of the fee or charge shall be set by resolution and entered into the schedule of fees and charges. The schedule shall be kept on file in the office of the

clerk, to whom all fees and charges shall be paid unless otherwise provided. A copy may be obtained upon payment of a fee as set forth in the schedule of fees and charges.

B. The schedule of fees and charges hereby created shall also be known and may be cited as the fee schedule.

C. The following shall be the Fine Schedule (with costs and state assessments) and Bond Schedule of the City of Fairview, Oklahoma:

GENERAL PROVISIONS		
FAILURE TO YIELD TO EMERGENCY VEHICLE	15-212	549.00
FOLLOWING EMERGENCY VEHICLE	15-213	549.00
CROSSING FIRE HOSE	15-214	549.00
VIOLATION OF DL (RESTRICTION OR ENDORSEMENT)	15-215	149.00
OPERATING A VEHICLE W/SUSPENDED/REVOKED LICENSE	15-216	554.00
OPERATING A VEHICLE W/OUT VALID LICENSE (1 ST)	15-215	554.00
OPERATING A VEHICLE W/OUT VALID LICENSE (2 ND)	15-215	804.00
OPERATING A VEHICLE W/OUT VALID LIC IN POSSESSION	15-215	149.00
FAILURE TO PAY TAXES DUE TO STATE	15-217	149.00
IMPROPER DISPLAY OF TAG	15-217	149.00
PERMITTING UNLICENSED PERSON TO DRIVE	15-218	249.00
PERMITTING UNLICENSED MINOR TO DRIVE	15-218	249.00
LEAVING THE SCENE/PROPERTY DAMAGE ACCIDENT	15-219	549.00
LEAVING THE SCENE/PERSONAL INJURY ACCIDENT	15-219	549.00
FAILURE TO CARRY INSURANCE VERIFICATION	15-228	304.00
FAILURE TO COMPLY/INSURANCE	15-228	304.00
SKATEBOARDS ORDINANCE (1 ST OFFENSE)	15-1110	50.00
SKATEBOARDS ORDINANCE (2 ND OFFENSE)	15-1110	100.00
SKATEBOARDS ORDINANCE (3 RD OFFENSE)	15-1110	200.00
VEHICLE EQUIPMENT		
OPERATING A OBSTRUCTIVE (DANGEROUS) VEHICLE	15-302	149.00
OPERATING A DEFECTIVE VEHICLE	15-303	149.00
FAILURE TO DIM LIGHTS	15-303	149.00
OPERATING A VEHICLE WITH IMPROPER EXHAUST	15-304	149.00
UNLAWFUL OVER (SIZE, WIDTH, LENGTH) VEHICLE	15-305	149.00
SPEED REGULATIONS		
SPEEDING 1-10 OVER POSTED LIMIT	15-401	75.00
SPEEDING 11-15 OVER THE POSTED LIMIT	15-401	150.00
SPEEDING 16-20 OVER THE POSTED LIMIT	15-401	200.00
SPEEDING 21-25 OVER THE POSTED LIMIT	15-401	250.00
SPEEDING 26 AND OVER THE POSTED LIMIT	15-401	300.00

SPEEDING 1-10 OVER POSTED LIMIT (SCHOOL ZONE)	15-402	204.00
SPEEDING 11 OR MORE OVER POSTED LIMIT (SCHOOL)	15-402	254.00
IMPEDING TRAFFIC	15-520	149.00
CLINGING TO MOVING VEHICLE	15-522	280.00
RECKLESS DRIVING	15-522	549.00
CARELESS DRIVING	15-523	249.00
FAILURE TO DEVOTE ATTENTION TO DRIVING	15-524	149.00
DRIVING IN A MANOR NOT REASONABLE/PROPER	15-525	149.00
FAILURE TO USE CHILD RESTRAINT DEVICE	15-552	149.00
FAILURE FOR DRIVER/Front SEAT PASS TO WEAR SEATBELT	15-552	20.00

OPERATING M/C W/OUT REQUIRED EQUIPMENT	15-519	149.00
OPERATING M/C W/OUT HELMET (UNDER 18 YOA)	15-519	149.00

ALCOHOL RELATED OFFENSES

UNLAWFULLY TRANSPORTING OPEN CONTAINER (ALCOHOL)	3-208	249.00
CONSUMING ALC BEV IN PACKAGE STORE (PUBLIC PLACE)	3-210.3	249.00
UNLAWFUL SELL/GIVE ALC BEV TO MINOR/INTOXICATED PERSON	3-210.1 & 2	249.00
MISREPRESENTATION OF AGE TO OBTAIN ALC BEV	3-210.13	249.00
MINOR IN POSSESSION OF ALCOHOLIC BEVERAGE	3-204	280.00
FURNISH ALCOHOLIC BEVERAGE TO PERSON UNDER 21	3-210.1	249.00
PUBLIC INTOXICATION (1 ST OFFENSE)	3-203	249.00
PUBLIC INTOXICATION (2 ND OFFENSE)	3-203	249.00
PERMITTING MINOR TO LOITER (LIQUOR STORE)	3-210.11	249.00
OPER/EMPLOYEE PERMITTING INTOX PERSON TO REMAIN IN BUSINESS	3-210.12	249.00
ANY OTHER PROVISION CONCERNING ALCOHOLIC BEVERAGES NOT PROVIDED HEREIN	CHAPTER 3	249.00

OFFENSES AGAINST PROPERTY

PETTY LARCENY (SHOPLIFTING UNDER \$500.00)	10-305	549.00
549.00 INJURING AUTOMOBILES (OTHER VEHICLES)	10-304	549.00
DESTROYING (INJURING) BUILDING (PROPERTY)	10-304	549.00
UNLAWFULLY PLACING SIGNS ON PROP OF ANOTHER	10-311	249.00
THROWING (SHOOTING) AT PERSONS (PROPERTY)	10-205	549.00
TAMPERING WITH OR DAMAGING PUBLIC UTILITIES	10-307	549.00
549.00 THROWING DANGEROUS OBJECTS IN STREETS	10-208	549.00
549.00 INJURING PLANTS, TREES, FENCES	14-102	249.00
DESTROYING (DAMAGING) PUBLIC STREETS, PROPERTY	14-103	549.00

TRESPASSING ON PRIVATE PROPERTY	10-303	249.00
TRESPASSING ON PUBLIC PROPERTY	10-302	249.00
UNLAWFULLY PARK ON PROPERTY OF ANOTHER	15-718	249.00

DRIVING, OVERTAKING, PASSING

IMPROPER LANE CHANGE	15-501	149.00
DRIVING LEFT OF CENTER ON ROADWAY	15-502	149.00
PASSING ON THE RIGHT	15-503	149.00
PASSING WITHIN 50' OF INTERSECTION 100' OF BRIDGE	15-505	149.00
PASSING IN A NO PASSING ZONE	15-509	149.00
PASSING IN A SCHOOL ZONE	15-513	149.00
PASSING SCHOOL BUS LOADING OR UNLOADING	15-514	149.00
DRIVING WRONG WAY ON A ONE WAY STREET	15-507	149.00
FOLLOWING TOO CLOSE	15-508	149.00
INTERFERING WITH A FUNERAL PROCESSION	15-510	180.00
IMPROPER BACKING	15-517	149.00
PROHIBITED SCOOTERS, CYCLES, ATV'S	15-518	149.00
UNLAWFUL OPENING OR CLOSING VEH DOORS	15-529	149.00
DRIVING WITH DRIVER'S (VIEW, CONTROL) OBSTRUCTED	15-530	149.00
BOARDING (ALIGHTING) W/VEHICLE IN MOTION	15-531	149.00
UNLAWFUL RIDING IN OR ON VEHICLE	15-532	149.00
FAILURE TO SECURE LOAD	15-535	149.00
FAILURE TO YIELD TO VEHICLE ON RIGHT	15-538	149.00
FAILURE TO YIELD TO VEHICLE IN INTERSECTION	15-536	149.00
FAILURE TO YIELD FROM YIELD SIGN	15-545	149.00
FAILURE TO STOP FOR STOP SIGN	15-544	149.00
FAILURE TO YIELD FROM STOP SIGN	15-544	149.00
FAILURE TO YIELD FROM CURB	15-547	149.00
FAILURE TO YIELD FROM (ALLEY, BUSINESS) DRIVE	15-548	149.00
FAILURE TO YIELD TO PEDESTRIAN	15-545	149.00
FAILURE TO OBEY TRAFFIC SIGNAL	15-603	149.00
IMPROPER PARKING	15-724	149.00
ILLEGAL TRUCK PARKING	12-304	149.00
UNLAWFUL PARKING IN A HANDICAP ZONE	15-726	149.00
UNLAWFUL PARKING AT A BUSINESS	15-718	149.00
OBSTRUCTING AN ALLEY/DRIVEWAY	15-717	149.00
IMPROPER U-TURN	15-904	149.00
FAILURE TO USE TURN SIGNAL	15-907	149.00
IMPROPER LEFT TURN TO PARK	15-905	149.00
IMPROPER RIGHT OR LEFT TURN	15-906	149.00
UNLAWFUL WALKING ON ROADWAY	15-1006	149.00

OFFENSES AGAINST PERSON

ASSAULT	10-201	549.00
BATTERY	10-202	549.00

WEEDS AND TRASH

UNLAWFUL DEPOSITING OF RUBBISH, WEEDS	8-108	249.00
LITTERING	8-111	249.00
UNAUTHORIZED OPEN BURNING	8-313	249.00
PUBLIC NUISANCE (JUNK VEHICLE)	8-403	249.00
CREATING (MAINTAINING) A NUISANCE	8-301	249.00

OFFENSES AGAINST THE PUBLIC

SOLICITING W/OUT A LICENSE IN PUBLIC AREA	9-203	280.00
SOLICITING W/OUT A LICENSE IN RESIDENTIAL AREA	9-203	249.00
BREACH OF PEACE	10-501	249.00
UNLAWFUL SALE/DISCHARGE FIREWORKS CITY LIMITS	10-704	249.00
UNLAWFUL CARRYING CONCEALED WEAPON (NOT GUN)	10-701	549.00
UNLAWFUL DISCHARGE OF FIREARMS IN CITY LIMITS	10-703	549.00
RECKLESS CONDUCT WITH A FIREARM	10-702	549.00
PROHIBITED NOISE, MUSIC, AMPLIFIED SOUND	10-508	249.00
UNLAWFUL FIGHTING	10-103	549.00
UNLAWFUL ASSEMBLY	10-502	249.00

OFFENSES AGAINST HEALTH/WELFARE/MORALS

UNLAWFUL POSSESSION OF PARAPHERNALIA	10-805	549.00
UNLAWFUL POSSESSION/SALE MARIJUANA	10-804	549.00
PROSTITUTION RELATED OFFENSES	10-402	549.00
MAINTAINING A DISORDERLY HOUSE	10-408	554.00
UNLAWFUL NUDITY (INDECENT EXPOSURE)	10-401	549.00
VIOLATION OF CURFEW FOR MINORS	10-901	100.00
PARENT (GUARDIAN) ALLOW MINOR VIOLATE CURFEW	10-901	100.00
UNLAWFUL GAMBLING	10-404	249.00
USE OF FALSE/BOGUS CHECK	10-306	249.00

OFFENSES AGAINST PUBLIC AUTHORITY

RESISTING AN OFFICER	10-602	549.00
IMPERSONATING AN OFFICER/EMPLOYEE	10-605	549.00
FALSE REPORTING OF AN ALARM	10-505	549.00
FALSE REPRESENTATION TO AN OFFICER	10-601	549.00
UNLAWFUL REMOVAL OF BARRICADES	10-506	549.00
ELUDING A POLICE OFFICER	10-507	549.00
FAILURE TO APPEAR IN COURT	6-134	549.00
FAILURE TO OBEY A LAWFUL ORDER OF A POLICE OFFICER	10-601	549.00

ANIMAL RELATED OFFENSES

ALLOWING AN ANIMAL TO RUN AT LARGE	4-102	130.00
KEEPING OF PROHIBITED ANIMAL IN CITY LIMITS	4-107	549.00
MAINTAINING A VICIOUS ANIMAL	4-110	549.00
ANIMALS WHICH DISTURB	4-105	249.00
MORE THAN 3 ANIMALS	4-108	249.00
DOG TIED IN FRONT YARD	4-110	249.00

The Fine Schedule/Bond Schedule set out hereinabove includes court costs of Thirty Dollars (\$30.00) and lawfully imposed state assessments. All appropriate state assessments are required to be paid.

All traffic violations or other criminal violations not otherwise listed shall be bonded for \$149.00, which includes court costs and state assessments.

The following deferral fees and administrative fees are properly charged in appropriate cases:

The maximum fine or deferral fee in lieu of a fine for traffic-related offenses relating to speeding or parking shall not exceed Two Hundred Dollars (\$200.00). The maximum fine or deferral fee in lieu of a fine for alcohol-related or drug-related offenses shall not exceed Eight Hundred Dollars (\$800.00). For all other offenses, the maximum fine or deferral fee in lieu of a fine shall not exceed Seven Hundred Fifty Dollars (\$750.00). The court shall remit Fifty Dollars (\$50.00) of each alcohol fine or deferral fee to a restricted cash account of the City that shall be used to defray costs for enforcement of laws relating to juvenile access to alcohol, other laws relating to alcohol and other intoxicating substances, and traffic-related offenses involving alcohol or other intoxicating substances. For all offenses which impose a fine of more than Five Hundred Dollars (\$500.00), excluding court costs, a jury trial shall be had unless waived by the defendant. The court shall require a person who is actually received into custody at the

jail facility, for any offense, to reimburse the City for the costs of incarceration, both before and after conviction, upon conviction or receiving a deferred sentence. The costs of incarceration shall be collected by the Court Clerk as provided for the collection of other fines and costs. Costs of incarceration shall include booking, receiving and processing out, housing, food, clothing, medical care, dental care and psychiatric services. In the event the City has a contract with the County for the provision of jail services which provides for a barter of services for jail cells, the cost of incarceration charged the criminal defendant shall be in the same amount as the normal and customary amount charged by the County to third parties for such costs of incarceration.

SECTION 1-112 INSPECTIONS AND RIGHT OF ENTRY.

A. To enforce the provisions of this code, the City Manager or his designee or any other person designated by this code or otherwise shall have a right of entry on premises for inspection purposes in the manner and to the extent as may be authorized by applicable law. This right of entry shall be a condition of any permit, license, grant or any utility service with or provided by the city. For the purpose of this section, inspection includes records and papers on the premises or of the permittee, licensee, grantee or customer relating to the permit, license, grant or service.

B. Emergency inspections may be authorized if the City Manager or his designated representative has reason to believe that a condition exists which poses an immediate threat to life, health or safety. Such procedure shall take place in accordance with applicable law.

C. Where the City Manager or other designated representative is otherwise impeded or prevented by the owner, occupant or operator from conducting an inspection of the premises, such person shall be in violation of this section.

SECTION 1-113 SEARCH WARRANT OR ACCESS WARRANT

A. Any officer designated by the city to inspect a premises may, upon affidavit, apply to the judge of competent jurisdiction for a search warrant setting forth factually the actual conditions and circumstances that provide a reasonable basis for believing that a nuisance or violation of this code may exist, including one or more of the following;

1. That the premises or records require inspection according to the cycle established by the inspecting officer for

periodic inspections of records, buildings or premises of the type involved;

2. That observation of external conditions of the premises and its public areas has resulted in the belief that violations of this code exist; or
3. That any other reasonable basis exists as may be authorized by law.

B. If the judge of competent jurisdiction is satisfied as to the matters set forth in the affidavit, he shall authorize the issuance of a search warrant permitting access to and inspection of that part of the premises on which the nuisance or violation may exist.

Section 1-114 ADOPTION BY REFERENCE OF TITLES 21, 37, 37A AND CERTAIN SECTIONS OF TITLE 47 AND TITLE 63 OF THE OKLAHOMA STATUTES, AS AMENDED, AS MUNICIPAL ORDINANCES; DRUGS AND RELATED SUBSTANCES.

A. Title 21 of the Oklahoma Statutes, as amended, is hereby adopted and incorporated herein by reference, but only to the extent such sections provide for criminal misdemeanor offenses, and are enforceable by the city within the city limits as if set out at length herein. Unless otherwise specifically provided otherwise in this Code, all violations of such sections shall be punishable by a maximum fine of \$500.00, plus court costs, fees and state assessments, provided however, if the penalty including costs for the state offense is less than the amount as provided hereinabove, then the fine and costs shall not exceed the amount charged by statute for the same offense.

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

C. The following sections of Title 47 of the Oklahoma Statutes, as amended, namely, §§ 4-101 et seq., §§ 6-101 et seq., §§ 7-101 et seq., §§ 10-101 et seq., §§ 11-101 et seq., §§ 12-101 et seq., §§ 13-101 et seq., §§ 14-101 et seq. and §§74-1101 et seq.

are hereby adopted and incorporated herein by reference, but only to the extent such sections provide for criminal misdemeanor offenses, and are enforceable by the city within the city limits as if set out at length herein. Unless otherwise specifically provided otherwise in this Code, all violations of such sections shall be punishable by a maximum fine of \$200.00, plus court costs, fees and state assessments, provided however, if the penalty including costs for the state offense is less than the amount as provided hereinabove, then the fine and costs shall not exceed the amount charged by statute for the same offense.

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

E. Drugs and Related Substances:

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

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

"Marijuana" shall be defined as all parts of a plant of the genus cannabis, whether growing or not; the seeds of a plant of that type; the resin extracted from a part of a plant of that type; and every compound, manufacture, salt, derivative, mixture, or preparation of a plant of that type or of its seeds or resin. "Marijuana" does not include the mature stalks of the plant, fiber produced from the stalks, oils or cake made from the seeds of the plant, or any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted from the mature stalks, fiber, oil or cake, or the sterilized seed of the plant that is incapable of germination.

2. Possession of Illegal Drugs:

a. It is unlawful for any person knowingly or intentionally

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

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

C. Possession of Marijuana:

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

2. 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.

Note: Section 1-114 was amended by Ordinance No. 2017-06.20.1 approved on the June 20, 2017; Subsection E is state law and was added by the Editor during the 1st Bi-annual Supplement.

ARTICLE 2

CORPORATE LIMITS

SECTION 1-201 MAP OF CITY DESIGNATED AS OFFICIAL MAP.

The map of the City showing its territorial limits is hereby designated as the official map of the City, and the corporate limits as shown thereon are declared to be the true and correct corporate limits of the City, including all annexations made to the City through and including the date of this code.

SECTION 1-202 WARD BOUNDARIES.

The four (4) wards of the city shall consist of the territory located within the city limits and containing the territory shown with all boundary lines described following the center line of the highways and streets and extending to the furthestmost point within the corporate limits of the city, if necessary, to include any portion of the City within said described ward, and further described as follows:

Ward 1 - That portion of Fairview, Oklahoma, which lies north of State Road beginning at the west City boundary thence extending

east to Jefferson Street and that portion which lies west of North Jefferson Street extending to the north City boundary.

Ward 2 - That portion of Fairview, Oklahoma, which lies south of State Road beginning at the west City boundary thence extending east to Jefferson street and that portion which lies east of North Jefferson Street extending to the north City boundary with the south line being Ash Street beginning at the west City boundary thence extending to the east City Boundary.

Ward 3 - That portion of Fairview, Oklahoma, which lies south of Ash Street beginning at the west City boundary thence extending to the east City boundary with the south line being Central Street beginning at the west City boundary thence extending to the east City boundary.

Ward 4 - That portion of Fairview, Oklahoma, which lies south of Central Street beginning at the west City boundary thence extending to the east City boundary.

State Law Reference: Review of wards after each federal census, 11 O.S. 20-101; changing wards, 11 O.S. 20-102 to 20-105.

Note: Last established by Ordinance No. 2005-1 approved on April 5, 2004.

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CHAPTER 2: ADMINISTRATION AND GOVERNMENT

ARTICLE 1

GOVERNMENT ORGANIZATION

SECTION 2-101 FORM OF GOVERNMENT

The city is governed under the council-manager form of government. All powers of the city shall be exercised in the manner prescribed by state law, by the city code, and in such manner prescribed by ordinances adopted by the city council.

State Law Reference: Council-manager form of government, Sections 10-101 et seq. of Title 11 of the Oklahoma Statutes.

SECTION 2-102 CITY COUNCIL

A. The City Council shall consist of five (5) members. Four (4) Council members shall be selected from each ward of the city and one (1) council member at large. The following officers are to be elected for four-year terms:

1. Council members from Wards One (1) and Two (2).

At the next general municipal election, the following officers are to be elected for four-year terms:

1. Council members from Wards Three (3) and Four (4); and
2. The council member at large.

B. Qualifications of Council members. The council members shall be residents and registered voters of the city. The council members from wards shall be actual residents of their respective wards at the time of their candidacy and election; but removal of a council member from one ward to another within the city after his election, or a change in ward boundaries, shall not disqualify him from completing the term for which he was elected.

C. Election of Mayor and Vice-Mayor. The council shall elect from among its members a Mayor and a Vice-Mayor. The Mayor and vice-Mayor shall be elected in each odd-numbered year at the first council meeting held after council terms begin, or as soon thereafter as practicable, and they shall serve until their respective successors have been elected and qualified.

SECTION 2-103 MEETINGS OF THE COUNCIL

A. Regular meetings of the council shall be held at 5:30 p.m. on the first and third Tuesday of every month in council chambers at city hall unless, in the case of an emergency, the Mayor or council member calling a special meeting designates another place for holding the special meeting. Any adjourned meeting may be held at any other place in the city designated by the council. If such a Tuesday falls on a holiday, the regular meeting shall be held at that time of the next day which is not a regular holiday or Sunday.

B. Special meetings may be called by the Mayor or any three (3) council members.

C. The council may from time to time adopt rules to govern the proceedings of the council.

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

SECTION 2-104 MAYOR'S POWERS AND DUTIES, VICE MAYOR.

The Mayor shall preside at meetings of the council, and shall certify to the correct enrollment of all ordinances and resolutions passed by it. He shall be recognized as head of the city government for all ceremonial purposes and by the Governor for purposes of military law. He shall have no regular administrative duties except that he shall sign all conveyances and other written obligations of the city as the council may require. The Vice-Mayor shall act as Mayor during the absence, disability or suspension of the Mayor. The Mayor and Vice Mayor shall have all the powers and duties, prescribed by the city code, and state law, and as may be prescribed by ordinance.

State Law Reference: Mayor powers and duties, 11 O.S. 10-105.

SECTION 2-105 COUNCIL'S POWERS AND DUTIES; DESIGNATED POWERS.

All powers of a statutory council-manager city, including the determination of matters of policy, shall be vested in the council. Without limitation of the foregoing, the council may:

1. Appoint and remove the City Manager as provided by law;
2. Enact municipal legislation subject to limitations as may now or hereafter be imposed by the Oklahoma Constitution and law;
3. Raise revenue, make appropriations, regulate salaries and

wages, and all other fiscal affairs of the city, subject to such limitations as may now or hereafter be imposed by the Oklahoma Constitution and law;

4. Inquire into the conduct of any office, department or agency of the city, and investigate municipal affairs, or authorize and provide for such inquiries;

5. Appoint or elect and remove its own subordinates, members of commissions and boards and other quasi-legislative or quasi-judicial officers as provided by law, or prescribe the method of appointing or electing and removing them;

6. Create, change and abolish offices, departments and agencies other than those established by law, and assign additional functions and duties to offices, departments and agencies established by this article; and

7. Grant pardons for violations of municipal ordinances, including the remission of fines and costs, upon the recommendation of the municipal judge.

SECTION 2-106 VACANCY IN THE OFFICE OF MAYOR OR VICE-MAYOR.

When a vacancy occurs in the office of Mayor, the Vice-Mayor shall become the Mayor for the duration of the unexpired term. When a vacancy occurs in the office of Vice-Mayor, the council shall elect another Vice-Mayor from among its members for the duration of the unexpired term.

SECTION 2-107 CITY MANAGER APPOINTMENT BY COUNCIL, POWERS AND DUTIES

A. The council shall appoint a City Manager for an indefinite term by a vote of a majority of all its members. It shall choose him solely on the basis of his executive and administrative qualifications with special reference to his actual experience in, or his knowledge of, accepted practice in respect to the duties of his office. At the time of his appointment, the City Manager need not be a resident of the city or state; but during the tenure of his office he shall reside within the city. The City Manager may appoint himself, or the council or other authority may appoint or elect him, to other offices and positions in the city government, subject to regulations prescribed by ordinance; but he may not receive compensation for service in such other offices or positions. Neither the Mayor nor any members of the city council may be appointed City Manager during the term for which he shall have been elected nor within two (2) years after the expiration of his term.

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

1. Appoint, and when necessary for the good of the service, remove, demote, lay off or suspend all heads of administrative departments and other administrative officers and employees of the city except as otherwise provided by law. The manager or the council by ordinance may authorize the head of a department, office or agency to appoint and remove the subordinates in such department, office or agency;

2. Supervise and control all administrative departments, officers and agencies;

3. Prepare a budget annually and submit it to the council and be responsible for the administration of the budget after it goes into effect; and recommend to the council any changes in the budget which he deems desirable;

4. Submit to the council a report after the end of the fiscal year on the finances and administrative activities of the city for the preceding year;

5. Keep the council advised of the financial condition and future needs of the city, and make recommendations as he deems desirable; and

6. Perform such other duties as may be prescribed by law or by ordinance.

SECTION 2-108 LIMITATION OF COUNCIL AUTHORITY TO ACT THROUGH CITY MANAGER.

Except for the purposes of inquiry, the council and its members shall deal with the administrative service of the city solely through the City Manager. The council and its members may not:

1. Direct or request the City Manager or other authority to appoint or remove officers or employees;

2. Participate in any manner in the appointment or removal of officers and employees of the city, except as provided by law; or

3. Give orders on ordinary administrative matters to any subordinate of the City Manager either publicly or privately.

SECTION 2-109 DESIGNATION OF ACTING CITY MANAGER.

The City Manager, by letter filed with the City Clerk, may appoint a qualified administrative officer of the city to be acting City Manager during the temporary absence or disability of the City Manager. The council may appoint an acting City Manager whenever:

1. The manager fails to make such designation;
2. The council suspends the City Manager; or
3. There is a vacancy in the office of City Manager.

SECTION 2-110 SUSPENSION OR REMOVAL OF CITY MANAGER.

The council may suspend or remove the City Manager or acting City Manager at any time by a vote of a majority of all its members.

SECTION 2-111 PURCHASES AND SALES BY CITY MANAGER; COMPETITIVE BIDDING.

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

B. The council may prescribe requirements and procedures for competitive bidding. Notice and opportunity for competitive bidding shall be given before a purchase or contract for supplies, materials, or equipment is made, and before a sale of any surplus or obsolete supplies, materials, or equipment is made, in accordance with regulations the council may prescribe. The council shall not exempt a particular contract, purchase, or sale from the requirement of competitive bidding as provided by the Council's requirements and procedures.

SECTION 2-112 APPOINTMENTS AND REMOVALS.

Appointments and promotions shall be made solely on the basis of merit and fitness; and removals, demotions, suspensions, and layoffs shall be made solely for the good of the service. The council by ordinance may establish a merit system and provide for its organization and functioning, and provide for personnel

administration and regulation of personnel matters.

SECTION 2-113 CITY OFFICIALS AND EMPLOYEES; SUSPENSION OR REMOVAL; SUCCESSORS.

An officer or employee may be suspended, demoted, laid off or removed by the City Manager or other authority which has the power to appoint or elect the officer or employee. The City Manager or other authority which has the power to appoint or elect the successor of an officer or employee may appoint or elect a person to act during the temporary absence, disability or suspension of such officer or employee, or, in the case of a vacancy, until a successor is appointed or elected and qualified. The council may ordain that a particular superior or subordinate or deputy of such officer or employee shall act in such cases.

Section 2-113.1 CHIEF FINANCIAL OFFICER; PURPOSE, APPOINTMENT AND DUTIES

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

2. Chief Financial Officer: Appointment and Removal; Principles; Requirements. The City Manager is authorized to appoint and remove a Chief Financial Officer. He shall perform his duties in accordance with generally accepted accounting principles for local governments. He shall be experience in governmental accounting, auditing, financial procedures and with the responsibility for financial statement preparation and financial system oversight.

3. Duties. The Chief Financial Officer may at the City Manager's discretion:

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

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

C. May assist in the preparation of the budget;

D. May monitor and implement other necessary or required internal controls as well as supervise financial system operations;

E. May prepare and maintain an accounting policy and procedures manual in accordance with City's financial operation to assure compliance with generally accepted accounting procedures;

4. Nothing herein should be construed to prevent the City Manager from employing other person(s) to perform financial related services.

Note: This section was added by Ordinance No. 2014-09 approved on May 20, 2014

SECTION 2-114 CITY CLERK AND ASSISTANT CITY CLERK; APPOINTMENT; DUTIES.

A. City Clerk; Appointment; Duties. The City Clerk is an officer of the city, appointed by the City Manager for an indefinite term and removable by the City Manager. The City Clerk is an officer of the city and has supervision and control of the department of finance. The City Clerk shall collect or receive all revenue and other monies of the city and shall deposit same with the city treasurer or for the city treasurer in an account or accounts maintained by the treasurer in a depository. The City Clerk shall maintain a general accounting system for the city government. The City Clerk shall have such other powers, duties and functions as may be prescribed by applicable law or ordinance.

B. Assistant City Clerk; Appointment; Duties. The Assistant City Clerk is appointed by the City Manager for an indefinite term and removable by the City Manager. The Assistant City Clerk shall perform the functions and duties of the City Clerk in the absence or disability of the City Clerk and shall perform such services as required by the City Clerk and the City Manager.

State Law Reference: City Clerk appointment and duties, 11 O.S. 10-117.

Note: Assistant City Clerk position and duties added by Ordinance No. 2014-07 approved by the City Council on May 20, 2014.

SECTION 2-115 CITY TREASURER AND ASSISTANT CITY TREASURER; APPOINTMENT, DUTIES.

A. The city treasurer is an officer of the city, appointed

by the city council for an indefinite term. The city treasurer shall deposit daily all funds coming into his hands for the city in such depositories as the council may designate, and shall disburse such funds in the manner provided by applicable laws or ordinances. The city treasurer shall have such other powers, duties and functions as may be prescribed by applicable law or by ordinance.

B. Assistant City Treasurer; Appointment; Duties. The Assistant City Treasurer is appointed by the City Manager for an indefinite term and removable by the City Manager. The Assistant City Treasurer shall perform the functions and duties of the City Treasurer in the absence or disability of the City Treasurer and shall perform such services as required by the City Treasurer and the City Manager.

State Law Reference: Treasurer appointment and duties, 11 O.S. 10-118.

Note: Assistant City Treasurer added by Ordinance No. 2014-08 approved on May 20, 2014.

SECTION 2-116 SAME PERSON SHALL SERVE AS CLERK AND TREASURER.

The same person shall hold both the offices of City Clerk and city treasurer. Such person shall be paid for the duties of such offices with a single pay check.

SECTION 2-117 CITY ATTORNEY.

There shall be a department of law, the head of which is the city attorney, appointed by the City Manager for an indefinite term, and removable by the City Manager. The city attorney is an officer of the city. The city attorney is the chief legal adviser of the council, all officers, departments and agencies of the city in matters relating to their official powers and duties. He represents the city in proceedings in the courts, and performs all services incident to his position which may be required by law or ordinances.

SECTION 2-118 ADMINISTRATIVE DEPARTMENTS, OFFICERS AND AGENCIES.

A. The department of public works, water and electric utility are established by the city. These departments shall have such duties as the council and manager may prescribe.

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

SECTION 2-119 BONDS FOR CITY OFFICERS AND EMPLOYEES.

The City Clerk, City Treasurer and such officers and employees as are designated by the city council shall, before entering upon the discharge of their duties, execute and file with the City Clerk surety bonds issued by a surety company authorized to operate in the state conditioned upon the faithful performance of their duties. The city shall pay the premium on such bonds.

SECTION 2-120 RESERVED.

SECTION 2-121 RULES OF ORDER AND PROCEDURE.

A. The Council may determine its own rules, and may compel the attendance of absent members in the manner and under penalties as the Council may prescribe. Whenever a council member is absent from more than one-half of all meetings of the Council, regular and special, held within any period of four (4) consecutive months, he shall thereupon cease to hold office.

B. The order of business for each meeting of the Council may be as posted on the agenda for the meeting.

C. The following rules of procedure shall apply to any regular or special meeting of the Council unless two (2) council members agree to waive the rule or rules:

1. If requested by the Mayor or any council member, any motion shall be reduced to writing;

2. A motion to reconsider any of the proceedings of the Council shall not be entertained unless it is made by a council member who previously voted in the majority;

3. No motion shall be debated or put until it be seconded and stated by the Mayor. It is then and not until then in possession of the Council and cannot be withdrawn but by leave of the Council;

4. A motion to adjourn shall be in order at any time, except as follows:

- a. When repeated without intervening business or discussion;
- b. When made as an interruption of a council member while speaking;
- c. When the previous question has been ordered; or

- d. While a vote is being taken.

A motion to adjourn is debatable only as to the time to which the meeting is adjourned;

5. When a question is under debate, no motion shall be received but:

- a. To adjourn;
- b. To lay on the table;
- c. For the previous question;
- d. To postpone to a day certain;
- e. To commit;
- f. To amend; or
- g. To postpone indefinitely,

which several motions shall have precedence in the order they stand arranged;

6. When a proper motion is made, but information is wanted, the motion is to postpone to a day certain;

7. Matters claiming present attention for which it is desired to reserve for more suitable occasion, the order is a motion to lay on the table; the matter may then be called for at any time. If the proposition may need further consideration at the hands of a committee, the motion is to refer to a committee, but if it needs but a few and simple amendments, the Council shall proceed to consider and amend at once;

8. On an amendment being moved, a council member who has spoken on the main question may speak again to the amendment;

9. The question is to be put first on the affirmative and then on the negative side. After the affirmative part of the question has been put, any council member who has not spoken before to the question may arise and speak before the negative to be put; and

10. When a question has been moved and seconded and has been put by the presiding officer in the affirmative and negative, it cannot be debated unless under motion for reconsideration.

SECTION 2-122 PERSONNEL MANUAL ADOPTED

A. There is hereby created a Personnel Policy and Procedures Manual for the employees of the City of Fairview, and as such Personnel Manual may be hereinafter amended. The Personnel Manual sets out guidelines which may be used in implementing the personnel policies, employee benefit programs and wage plans of the City of Fairview. The Personnel Manual establishes no property or contract rights or liberty interests in continued employment, wages or benefits or any other matter for employees of the City. Except as otherwise provided by state law, all employees of the City of Fairview shall serve at the will of the appointing authority and removals, demotions, suspensions, and layoffs shall be made solely for the good of the service. Appointments and promotions shall be made solely on the basis of merit and fitness.

SECTION 2-123 COMPENSATION

Neither the Mayor nor any council member shall receive any compensation for service to the City but may receive reimbursement of reasonable expenses.

SECTION 2-124 COMPENSATION OF EMPLOYEES, NUMBER AND CLASSES OF PERSONNEL.

A. The compensation of all other officers and employees excepting those whose compensation the law requires to be set by ordinance, may be determined by motion or resolution adopted by the City Council, and may be changed at any time in the same manner.

SECTION 2-125 SALARIES OF CERTAIN OFFICERS NOT TO BE CHANGED AFTER ELECTION OR APPOINTMENT.

In no case shall the salary or emoluments of any City officer elected or appointed for a definite term, be changed after his election or appointment or during his term of office unless by operation of an ordinance passed prior to such election or appointment, such being prohibited by the Constitution, Article 23, Section 10. This provision shall not apply to officers chosen for indefinite terms nor to employees.

SECTION 2-126 OATHS.

A. All officers of the City, but not employees, are required to take the oath or affirmation of office prescribed by the state constitution before they enter upon their duties.

B. Both officers and employees are currently required to take and subscribe to the loyalty oath prescribed by state law.

SECTION 2-127 OFFICERS TO CONTINUE UNTIL SUCCESSORS ARE ELECTED AND QUALIFY.

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

SECTION 2-128 APPOINTMENT OF PERSONNEL IN EMERGENCIES.

The City Manager may, in an emergency situation, appoint such other officers and employees as he may deem necessary to protect the health, safety and welfare of the citizens of the City during the existence of an emergency, subject to the approval of the City Council as soon as a special meeting or regular meeting can reasonably be called or held therefor. The City Council may determine the compensation of such emergency employees by motion or resolution and may direct the demotion, layoff or removal of such personnel at the conclusion of the emergency. For the purposes of this section, the term "emergency" shall be defined to mean an unexpected or unforeseen contingency or catastrophic event affect the health, safety or welfare of the citizens of the City.

ARTICLE 2 AND 3 - RESERVED

ARTICLE 4

SOCIAL SECURITY

SECTION 2-401 DECLARATION OF POLICY TO COME UNDER COVERAGE.

Except those employees whose may be specifically and legally exempted from compliance with this ordinance, it is hereby declared to be the policy and purpose of the City to extend, at the earliest date, to the eligible employees and officials of the City the benefits of the system of Federal Old-Age and Survivors Insurance as authorized by the Federal Social Security Act and all amendments thereto, and Sections 121 et seq. of Title 51 of the Oklahoma Statutes. In the pursuance of this policy, the officers and employees of the City shall take such action as may be required by applicable state or federal laws or regulations.

State Law Reference: Social security coverage for local governments, 51 O.S. § 125.

SECTION 2-402 EXECUTION OF AGREEMENT WITH STATE AGENCY.

The Mayor is authorized and directed to execute all necessary agreements and amendments with the State Department of Human Services to accomplish the provisions of Section 2-401 of this code.

SECTION 2-403 WITHHOLDINGS.

Withholdings from salaries or wages of employees and officials for the purposes provided in Section 2-401 of this code are hereby authorized to be made in the amounts and at such times as may be required by applicable state and federal laws or regulations and shall be paid over to the state or federal agency designated by the laws and regulations.

SECTION 2-404 CONTRIBUTIONS.

Employer contributions shall be paid from amounts appropriated for these purposes from available funds to the designated state or federal agency in accordance with applicable state or federal laws or regulations.

SECTION 2-405 RECORDS AND REPORTS.

The City shall keep such records and submit such reports as may be required by applicable state or federal laws or regulations.

SECTION 2-406 EXCLUSIONS.

Excluded from this chapter authorizing the extension of social security benefits to City officers and employees are the following:

1. Any authority to make any agreement with respect to any position, 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; or

2. Any authority to make any agreement with respect to any position, employee or official for which compensation 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 2-407 POLICE INCLUDED.

All police personnel of the City shall hereafter be covered by the social security program along with personnel already covered by the program, and proper deductions from police payrolls shall hereafter be made in order to comply with social security laws and

regulations.

ARTICLE 5

RETIREMENT AND PENSIONS

DIVISION 1

FIRE PENSION SYSTEM

SECTION 2-501 FIRE FIGHTER PENSION AND RETIREMENT SYSTEM

There is hereby created, for the purpose of providing pension retirement allowance and other benefits for fire fighters of the city, a fire fighters pension and retirement system. It is declared to be the official policy of the city to participate in the pension system as provided by state law.

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

SECTION 2-502 SYSTEM TO BE OPERATED IN ACCORDANCE WITH LAW.

The fire fighters pension and retirement system as established by Sections 49-100.1 et seq. of Title 11 of the Oklahoma Statutes is hereby adopted by reference.

DIVISION 2

EMPLOYEE RETIREMENT SYSTEM

SECTION 2-520 EMPLOYEE RETIREMENT SYSTEM CREATED

Pursuant to the authority conferred by the laws of the state and for the purpose of encouraging continuity and meritorious service on the part of the city employees and thereby promote public efficiency, there is hereby authorized, created, established, approved and adopted, effective as of October 1, 2015, the funded pension plan designated "Employee Retirement System of the City of Fairview & Fairview Utilities Authority, Oklahoma, Defined Contribution Plan" (hereinafter called "system"), and as amended, an executed counterpart of which is marked "Exhibit A."

Ed Note: Exhibit A is on file in the City Clerk's office and is available for public inspection. The Retiree Only Pension Plan was terminated pursuant to Ordinance No. 2013-1 which was approved on April 16, 2013. This Employee Retirement System of the City of Fairview & Fairview Utilities Authority, Oklahoma, Defined

Contribution Plan was created by the adoption of Ordinance No. 2015-07 on July 7, 2015. A separate Employee Retirement System of the City of Fairview & Fairview Utilities Authority, Oklahoma, Defined Contribution Plan for the City Manager was adopted by Ordinance No. 2015-06 on July 7, 2015. These ordinances are adopted by reference with each Joinder Agreement and Amended and Restated Plan on file in the Office of the City Clerk. Further amendments were made by Ordinance No. 2018-4.2 and Ordinance No. 2018-4.3 approved on April 7, 2018 and which are incorporated herein as if set out in full.

SECTION 2-521 ADMINISTRATION.

For the purpose of administration of the system there is hereby established a board of trustees, which shall be the members of the city council of the city as now existing or as from time to time duly elected or appointed and constituted. The powers and duties of the board of trustees shall be set forth in the system instrument marked "Exhibit A".

SECTION 2-522 FUND.

The fund is hereby provided for the exclusive use and benefit of the persons entitled to benefits under the System. All contributions to such fund shall be paid over to and received in trust for such purpose by the City. Such Fund shall be pooled for purposes of management and investment with similar funds of other incorporated cities, towns, and municipal trusts in the State of Oklahoma as a part of the Oklahoma Municipal Retirement Fund in accordance with the trust agreement of the Oklahoma Municipal Retirement Fund, a public trust. The City shall hold such contributions in the form received, and from time to time pay over and transfer the same to the Oklahoma Municipal Retirement Fund, as duly authorized and directed by the Board of Trustees. The Fund shall be nonfiscal and shall not be considered in computing any levy when the annual estimate is made to the County Excise Board.

SECTION 2-523 APPROPRIATIONS.

The City of Fairview & Fairview Utilities Authority, Oklahoma, is hereby authorized to incur the necessary expenses for the establishment, operation, and administration of the System, and to appropriate and pay the same. In addition, the City of Fairview & Fairview Utilities Authority, Oklahoma, is hereby authorized to appropriate annually such amounts as are required in addition to employee contributions to maintain the System and the Fund in accordance with the provisions of the Defined Contribution Plan. Any appropriation so made to maintain the System and Fund shall be for deferred wages or salaries, and for the payment of necessary

expenses of operation and administration to be transferred to the trustees of the Oklahoma Municipal Retirement Fund for such purposes and shall be paid into the Fund when available, to be duly transferred to the Oklahoma Municipal Retirement Fund.

SECTION 2-524 EXECUTION.

A. The Mayor and City Clerk be and they are each hereby authorized and directed to execute (in counterparts, each of which shall constitute an original) the System instrument, and to do all other acts and things necessary, advisable, and proper to put said System and related trust into full force and effect, and to make such changes therein as may be necessary to qualify the same under Sections 401(a) and 501(a) of the Internal Revenue Code of the United States. The counterpart attached hereto as Exhibit "A" and Exhibit "B", which has been duly executed as aforesaid simultaneously with the passage of this Ordinance and made a part hereof, is hereby ratified and confirmed in all respects.

B. This Committee is hereby authorized and directed to proceed immediately on behalf of the City of Fairview & Fairview Utilities Authority, Oklahoma, to pool and combine the Fund into the Oklahoma Municipal Retirement Fund as a part thereof, with similar funds of such other cities and towns, for purposes of pooled management and investment.

SECTION 2-524 CONFLICTING LAWS.

Any ordinance inconsistent with the terms and provisions of this chapter is hereby repealed, provided, however, that such repeal shall be only to the extent of such inconsistency and in all other respects this chapter shall be cumulative of other ordinances regulating and governing subject matter covered by this chapter.

ARTICLE 6

CITY RECORDS

SECTION 2-601 APPOINTMENT OF OFFICIAL CUSTODIANS.

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

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

2. City treasurer. All public records not on file in the office of the City Clerk and kept and maintained in the City treasurer's office;

3. Chief of police. All public records not on file in the office of the City Clerk and kept and maintained in the City police department;

4. Fire chief. All public records not on file in the office of the City Clerk and kept and maintained in the City fire department;

5. City attorney. All public records not on file in the office of the City Clerk and kept and maintained in the City attorney's office;

6. City Manager. All public records not on file in the office of the City Clerk and kept and maintained in the City Manager's office;

6. Court Clerk. All public records not on file in the office of the City Clerk and kept and maintained in the municipal court.

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

SECTION 2-602 DESIGNATION OF ADDITIONAL RECORD CUSTODIANS.

A. Each of the official custodians appointed in Section 2-601 of this code is hereby authorized to designate any subordinate officers or employees to serve as record custodian. The record custodians shall have such duties and powers as are set out in the Oklahoma Open Records Act.

B. Whenever an official custodian shall appoint another person as a record custodian, he or she shall notify the City Clerk of such designation and the City Clerk shall maintain a register of all such designations.

SECTION 2-603 DUTIES OF CUSTODIANS.

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

public records.

SECTION 2-604 REQUESTS TO BE DIRECTED TO CUSTODIANS.

A. All members of the public, in seeking access to, or copies of, a public record in accordance with the provisions of the Oklahoma Open Records Act, shall address their requests to the custodian charged with responsibility for maintenance of the record sought to be inspected or copied.

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

SECTION 2-605 PROCEDURES REGARDING BOTH INSPECTION AND COPYING OF OPEN PUBLIC RECORDS.

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

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

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

3. Record custodians may prevent excessive disruptions of essential functions and provide the record at the earliest possible time;

4. All inspections and copying of open public records shall be performed by, or under the supervision of, the record custodian responsible for such records;

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

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

7. Any fees for record inspection or for copies are due at the time the records, or copies thereof, are provided to the requester, unless the record custodian has demanded that prepayment of all or part of such fees be made. Fees are to be paid to the record custodian or City Clerk;

8. The record custodian or City Clerk shall demand full or partial prepayment of the fees when the estimate for such fees exceeds the amount set out in Section 2-612 of this code;

9. No record search or copying charge shall be assessed against officers or employees of the City who make requests which are reasonably necessary to the performance of their official duties;

10. Hours for making requests for inspection or copying shall be all regular working hours for each day the office maintains regular office hours;

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

12. The above procedures, as well as any other inspection and copying procedures, shall be posted in a conspicuous place in the office of the record custodian.

SECTION 2-606 PROCEDURES REGARDING INSPECTION OF OPEN PUBLIC RECORDS.

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

1. Record custodians shall handle all inspection requests in accordance with their duties to protect and preserve public records and to assist persons requesting inspection of open public records.

2. All request forms must be completed by the party requesting the record. In all cases the party so requesting must sign his or her individual name to the form. Written requests shall be made on the form provided by the record custodian and presented to the record custodian;

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

4. The record custodian shall, upon making a denial of an inspection request, forward a copy of the denial to the Mayor.

SECTION 2-607 PROCEDURES REGARDING COPIES OF OPEN PUBLIC RECORDS.

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

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

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

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

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

SECTION 2-608 NO FEE FOR INSPECTION.

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

SECTION 2-609 COPYING FEE.

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

SECTION 2-610 FEE FOR MECHANICAL REPRODUCTION.

For copying any open public record which cannot be reproduced by photocopying, such as a computer printout or a blueprint, the

requester shall be charged the actual cost to the City, including the cost of labor, materials and equipment.

SECTION 2-611 SEARCH FEE.

The fee provided in Fee Schedule shall be charged a requester who is using the record solely for a commercial purpose. Such fee shall be charged to recover the direct cost of document search.

SECTION 2-612 PREPAYMENT OF FEES.

A record custodian may demand prepayment of a fee. The prepayment amount shall be an estimate of the cost of copying, mechanical reproduction or searching for the record. Any overage or underage in the prepayment amount shall be settled prior to producing the requested record or delivering the copy or mechanical reproduction of the record.

SECTION 2-613 FEES.

Fees shall be charged for copies and services rendered hereunder pursuant to the City's fee schedule.

SECTION 2-614 DESTRUCTION OF PUBLIC RECORDS; SCANNING AND STORING PUBLIC RECORDS

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

B. The City Council hereby authorizes the legal custodian, with the written approval from the City Manager, to destroy, sell for salvage or otherwise dispose of the following papers, documents and records after the expiration of the specified period of time following the end of the fiscal year in which the paper, document or record was created, except as otherwise specified:

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

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

ledger or register. Fire run contracts may be destroyed or otherwise disposed of two (2) years after their expiration;

3. Five (5) years: successful and unsuccessful bids for the purchase or furnishing of equipment, material and improvements; inspection records except as provided for in paragraph 2 of this section; claims that have been denied; license applications; bonds; special, primary and general election payrolls; election tabulations and returns; withholding statements; garnishment records; traffic tickets and receipts; bond receipts and fine receipts; information and complaints; court dockets; paid general obligation and revenue bonds; paid street improvement, sewer and sidewalk district bonds; warrants; claims; checks; vouchers; purchase orders; payrolls;

4. Ten (10) years: inventories; appropriation ledgers; sidewalk assessment records, except payment records; cash receipt book or register for the general fund, the street and alley fund, any bond fund or sinking fund and all other trust funds that have been audited; and

5. Fifteen (15) years: sewer and improvement district records, except payment records.

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

D. Other Records. Public records not addressed in Subsection B or C hereinabove, may be destroyed by their legal custodian, with written approval from the City Manager, seven (7) years after their creation.

E. Retention of Public Records. Except as otherwise provided in Subsection F, all public records shall be retained for the time periods provided by Subsections B, C and D and may thereafter be scanned as digital files and stored, either on and/or off site, and/or destroyed by their legal custodian, with written authorization from the City Manager. This procedure shall apply to all files of the City and its public trust authorities. Notwithstanding the foregoing, the following public records shall be held in perpetuity: deeds, records bearing signatures of historical persons or other public records of historic or legal significance, city and authority meeting minutes, and testing laboratory results or the inspection records of public improvements.

F. Scanning and Storing of Public Records. Any public records may be scanned as digital files and stored, either on or off site, as determined appropriate by their legal custodian, with

written approval from the City Manager. The method of reproduction shall be durable and safely preserve the public record and shall accurately reproduce and perpetuate the original public record in all details. All public records which are scanned and stored shall be placed in conveniently accessible files and provision made for preserving, examining and using the same. Whenever public records are scanned and stored, a certification of these facts shall be furnished to the City Council or other governing body, as appropriate, and thereafter the original public records and papers may be disposed of, destroyed or archived in permanent storage prior to the expiration of the retention periods established by this section.

Note: Section 2-614 was approved by Ordinance No. 2-18-1 approved on January 30, 2018.

CHAPTER 3
ALCOHOLIC BEVERAGES
ARTICLE 1

ALCOHOLIC BEVERAGES AND OCCUPATION TAX

SECTION 3-101 DEFINITIONS: ADOPTION BY REFERENCE AND PENALTIES
SECTION 3-102 OCCUPATION TAX LEVIED.
SECTION 3-103 PAYMENT REQUIRED; PENALTY
SECTION 3-104 ANNUAL REPORT.
SECTION 3-105 APPLICATION FOR CERTIFICATES; INVESTIGATION SECTION
SECTION 3-106 ISSUANCE OF CERTIFICATES

ARTICLE 2

ALCOHOLIC BEVERAGES AND SPECIFIC OFFENSES

SECTION 3-201 DISPLAY LICENSE
SECTION 3-202 DRINKING IN PUBLIC.
SECTION 3-203 PUBLIC INTOXICATION AND DRINKING PROHIBITED.
SECTION 3-204 MINORS AND ALCOHOLIC BEVERAGES.
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 CONSUMING ALCOHOLIC BEVERAGES
SECTION 3-207 LOCATION OF RETAIL PACKAGE STORE, MIXED BEVERAGE
 ESTABLISHMENTS, BEER OR WINE ESTABLISHMENTS OR
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 DISPENSING, FURNISHING, SERVING AND/OR SELLING OF
 ALCOHOLIC BEVERAGES; ALCOHOL TRAINING; RULES

CHAPTER 3
ALCOHOLIC BEVERAGES
ARTICLE 1

ALCOHOLIC BEVERAGES AND OCCUPATION TAX

Section 3-101 DEFINITIONS: ADOPTION BY REFERENCE AND PENALTIES

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

Section 3-102 OCCUPATION TAX LEVIED.

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

Brewer	\$1250.00
Small Brewer	\$125.00
Small Brewer Self-Distribution	\$250.00
Brew Pub	\$1050.00
Brew Pub Self-Distribution	\$750.00
Distiller	\$3125.00
Winemaker	\$300.00
Winemaker Self-Distribution	\$350.00

Small Farm Winery	\$75.00
Wine and Spirits Wholesaler	\$3000.00
Beer Distributor	\$750.00
Retail Spirits	\$325.00
Retail Wine	\$250.00
Retail Beer	\$100.00
Mixed Beverage Initial	\$1000.00
Mixed Beverage Renewal	\$500.00
Mixed Beverage/Caterer Combination	\$1000.00
On Premises Beer and Wine Initial	\$300.00
On Premises Beer and Wine Renewal	\$150.00
Bottle Club Initial	\$500.00
Bottle Club Renewal	\$400.00
Caterer	\$500.00
Caterer Renewal	\$400.00
Annual Special Event	\$55.00
Quarterly Special Event	\$55.00
Hotel Beverage Initial	\$1000.00
Hotel Beverage Renewal	\$900.00
Charitable Auction	\$1.00
Charitable Alcoholic Beverage	\$55.00
Annual Public Event	\$500.00
One-time Public Event	\$225.00

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

Section 3-103 PAYMENT REQUIRED; PENALTY

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

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

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

Section 3-104 ANNUAL REPORT.

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

Section 3-105 APPLICATION FOR CERTIFICATES; INVESTIGATION

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

1. Filing a written application on forms prescribed by that office; and
2. Paying a verification and certification fee in an amount as provided by Section 3-106 at the time of filing.

B. Investigation of Premises: Upon receipt of an application for a certificate of compliance, the city clerk shall cause an

investigation to be made to determine whether the premises proposed for licensed operations comply with the provisions of the zoning ordinance and any health, fire, building and other safety codes applicable to it.

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

Section 3-106 ISSUANCE OF CERTIFICATES

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

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

C. Every applicant for a certificate of compliance with the zoning, fire, health and safety codes of the city, required by ABLE Commission, shall pay a verification and certification fee in the amount of fifty dollars (\$50.00) at the time of filing.

Section 3-107 through Section 3-109 Reserved

ARTICLE 2

ALCOHOLIC BEVERAGES AND SPECIFIC OFFENSES

Section 3-201 DISPLAY LICENSE

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

Section 3-202 DRINKING IN PUBLIC.

It is unlawful for any person to drink any non-intoxicating beverage or low point beer or intoxicating beverage while such person is upon any public street, alley, or other public highway, or in any public building or other public place within the city. This Section shall not prohibit a person who is of age from drinking such beverage in a place licensed to sell it for consumption on the

premises or any person who is of age who is drinking any non-intoxicating beverage or low point beer or intoxicating beverage at any authorized event approved by the City Manager. The specific site wherein non-intoxicating beverage or low point beer or intoxicating beverage at any such event shall be permitted to be consumed shall be plainly and clearly marked with signage warning the public that no consumption is permitted outside the area completely encircled with appropriate barriers and any person who shall consume non-intoxicating beverage or low point beer or intoxicating beverage outside the designated barrier shall be guilty of an offense of Section 3-202.

Section 3-203 PUBLIC INTOXICATION AND DRINKING PROHIBITED.

A. Any person who shall, in any public place, or in or upon any passenger coach, streetcar, or in or upon any other vehicle commonly used for the transportation of passengers, or in or about any depot, platform, waiting station or room, drink or otherwise consume any intoxicating liquor unless authorized by the Oklahoma Alcoholic Beverage Control Act, intoxicating substance, or intoxicating compound of any kind, or inhale glue, paint or other intoxicating substance, or if any person shall be drunk or intoxicated in any public or private road, or in any passenger coach, streetcar, or any public place or building, or at any public gathering, from drinking or consuming such intoxicating liquor, intoxication substance or intoxicating compound or from inhalation of glue, paint or other intoxicating substance, or if any person shall be drunk or intoxicated from any cause and shall disturb the peace of any person, he shall be guilty of an offense; provided however, the consumption of non-intoxicating beverage or low point beer or intoxicating beverage at any event authorized by the City Manager shall not violate this section unless the person consuming the drink is in a state of intoxication or is outside the designated barrier and in such case shall be guilty of a violation of Section 3-203.

B. For the purposes of this Section, a state of intoxication means the condition in which a person is under the influence of any intoxicating, non-intoxicating, spirituous, vinous, or malt liquors, or of any narcotic or drug, to such extent as to deprive the person of his or her full physical or mental power, or in which a person is a danger to himself or others.

SECTION 3-204 MINORS AND ALCOHOLIC BEVERAGES.

It is unlawful for any person under the age of twenty-one (21) years to be in possession of any alcoholic beverage while such

person is upon any public street, road or highway or in any public place within the city limits or to consume or possess with the intent to consume any alcoholic beverage.

Section 3-205 POSSESSION OR CONSUMPTION OF ALCOHOLIC BEVERAGES PROHIBITED IN OTHER LOCATIONS WITHOUT PERMISSION.

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

Section 3-206 PERMITTING OR ALLOWING GATHERINGS WHERE MINORS ARE CONSUMING ALCOHOLIC BEVERAGES

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

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

"Alcoholic Beverage" means and includes alcohol, spirits, liquor, wine, beer, and every liquid or solid containing alcohol, spirits, wine, or beer, and which contains one-half of one percent ($\frac{1}{2}$ of 1%) or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances.

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

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

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

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

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

"Premises" means any hotel or motel room, home, yard, apartment, condominium, or other dwelling unit, or a hall or meeting room, park or public place whether occupied on a temporary or

permanent basis, whether occupied as a dwelling or for a party or other social function, and whether owned, leased, rented, or used with or without compensation.

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

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

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

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

1. In General

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

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

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

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

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

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

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

7. Local Authority

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

Section 3-207 Location of Retail Package Store, Mixed Beverage Establishments, Beer or Wine Establishments or Bottle Clubs

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

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

C. Exceptions:

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

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

3. Change In Ownership: When any mixed beverage establishment, beer and wine establishment, or bottle club, subject to the provisions of this section which has a license to sell alcoholic beverages for on premises consumption, or retail package store changes ownership or the operator thereof is changed and such change of ownership results in the same type of business being

conducted on the premises, the provisions of this section shall not be a deterrent to the issuance of a license to the new owner or operator if he or she is otherwise qualified.

Section 3-208 TRANSPORTING OPEN CONTAINERS OF ALCOHOLIC BEVERAGES

A. Except as provided in subsection B of this section, it shall be unlawful for any operator to knowingly transport or for any passenger to possess in any moving vehicle upon a public highway, street or alley any alcoholic beverage, except in the original container which shall not have been opened and from which the original cap or seal shall not have been removed, unless the opened container be in the rear trunk or rear compartment, which shall include the spare tire compartment in a station wagon or panel truck, or any outside compartment which is not accessible to the driver or any other person in the vehicle while it is in motion. Any person violating the provisions of this section shall be deemed guilty of an offense and shall pay the fine as provided in the schedule of fines and bonds.

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

C. As used in this section:

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

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

Section 3-209 MUNICIPALITY MAY INITIATE LICENSE SUSPENSION.

The City, as to any mixed beverage, beer and wine, caterer, public event or bottle club licensee having its principal place of business in the City, may initiate a license suspension or revocation proceeding as to such licensee by filing a written complaint with the ABLE Commission. The complaint shall set forth the grounds for the proposed suspension or revocation. Such

complaint may be based on any ground that the ABLE Commission might have asserted. Upon receipt of such complaint, the ABLE Commission shall forward a copy of the complaint to the licensee together with written notice of the time and place of hearing thereon. The hearing shall be held within the time limits and in the manner prescribed for suspension or revocation proceedings initiated by the ABLE Commission. In any proceeding initiated pursuant to this section, the City shall be deemed an interested party, shall have the right to be heard and to present evidence at the hearing on the complaint and shall be entitled to appeal from any final order entered by the ABLE Commission in the manner otherwise provided in the Oklahoma Alcoholic Beverage Control Act. The City shall not be required to give bond on appeal.

Section 3-210 PROHIBITED ACTS

No person shall:

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

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

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

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

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

6. Knowingly transport into, within or through this state more than one (1) liter of alcoholic beverages upon which the Oklahoma excise tax has not been paid unless the person accompanying or in charge of the vehicle transporting same shall possess a true copy of a bill of lading, invoice, manifest or other document particularly identifying that alcoholic beverages are being

transported and showing the name and address of the consignor and consignee; provided, this prohibition shall not apply to the first one hundred eighty (180) liters of alcoholic beverages classified as household goods by military personnel, age twenty-one (21) or older, when entering Oklahoma from temporary active assignment outside the contiguous United States;

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

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

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

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

11. No minor shall be employed in the selling, manufacture, distribution or other handling of alcoholic beverages at any place within the City. No person shall employ or assist or aid in causing the employment of any minor at any place within the City in the selling, manufacture, distribution or other handling of alcoholic beverages. No minor shall be permitted to remain within or to loiter about the premises of a retail alcoholic beverage store. Violation of this provision shall subject the owner or proprietor, as well as the underage person, to prosecution.

12. No person within this City shall drink intoxicating liquor or alcoholic beverage in any public place, nor shall any person be intoxicated in a public place within this City, nor shall any owner, operator or manager of any business or public place to which the public is generally invited allow an intoxicated person to remain in or upon the premises.

13. No person shall knowingly sell, deliver or furnish alcoholic beverages, at any place within the City limits of the City to any person who is a minor. Neither shall any minor misrepresent his age verbally nor in writing, or present false documentation of age or otherwise for the purpose of inducing any other person to sell him alcoholic beverages.

Section 3-211 CITY FACILITIES AND PROPERTY; RULES GOVERNING THE DISPENSING, FURNISHING, SERVING AND/OR SELLING OF ALCOHOLIC BEVERAGES; ALCOHOL TRAINING; RULES GOVERNING SPECIAL EVENTS.

The following rules shall apply to any city facilities and/or city real property, including streets and sidewalks, wherein alcohol is dispensed, furnished, served and/or sold for consumption:

1. All licensees or sponsors of events wherein alcoholic beverages (including beer and wine) will be dispensed, furnished, served and/or sold for consumption assume responsibility for compliance with all local and state laws governing the dispensing, furnishing, serving and/or sale of alcoholic beverages.

2. No alcoholic beverages may be sold without a "special event" license or other appropriate license from the Oklahoma Alcoholic Beverage Laws Enforcement Commission ("ABLE Commission") permitting the sale of alcoholic beverage. This requirement includes obtaining the correct license from the ABLE Commission for all public events offering a "cash bar", or public events requiring the pre-purchase of a ticket or the purchase of a ticket at the door of a public event, any public event that accepts donations and/or any other form of event wherein alcoholic beverages will be sold.

3. Private events where alcoholic beverages are dispensed, furnished and served but not sold, shall be restricted to guests invited to the event and shall not be open to the public.

4. Only persons who are aged 21 or older may possess, consume or be furnished, served, and/or sold any alcoholic beverages. Signs

to that effect shall be conspicuously posted at the event. Absolute compliance with this paragraph is the responsibility of the licensee or sponsor.

5. No city funds may be used to purchase alcohol.

6. Alcoholic beverages are to be dispensed, furnished and served only within the designated facility or area wherein the event is held, and with respect to the sale of alcoholic beverages, only within the specific area provided by the appropriate ABLE Commission license, if specifically provided.

7. The City reserves the right to control the time and length of any and all events in which alcohol is dispensed, furnished, served and/or sold and the absolute right to deny service to individuals and direct the discontinuation of the provision of alcoholic beverages at any time but has no obligation to do so. Sale of alcohol beverages shall end thirty (30) minutes prior to the end time of the event.

8. Any city employee or volunteer or sponsor of any event wherein alcoholic beverages will be dispensed, furnished, served or sold, including all of the actual servers, shall be required to take, pass and prove participation in the Responsible Beverage Sales and Service (RBSS) training program which is provided through a partnership between the Oklahoma Department of Mental Health and Substance Abuse Services and ABLE. The training program provides persons that serve/sell alcohol with the knowledge and skills to help them serve/sell alcohol responsibly and fulfill the legal requirements of alcohol service.

9. If required by the City Manager, the sponsor shall purchase an Event Coordinator Commercial General Liability Insurance Policy covering damage to persons, including injury or death (to include guests, invitees, spectators and all other persons present at the event) and their real or personal property, in the minimum amount of \$1,000,000.00 per incident, and Two Million Dollars (\$2,000,000.00) aggregate, and in the event any form of alcohol is sold or served by the sponsor, his employee, agent or independent contractor, to any persons present at such event, the insurance policy shall be so endorsed or written to cover damage to persons as provided hereinabove in such same amounts for such event. Proof of said insurance with the City of Fairview named as an additional insured shall be provided prior to commencement of the event. The Event Coordinator shall provide proof of such insurance by submission of a certificate of insurance to the City Clerk with a company

acceptable to the City Attorney providing for such coverages, at least forty-eight (48) hours prior to such event.

10. If the event requires the blocking of streets or is held on any city property, including streets, sidewalks and parks, but excluding the community center or any event in a city owned or operated building wherein such events are governed by contract with the City, the applicant shall obtain a permit from the City and a pay a non-refundable application fee of One Hundred Dollars (\$100.00). The applicant shall provide all required information as provided in the application for such event license and all required information, deposits and other information about the event. The City Manager shall have the authority to block the streets and sidewalks for such event or designate a location in any public park, but prior to such event in the downtown business district, shall provide written notice to all businesses located within the area to be barricaded and blocked, which notice shall provide all information concerning the event. No person shall operate any vehicle within the confines of the barricaded or blocked area without the written permission of the City Manager. All downtown business district events shall be sponsored or co-sponsored by the Fairview Chamber of Commerce. The City Manager shall have the right to waive any application fee for any event which will increase sales tax collections due to such event. Any adverse decision by the City Manager may be appealed to the City Council at their next regularly scheduled meeting.

CHAPTER 4

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CHAPTER 4

ANIMAL REGULATIONS

Article 1

IN GENERAL

SECTION 4-101 DEFINITIONS.

As used in this chapter:

1. "Animal" means any horse, mule, donkey, pony, cow, sheep, goat, swine, dog, cat, rabbit, chicken, goose, duck, turkey or any other animal or fowl;
2. "Animal shelter" means any premises designated by action of the council for the purposes of impounding and caring for animals;
3. "Animal control officer" means the person or persons employed by the city as its enforcement officer in the impoundment of animals, controlling of animals running at large, and as otherwise provided or required in this chapter;
4. "At large" or "running at large" means not securely confined by a fence or other means on premises under the control of, or occupied by, the owner of the animal, and not under the control of the owner, a member of his immediate family, twelve (12) years of age or older, or an agent of the owner, by leash or otherwise, whether on the owner's premise or not;
5. "Confined on the premises" means that condition in which an animal is securely and physically confined and restrained on and within the premises of the owner by means of walls, fences, rope, chain, leash or other device of such strength and size as to physically prevent the animal from leaving the premises and to physically prevent the animal from causing physical injury to persons or other animals which are off the premises upon which the confined animal is located;
6. "Dangerous dog" means any dog that: a. has inflicted severe injury on a human being without provocation on public or private property, b. has been previously found to be potentially dangerous, the owner having received notice of

such by the animal control authority in writing and the dog thereafter aggressively bites, attacks, or endangers the safety of humans, or c. has been previously found to be potentially dangerous, the owner having received notice of such by the animal control authority in writing and the dog thereafter attacks a dog which results in the death of said dog either on public or private property;

7. "Enclosure" means, while on the property of the owner, secure confinement indoors or in a securely enclosed and locked pen or structure, with at least 150 square feet of space for each animal kept therein which is over six (6) months of age, and which is suitable to prevent the entry of children and designed to prevent the animal from escaping;
8. "Exposed to rabies" means any animal that has been bitten by or exposed to any other animal known to have been infected with rabies;
9. "Fowl" means chickens, guineas, geese, ducks and pigeons;
10. "Impoundment" means placing an animal in the animal control vehicle or unit or holding an animal in custody at the animal control shelter;
11. "Keeper" means any person, family, firm or corporation owning or actually keeping, having, using or maintaining any of the animals herein referred to;
12. "Menacing fashion" means that an animal would cause any person observing the animal to reasonably believe that the animal will cause physical injury to persons or other animals;
13. "Neuter" means to render a male dog or cat unable to reproduce;
14. "Nuisance" means the conduct or behavior of any small or large animal, cat or dog which molests persons passing by or passing vehicles; attacks other animals; damages private or public property; barks, whines, howls, crows or makes other noises in an excessive, continuous fashion which annoys the comfort, repose, health or safety of the people in the community; unconfined in season; or a vicious animal not confined as required by this chapter;

15. "Owner" or "keeper" means any person, group of persons or corporation owning, keeping, maintaining or harboring, or having care or custody of, an animal or animals or fowl or birds. For the purpose of a dog running at large or being subject to the city license tax, an owner is any person harboring or caring for a dog for three (3) days or more;
16. "Potentially dangerous animal" means any animal that: a. when unprovoked inflicts bites a human either on public or private property, or b. when unprovoked attacks a dog which results in the death of said dog either on public or private property;
17. "Proper enclosure of a dangerous dog" means, while on the owner's property, a dangerous dog shall be securely confined indoors or in a securely enclosed and locked pen or structure with at least one hundred fifty (150) square feet of space for each dog kept therein which is over six (6) months of age, and which is suitable to prevent the entry of children and designed to prevent the animal from escaping. Such pen or structure shall have secure sides and a secure top, and shall also provide protection from the elements for the dog
18. "Provoke" or "provocation" means, with respect to an attack by an animal, that the animal was hit, kicked or struck by a person with an object or part of a person's body or that any part of the animal's body is pulled, pinched or squeezed by a person;
19. "Restraint" means that an animal is controlled by leash or tether, either of which shall not exceed six (6) feet in length, by a competent person or within any vehicle, trailer or other conveyance being driven, pulled or parked on the street, or confined within the property limits of its owner or keeper;
20. "Severe injury" means any physical injury that results in broken bones or lacerations requiring multiple sutures or cosmetic surgery;
21. "Spay" means to remove the ovaries of a female dog or cat in order to render the animal unable to reproduce;
22. "Vaccination" means an injection of United States Department of Agriculture approved rabies vaccine administered every twelve (12) calendar months by a licensed veterinarian;

23. "Without provocation" means that an animal was not teased, tormented or abused; and also means where the animal was not protecting its owner or owner's property from criminal activity by a perpetrator of a crime.

B. All other words or phrases used herein shall be defined and interpreted according to their common usage.

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

SECTION 4-102 ANIMALS NOT TO BE AT LARGE.

A. No owner shall permit any animal, including fowl, owned, harbored or kept by him to be at large within the city.

B. Any animal in violation of this section shall be subject to impound and disposition as provided in this chapter.

SECTION 4-103 TURNING ANIMALS AT LARGE UNLAWFUL

It is unlawful for any person to open any enclosure in which any animal is confined as required by ordinance so as to turn such animal at large or in any manner to turn such animal at large.

SECTION 4-104 BUILDINGS, STRUCTURES FOR ANIMALS, LOCATION.

A. Every building or place where any animal or fowl is kept shall be constructed of such material and in such manner that it can be kept clean and sanitary at all times.

B. No place where an animal is kept shall be kept closer than forty (40) feet to the premises of an apartment, hotel, restaurant, boarding house, food store, building used for educational, religious or hospital purposes, or dwelling other than that occupied by the owner or occupant of the premises upon which the animal is kept.

C. Every building where any livestock is kept, if located within two hundred (200) feet of any apartment, hotel, restaurant, boarding house, food store, building used for educational, religious or hospital purposes, or any dwelling other than that occupied by the owner or occupant of the premises upon which the animal is kept, shall be provided with a watertight and fly tight receptacle for manure, of such size as to hold all accumulation of manure. The receptacle shall be emptied sufficiently often and in such manner

as to prevent it from being or becoming a Nuisance, and shall be kept covered at all times except when open during the deposit or removal of manure or refuse. No manure shall be allowed to accumulate on such premises except in the receptacle.

D. The animal control officer or health officer shall inspect any structure or place where an animal is kept on his own initiative or upon complaint. He may issue any such reasonable order as he may deem necessary to the owner of such animal to cause the animal to be kept as required in this chapter or in a manner so as not to constitute a nuisance. He may make a complaint before the city court against any person for violation of any provision of this chapter, or any such reasonable order.

SECTION 4-105 NOISY ANIMALS; COMPLAINT PROCEDURE FOR ANIMALS WHICH DISTURB, ARE IN VIOLATION OF CODE.

A. No person shall keep any animal which causes frequent or long-continued noise or otherwise so as to disturb the comfort or repose of any person in the vicinity. Any violation of this section is declared to be a nuisance and as such may be abated.

B. Any person with knowledge thereof may file a complaint in the municipal court against the owner or keeper of an animal which disturbs the comfort or repose of any person in the vicinity or which is in violation of this chapter. If the court finds that an animal is a nuisance or in violation of this chapter, then the court may order the owner or keeper to prevent and abate the nuisance, or order the animal impounded with the owner or keeper to pay impoundment costs, or order punishment as provided in Section 1-108 of this code.

SECTION 4-106 PASTURING IN PUBLIC AREAS ILLEGAL.

It is unlawful for any person to pasture any animal on any public property or private property without the consent of the person owning or controlling the property.

SECTION 4-107 ANIMALS WHICH MAY NOT BE KEPT IN CITY.

A. It is unlawful to keep, maintain or permit to be kept or maintained any swine, cattle, horses, mules, goats, rabbits, sheep or livestock, and fowl (including chickens, ducks, geese, etc.) within the city, except as follows:

1. Temporarily in a stock yard awaiting transportation;

2. Temporarily at a slaughter house awaiting slaughter;
3. Temporarily for show purposes;
4. Temporarily at a veterinary clinic for treatment or surgery.

B. On tracts zoned District A-1 General Agriculture or District A-2 Suburban, livestock may be kept provided that the tract or lot shall be a minimum of one square acre, and there shall be not kept or maintained thereon, animals in excess of one head per square acre.

C. No wild animal shall be kept within the city except for exhibition purposes by a zoo or circus, with permission granted by the city manager or his designee.

D. The keeping or maintaining or permitting to be kept or maintained any animal listed in subsection A hereinabove within the city is hereby declared to be a public nuisance.

SECTION 4-108 KENNELS, LICENSES.

A. For the purpose of this chapter, a "kennel" is any location or premises where more than (3) dogs or three (3) cats are located, whether residential or business, within the city. Provided however, for purpose of this definition regarding the permissible number, dogs and cats shall not include the offspring for up to four (4) months after their birth. For the purpose of this chapter, the term "cattery" shall be interchangeable with the term kennel.

B. It is unlawful for any owner or harborer to keep a kennel in the city unless the owner or harborer shall first possess a license for such kennel.

C. The annual license fee for a kennel or cattery shall be as set by the council by motion or resolution.

D. Upon proof of proper zoning and payment of the required license fee, the license provided for by this section shall be issued.

E. A license issued herein shall be posted on the licensed premises at all times.

F. A license issued herein shall be in lieu of all other license fees prescribed, provided that all dogs in the kennel shall at all times be confined. Should a dog belonging to an owner or harbinger be allowed off the premises, the owner or harbinger shall pay the same tax and license fee as required for all dogs over four (4) months of age as provided in this chapter.

G. Kennels shall be subject to inspection by the animal control officer at all times.

H. No kennel or cattery shall be maintained closer than two hundred (200) feet to any apartment house, hotel, restaurant, 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 on which the kennel or cattery is kept.

SECTION 4-109 RECORDS KEPT BY KENNELS, PET SHOPS.

A. All pet shops, kennels and catteries shall maintain records and retain such records for a two-year period on all dogs and cats maintained in such facility. Such records shall show breed, color, markings, sex and age; date and source of animal; period for which the animal is maintained; date and disposition of animal, including name and address of the new owner, disease prevention or treatment and by whom.

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

C. A pet shop, cattery or kennel shall provide cages and pens of easily cleanable materials, is used for confinement, and shall be kept clean and sanitary at all times.

SECTION 4-110 DOGS NOT PERMITTED TO BE TIED OR CHAINED IN FRONT YARD OF RESIDENCES OR BUSINESSES

A. No owner or person in lawful possession of any residential or commercial property shall permit any dog to be tied or chained or restrained in any manner in the front yard of such property.

B. No owner or person in lawful possession of any dog shall tie or chain or restrain in any manner a dog in front of any residential or commercial property.

C. Residences or businesses located on corner lots shall adjust the length of the chain or other restraint to a point where the dog can not reach a point closer than ten feet (10') inside the side yard property line. This section shall not be construed to provide an exception to the requirement that dogs shall not be "at large" as defined in this Chapter.

SECTION 4-111 HOBBY CHICKENS

A. Except as provided in this code and as permitted in accordance with this section, it is unlawful for any person to keep livestock within the city limits other than in an enclosure awaiting immediate transportation outside the city. This exception pertains only to "hobby chickens" defined as follows: "Hobby Chickens" means and includes only female chickens raised for noncommercial purposes, more specifically, the gathering of eggs for personal use. Roosters are expressly excluded from this exception and are not permitted within city limits, except where permitted as of right in an agriculture district.

B. All persons intending to keep hobby chickens shall register them with the animal control officer on a form to be provided by the police department prior to acquiring the chickens. The registration process shall include an inspection of the premises by the Animal Control Officer and/or the Code Enforcement Officer to ensure compliance with this section. The initial fee to be charged for registration shall be Twenty-five Dollars (\$25.00). Thereafter, there shall be no annual fee for registration.

C. No hobby chickens shall be permitted in multi-family housing, to include duplexes. Hobby chickens shall only be permitted in residential zoned property and any other zoned properties which may allow housing with single family residential uses.

D. No person may slaughter any chicken within city limits under any circumstance, except as allowed as of right in an agricultural zone.

E. In any nonagricultural zones of the city, no more than five (5) hobby chickens may be kept per residential lot.

F. No person shall allow such hobby chickens to produce noise loud enough to disturb the peace of persons of reasonable sensitivity, and it is hereby declared a nuisance and it shall be

unlawful for any person to allow such nuisance to exist.

G. Every keeper of hobby chickens shall observe the following practices:

1. Space:
 - a. Hobby chickens may not be kept on any parcel of land containing less than two thousand (2,000) square feet in area.
 - b. Hobby chickens shall be confined in a chicken coop or other enclosure, provided such coop or enclosure prevents the fowl from being quartered within one hundred feet (100') of the exterior limits of a church, school or business. In addition, all properties containing hobby chickens shall be screened. Such screen or barrier shall be dense landscaping, or a solid lumbar or masonry fence, wall or combination thereof and at least five feet (5') in height, and may include the use of the walls of the residence or other building or structure, similar existing fencing, similar existing dense landscaping, all of which shall be of at least an equivalent height and capacity, and located on such property to provide for such enclosure. If solid lumber fencing is used, it shall be treated or painted in earth tone colors.
 - c. It is unlawful for any person to confine any such hobby chickens unless provisions are made by such person for the proper feeding and the furnishing of water at intervals not longer than twelve (12) hours or for a period of time which may result in their harm or death.
1. Maintenance of Coop or Enclosure:
 - a. Every keeper of hobby chickens shall confine the same to prevent their running at large.
 - b. Each such coop or enclosure shall be maintained in a clean and sanitary condition at all times.
 - c. An approved insecticide shall be used as often as recommended by the manufacturer and as often as needed to prevent infestation.

- d. No person shall impound any hobby chickens in a crate, box or other enclosure, which crate, box or other enclosure does not permit each bird so impounded to stand in a naturally erect position, make normal postural adjustments or provide enough area for nominal exercise.
- 3. Shelter and Drainage: Every keeper of hobby chickens shall provide shelter or area of a size sufficient to be conducive to good sanitation practices and shall provide adequate and sanitary drainage for the shelter or area.
- 4. Disposal of Litter and Droppings:
 - a. Every keeper of hobby chickens shall cause the litter and droppings therefrom to be collected daily in a container or receptacle of such type that, when closed, is rat-proof and fly-tight and, after each such collection, shall cause such container or receptacle to be kept closed.
 - b. At least twice each week, each such keeper shall cause all litter and droppings so collected to be disposed of in a way as not to permit the presence of fly larvae.
- 5. Storage of Feed: Every keeper of hobby chickens shall cause all feed provided therefor to be stored and kept in a rat-proof, fly-tight building, box, container or receptacle.
- 6. Inspection: The premises where hobby chickens are kept shall be subject to inspection by the animal control officer at any reasonable hour of the day. Violations of this ordinance are subject to fines and/or the revocation of the registration.

(Note: Section 4-11 was approved on April 7, 2015 by Ordinance No. 2015-03).

Article 2

VACCINATION AND LICENSING

SECTION 4-121 RABIES VACCINATION REQUIRED; CERTIFICATE OF VACCINATION; TAGS.

A. No person shall own, keep or harbor any dog or cat within the city limits unless such dog or cat six (6) months of age or older is vaccinated for rabies annually every year before July 1 thereof, and in any event before the cat or dog becomes six (6) months of age.

B. Unless the owner of any dog or cat furnishes written proof that the dog or cat has been vaccinated for rabies by a licensed veterinarian in the past twelve (12) months, the owner shall be guilty of an offense.

C. When a veterinarian vaccinates a dog or cat against rabies, he shall issue to the owner of such dog or cat a metal tag or check evidencing such vaccination and the year of vaccination.

1. Locally license veterinarians shall forward to the Fairview Police Department on a weekly basis a list of all vaccination tags issued.

2. Owners of dogs and cats who use other than local license veterinarians must provide to the Fairview Police Department proof of the vaccination and the tag number.

3. If no tag is given by the veterinarian, the Fairview Police Department shall issue a tag upon proof of vaccination for a fee as determined by the City Council.

D. It shall be the duty of the owner of the dog or cat to attach the tag or check issued to him pursuant to Subsection C to the dog or cat and it shall be unlawful for any person to remove such tag or check without the owner's consent.

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

SECTION 4-122 REGISTRATION.

A. A charge as set by the council by motion or resolution is

levied for each dog over six (6) months of age in the city. The tax does not apply to any dog temporarily brought and kept within the city, nor to a dog brought within the city to participate in a dog show, nor to a "seeing eye" dog when such dog is actually being used by a blind person to aid him in going from place to place.

B. The owner shall pay such tax to the City Clerk for every year before the first day of July thereof, or upon acquiring after that day any dog within the city upon which the tax has not been paid for the year in which acquired, or upon bringing a dog into the city after that day.

C. Before the clerk accepts money offered in payment of the tax for a dog or issues a license for it, the person offering the tax shall present to the City Clerk the certificate of a veterinarian or other person legally authorized to immunize dogs showing that the dog has been immunized against rabies during the preceding year.

D. The owner of the dog shall, at the time of paying the tax, register the dog by giving the City Clerk the name and address of the owner, the name, breed, color and sex of the dog, and such other reasonable information as the City Clerk may request.

E. The City Clerk thereupon shall deliver an original receipt to the owner and also an appropriate tag for the dog. Such tag shall constitute a license for the dog.

F. The owner shall cause the tag received from the City Clerk to be affixed to the collar or harness of the dog upon which the tax has been paid so that the tag can easily be seen by officers of the city. The owner shall see that the tag is so worn by the dog at all times.

G. In case the tag is lost before the end of the year for which it was issued, the owner may secure another for the dog by applying to the City Clerk, presenting to him the original receipt, and paying to him a fee as set by the council,.

H. No person shall counterfeit, or attempt to counterfeit, any tag issued for a dog as provided in this chapter, or take from any dog a tag legally placed upon it, or place such tag upon a dog for which the tag was not specifically issued.

ARTICLE 3

IMPOUNDMENT REGULATIONS

SECTION 4-131 IMPOUNDMENT RECORD, DISPOSITION OF ANIMALS

A. The city may establish an animal shelter or pound or contract with an outside agency to serve as the city's animal shelter or pound to provide for the impoundment of animals pursuant to this chapter.

B. Any dog or other animal found running at large or in violation of this chapter shall be picked up and immediately impounded in the animal shelter and confined in an humane manner.

C. The city animal control officer, upon receiving an animal for impoundment shall record or cause to be recorded the description, breed, color, tag number, if any, and sex of the animal and the name and address of the owner as may be shown on applicable city animal control records. If the owner is known, the officer shall:

1. Notify the owner at an address or telephone number available to the city; or

2. Leave a notice by telephone with a member of the owner's family, or other person residing at the owner's home, as shown in the city's records, over the age of fifteen (15) years, or by mail, first class letter, if no personal contact is accomplished within seventy-two (72) hours after receipt of the animal notifying the owner that unless reclaimed within seventy-two (72) hours after impoundment, Saturdays, Sundays and city holidays excluded, the animal will be destroyed or otherwise disposed of.

SECTION 4-132 BREAKING POUND OR INTERFERING WITH OFFICERS.

A. If any person breaks open, or in any manner directly or indirectly aids in, or counsels or advises the breaking open of any city pound or contract pound, or hinders, delays or obstructs any person duly authorized in taking up or taking to the city pound any animal liable to be impound, he shall be guilty of an offense.

B. No person shall interfere with, or hinder, or molest any agent of the city in the performance of any duty of such agent, or seek to release any animal in the custody of the city or its agents,

except as provided by law.

SECTION 4-133 ANIMAL SHELTER FEES.

A. Fees for impounding and keeping an animal, to be paid upon redemption, are as set by the city council by motion or resolution. In computing a fee, a fraction of a day during which an animal or fowl has been fed shall be deemed a full day.

B. Any person redeeming an impounded animal or fowl shall pay the fees to the City Clerk and present the receipt therefore to the person in charge of the animal shelter before the latter releases the animal or fowl.

C. Any dog or cat not vaccinated against rabies being held or impounded by the city shall not be released to the owner or any other person without proof of current vaccination against rabies or without paying a deposit in such sum as is set by the city, which deposit shall be refunded to the person putting up the same upon proof of current vaccination being shown to the animal control officer within seventy-two (72) hours of the release of the animal. If such proof is not presented, then the animal control officer may retake the animal into custody and deposit the deposit with the City Clerk to be retained as expenses of taking the animal into custody.

D. In addition to the above fees, any person requesting impoundment or disposal of an animal by the shelter shall pay a fee for such service as set by the council by motion or resolution.

E. No dog or other animal suffering from rabies or other infectious or dangerous disease may be released from the animal control shelter.

SECTION 4-134 REDEMPTION, ADOPTION, OF ANIMAL.

A. An owner of an impounded animal or his agent may redeem the animal prior to its sale or destruction as provided for herein by paying the required fees against the animal and meeting any other requirements which may be prescribed in this chapter. If the owner or his agent has not redeemed the animal within the first seventy-two (72) hours after the impoundment of the animal, the animal by be otherwise disposed of as provided for herein.

B. A person desiring to adopt an animal from impoundment shall pay an adoption fee, costs of any necessary vaccinations.

SECTION 4-135 ADOPTION OF IMPOUNDED ANIMALS.

A. Animals of apparent value not reclaimed within the time provided in this chapter may be sold for cash under the direction of the animal control officer. The purchaser of an animal at a sale held as provided herein shall acquire absolute title to the animal purchased. All money received for such sale shall be paid to the City Clerk on the day it is received or by noon on the next day the office of the City Clerk is open.

B. The owner of an impounded animal sold as prescribed herein may claim the excess of the sale price of the animal above the fees for impounding and keeping the same and a fee to reimburse the city for any expense it has had in making the sale, at any time within three (3) months after the sale. If a claim is so made and approved by the council, the City Clerk shall pay him such excess, but if a claim is not so made, the excess shall belong to the city.

SECTION 4-141 CRUELTY TO ANIMALS.

It is unlawful for any person, willfully and maliciously, to pour on, or apply to, any animal any drug or other thing which inflict pain on the animal; or to knowingly treat an animal in a cruel or inhumane manner; or to knowingly neglect an animal belonging to him or in his custody in a cruel or inhumane manner.

SECTION 4-142 POISONING ANIMALS.

It is unlawful for a person willfully to poison any dog or other animal except a noxious, non-domesticated animal, or to knowingly expose poison so that the same may be taken by an animal.

SECTION 4-143 ENCOURAGING ANIMALS TO FIGHT.

It is unlawful for any person to instigate or encourage a fight between animals or to encourage one animal to attack, pursue or annoy another animal except a noxious, non-domesticated animal, or to keep a house, pit or other place used for fights between animals.

Article 5

ZONING ORDINANCE

SECTION 4-151 ZONING ORDINANCE TO PREVAIL.

In case of any conflict between the provisions of this chapter and the zoning ordinance, the zoning ordinance shall prevail.

Article 6

RABIES AND ANIMAL BITES

SECTION 4-161 ANIMAL BITES; RABIES EXAMINATION; QUARANTINE

A. Every animal that bites or scratches a person shall be reported within four (4) hours to the animal control officer and shall thereupon be securely quarantined at a veterinarian hospital for a period of ten (10) days from the date the person was bitten, and shall not be released from such quarantine except by permission of the animal control officer of the city and the veterinarian in charge of the quarantined animal. Such quarantine may be at any veterinarian hospital chosen by the owner. Failure of the owner or keeper to quarantine his animal within the four-hour period herein will make him guilty of an offense.

B. The owner, upon demand by any city officer or animal control officer, shall surrender any animal that has bitten or scratched a human, or which is suspected as having been exposed to rabies, for supervised quarantine testing or euthanasia, the expense for which shall be borne by the owner; and the animal may be reclaimed by the owner if adjudged free of rabies.

SECTION 4-162 RABIES DIAGNOSES; QUARANTINE OF CITY; TIME LIMIT.

A. When an animal under quarantine has been diagnosed as being rabid, or suspected by a licensed veterinarian as being rabid, and dies while under such observation, the animal control officer or veterinarian shall immediately send the head of such animal to the state health department for pathological examination, and shall notify the proper public health officer of reports of human contacts and diagnosis made of the suspected animal.

B. When one or both reports give a positive diagnosis of rabies, the health or animal control officer of the city may

recommend a citywide quarantine for a period of six (6) months; and upon the invoking of such quarantine, no animal shall be taken into the streets or permitted to be in the streets during such period of quarantine. During such quarantine, no animal shall be taken or shipped from the city without written permission of the animal control officer of the city.

C. During such period of rabies quarantine as herein designated, every animal bitten by an animal adjudged to be rabid shall be treated for such rabies infection by a licensed veterinarian, or held under six (6) months quarantine by the owner in the same manner as other animals are quarantined.

D. In the event there are additional positive cases of rabies occurring during the Period of quarantine, such period of quarantine may be extended for an additional six (6) months.

State Law Reference: State quarantine of animals, 63 O.S. Sec. 1-508

SECTION 4-163 KILLING OR REMOVING RABID ANIMAL PROHIBITED.

A. No person shall kill or cause to be killed any rabid animal, any animal suspected of having been exposed to rabies, or any animal biting or scratching a human, except as herein provided, nor to remove the animal from the city limits without written permission from the health officer of the city, or the animal control officer.

B. The carcass of any dead animal exposed to rabies shall upon demand be surrendered to the animal control officer.

C. The animal control officer shall direct the disposition of any animal found to be infected with rabies.

D. No person shall fail or refuse to surrender any animal for quarantine or destruction as required herein when demand is made therefore by an employee empowered to enforce this chapter. Such refusal shall be deemed an offense.

SECTION 4-164 REPORTS OF BITE CASES; REPORT BY VETERINARIAN.

A. It is the duty of every physician, veterinarian or other practitioner to report to the animal control officer the names and addresses of persons treated for bites inflicted by animals,

together with such other information as will be helpful in rabies control.

B. It is the duty of every licensed veterinarian to report to the animal control officer his diagnosis of any animal observed by him to be a rabid suspect.

SECTION 4-165 INVESTIGATIONS FOR VIOLATION OF CHAPTER

A. For the purpose of discharging the duties imposed by this chapter and to enforce its provisions, the animal control or health officers are empowered to call upon the residents of any premises upon which a dog or cat or small animal is kept or harbored, and to demand the exhibition by the owner of such dog or cat or small animal.

B. The animal control or health officer, in the manner authorized by law, may enter the premises where any animal is kept in a reportedly cruel or inhumane manner and demand to examine such animal, and to take possession of such animal when, in his opinion, it requires humane treatment. The officer may demand, at the front door of any residence, exhibition by the owner of current animal licenses at any time.

SECTION 4-166 RECORDS.

The animal control officer shall keep or cause to be kept:

1. An accurate and detailed record of the licensing, impounding and disposition of all animals coming into his custody; and

2. An accurate and detailed record of all bite cases reported to the city, with a complete report of the investigation of each case.

Article 7

DANGEROUS ANIMALS

SECTION 4-171 KEEPING UNLAWFUL.

No person may keep any animal within the corporate limits of the City of Fairview in violation of the terms of this Article.

SECTION 4-172 SUMMONS AND COMPLAINT.

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

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

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

1. Name, address and telephone number of the complainant and other witnesses to the incident;

2. Date, time and location of the incident;

3. Description of the animal;

4. Name, address and telephone number (if known) of the animal owner;

5. A statement that the animal attacked the complainant or some other person or animal as witnessed by the complainant, or such facts as warrant a finding that the animal is dangerous; and

6. other facts and circumstances of the incident.

SECTION 4-173 HEARING.

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

SECTION 4-174 DETERMINATION.

A. The municipal judge shall be empowered to make one of the following determinations as a result of the hearing.

1. That the animal is in fact not dangerous, in which event the animal control officer shall cause it to be surrendered to the owner of the animal, upon payment by the owner of the expenses outlined in this article;

2. That the animal is in fact dangerous and should be destroyed.

3. That the animal is dangerous or potentially dangerous but that for good cause shown, the animal should not be destroyed, in which event the judge shall order all of the following:

a. A proper enclosure to confine a dangerous or potentially dangerous dog and the posting of the premises with a clearly visible warning sign that there is a dangerous dog or potentially dangerous dog on the property. In addition, the owner shall conspicuously display a sign with a warning symbol on the premises and on the enclosure that informs children of the presence of a dangerous or potentially dog and at a minimum states in capital bold lettering" "BEWARE OF DANGEROUS (OR POTENTIALLY DANGEROUS) ANIMAL".

b. A policy of liability insurance, such as homeowner's insurance, or surety bond, issued by an insurer qualified under Title 36 of the Oklahoma Statutes in the amount of not less than Fifty Thousand Dollars (\$50,000.00) insuring the owner for any personal injuries inflicted by the dangerous or potentially dangerous animal. A copy of the binder showing such insurance coverage is in full force and effect shall be filed with the City Clerk and no change, amendment or cancellation shall occur to such policy without the City receiving at least ten (10) days prior written notice.

c. Payment of a \$10.00 annual fee for a certificate of registration for keeping the dangerous or potentially dangerous dog.

B. It is unlawful for an owner of a dangerous or potentially dangerous animal to permit the animal to be outside the proper enclosure unless the animal is muzzled and restrained by a substantial chain or leash and under physical restraining of a responsible person over sixteen (16) years of age. The muzzle shall be made in a manner that will not cause injury to the animal or

interfere with its vision or respiration but shall prevent it from biting any person or animal.

C. Any dangerous or potentially dangerous animal shall be immediately confiscated by an animal control authority if:

a. The owner does not secure the required liability insurance coverage;

b. The animal is not maintained in the proper enclosure; or

c. The animal is outside of the dwelling of the owner, or outside the proper enclosure and not under physical restraint of the responsible person.

Any such fine, at the discretion of the court, may be offset by payments made by the animal owner to any victim of an attack by the animal. However, insurance payments may not be considered as an offset.

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

E. The Court shall make determinations regarding whether an animals is deemed dangerous or potentially dangerous and all other related orders to protect the health, safety and welfare of the public.

F. Dogs shall not be declared dangerous or potentially dangerous if the threat, injury, or damage was sustained by a person who, at the time, was committing a willful trespass or other tort upon the premises occupied by the owner of the dog, or was tormenting, abusing, or assaulting the dog or has, in the past, been observed or reported to have tormented, abused, or assaulted the dog or was committing or attempting to commit a crime.

G. The judge shall make other orders respecting dangerous dogs and potentially dangerous dogs as may be just and proper and protect the community.

SECTION 4-175 ADDITIONAL REQUIREMENTS FOR KEEPING A DANGEROUS OR
POTENTIALLY DANGEROUS ANIMAL

In order to keep a dangerous or potentially dangerous animal the following must, in addition to the foregoing requirements be provided and/or followed:

A. Sight proof fencing. In addition to other requirements provided herein, the yard where a dangerous or potentially dangerous animal is kept shall be enclosed with a six foot height sight proof fence. Said fence shall be maintained in a strong and sturdy condition at all times so that said dangerous or potentially dangerous animal cannot escape from the property. Said fence shall be maintained free of holes and shall not contain any gap between the fence and the ground large enough for a human limb or other animal to go through. Said fence shall also be maintained to prevent another animal from entering the property where the potentially vicious animal is kept. Electric fences, if installed, shall be installed in accordance with applicable building and safety codes. Electric fences shall not be installed on the top of the fence or be installed in such a way as to be likely to shock humans on the opposite side of the fence.

B. Identification photographs. All owners, keepers or harborers of dangerous or potentially dangerous animals must, within thirty (30) days of notification, provide to the Shelter Supervisor two (2) color photographs of the dangerous or potentially dangerous animal clearly showing the color and approximate size of the animal. Said photographs shall be no smaller than 3" x 5" in size.

C. Reporting requirements. All owners, keepers or harborers of dangerous or potentially dangerous animals must within thirty (30) days of the incident, report the following information in writing to the Shelter Supervisor as required hereinafter:

1. The removal from the city or death of a dangerous or potentially dangerous animal;

2. The birth of offspring of a dangerous or potentially dangerous animal;

3. The new address of a dangerous or potentially dangerous animal owner should the owner move within the corporate city limits.

D. Sale or transfer of ownership prohibited. No person shall

sell, barter or in any other way dispose of a dangerous or potentially dangerous animal within the City to any person within the City unless the recipient personally resides permanently in the same household and on the same premises as the owner of such animal; provided that the registered owner of a dangerous or potentially dangerous animal may sell or otherwise dispose of a dangerous or potentially dangerous animal or the offspring of such animal to persons who do not reside within the city.

E. Breeding of dangerous or potentially dangerous animals. It shall be unlawful to breed any dangerous or potentially dangerous animal within the city.

F. Animals born of registered dogs. All offspring born of dangerous or potentially dangerous animals registered with the City must be removed from the City within six (6) weeks of the birth of such animal.

G. Sterilized. All owners, keepers, or harborers of dangerous or potentially dangerous animals must, within thirty (30) days of notification, have the dangerous or potentially dangerous animal sterilized. Sterilization shall be performed by a Veterinarian licensed in the State of Oklahoma.

H. Failure to comply. It shall be unlawful for the owner, keeper or harborer of a dangerous or potentially dangerous animal in the City to fail to comply with the requirements and conditions set forth in this article. Any dangerous or potentially dangerous animal found to be the subject of a violation of this article shall be subject to immediate seizure and impoundment. All expenses associated with the impounding including shelter, food, handling and veterinary care shall be born by the owner of such animal during the period of impoundment. Failure to comply with all the requirements and conditions set forth in this article within fifteen (15) days of impoundment will result in the destruction of this animal.

Article 8

PENALTY

SECTION 4-181 PENALTY

Any person violating any of the provisions of this chapter shall, upon conviction thereof, be punished as provided in Section 1-108 of this code.

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CHAPTER 5: BUILDING REGULATIONS AND CODES

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BUILDING CODE AND REGULATIONS

SECTION 5-101 INTERNATIONAL BUILDING CODE ADOPTED.

That a certain document is on file in the Office of the City Clerk of the City of Fairview, Oklahoma, being marked and designated as the International Building Code 2015 Edition, its appendices and annual amendments thereof, as published by the International Code Council, be and is hereby adopted as the Building Code for the City of Fairview, State of Oklahoma, for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such structures as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said Building Code on file in the office of the City Clerk of the City of Fairview, Oklahoma, are hereby referred to, adopted, and made a part hereof, as if fully set out in this ordinance, with the additions, insertions, deletions and changes, if any, prescribed in Section 5-102 of this Article.

State Law Reference: Building codes, adoption by cities, 11 O.S. § 14-107; 74 O.S. § 324.8.

SECTION 5-102 ADDITIONS AND CHANGES TO INTERNATIONAL BUILDING CODE.

The following section of the International Building Code 2015 Edition are hereby revised:

1. §100.1, insert the City of Fairview, State of Oklahoma.
2. §1612.3, insert the City of Fairview, State of Oklahoma.
3. §1612.3, insert October 16, 2012.
4. §3410.2, insert October 16, 2012.

SECTION 5-103 PENALTY.

A person who violates a provision of this code or fails to comply therewith or with any of the requirements thereof, or who erects, constructs, alters, repairs or removes, or has erected, constructed, altered, repaired, or removed a building or structure in violation of a detailed statement of plan submitted and approved thereunder or of a permit or certificate issued thereunder, shall be guilty of a misdemeanor, and upon conviction shall be fined any sum as provided in Section 1-108 of this code including costs. Each day upon which a violation continues shall be deemed a separate offense.

SECTION 5-104 BUILDING OFFICIAL.

The building official of this City shall be appointed by the City Manager and shall have the powers and duties prescribed by the City's building code; provided that his powers and duties may be exercised by his authorized representatives under his supervision and control. The term "building inspector," whenever used in the ordinances of the City, means the building official. The terms "electrical inspector" and "plumbing inspector," wherever used in the ordinances of the City, also each refer to and mean the building official, unless a separate electrical inspector or plumbing inspector is appointed by the City Manager.

SECTION 5-105 FIRE LIMITS.

The fire limits are that part of the city designated as follows:

All of Blocks 9, 21, 36, 45, 59, 70, 84, 85, 96, 108, 118, and 126; also the West Half (W ½) of Blocks 8, 22, 35, 46, 58, 71, 97, 107, and 119; also the East Half (E ½) of the South Half (S ½) of Block 71; and also the East Half (E ½) of Block 97.

SECTION 5-106 PERMITS REQUIRED; FEE.

A. Required. Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be done, shall first make application to the zoning officer and obtain the required

permit.

B. Exemptions. A permit shall not be required when exempted as provided by Section 105 of the International Building Code 2015.

C. Fee. The fee for any permit shall be a minimum of \$10.00 plus \$1.00 per Thousand Dollars (\$1000.00) of the estimated construction, alteration or installation cost; provided however, no permit shall exceed \$100.00.

D. A person desiring a permit shall submit an application therefor to the building official. The applicant shall submit with the application such reasonable information as the building official may require to enable the building official to determine whether granting the permit would be in accordance with the requirements of the ordinances of the city.

E. If the application is in accordance with the requirements of the ordinances and laws, the building official shall issue the permit upon the payment by the applicant of the permit fee as set forth in Section 5-106C to the City Clerk.

SECTION 5-107 NUMBERING OF BUILDINGS.

(Reserved for future use.)

SECTION 5-108 PERMIT REQUIRED FOR MOVING BUILDING, BUILDING WITH TRAILER OR MOBILE HOME.

A. No person shall move any building or structure from one location in the City to another location within the City, or from outside the City into the City, without first obtaining a written permit from the building official. The fee for such permit shall be as set by the City Council in addition to any other costs incurred by the City.

B. No person, firm, or corporation shall move any mobile home from one location in the City to another location within the City, or from outside the City into the City, to be placed upon a lot, without first obtaining a written permit from the building official. The fee for such permit shall be as set by the City Council in addition to any other cost incurred by the City.

SECTION 5-109 INTERNATIONAL PROPERTY MAINTENANCE CODE ADOPTED.

That a certain document is on file in the Office of the City Clerk of the City of Fairview, Oklahoma, being marked and designated as the International Property Maintenance Code 2009 Edition, its appendices and annual amendments thereof, as published by the International Code Council, be and is hereby adopted as the Code for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such structures as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said Property Maintenance Code on file in the office of the City Clerk of the City of Fairview, Oklahoma, are hereby referred to, adopted, and made a part hereof, as if fully set out in this ordinance, with the following additions, insertions, deletions and changes:

Section 101.1, insert the City of Fairview, Oklahoma

Section 103.5, insert a schedule of fees on file in the office of the City Clerk or contained in the Fairview Municipal Code, 2013.

Section 304.14, insert from April 1 to September 30

Section 602.3, insert from November 1 through March 31

Section 602.4, insert from November 1 through March 31

SECTION 5-110 INTERNATIONAL EXISTING BUILDING CODE ADOPTED.

That a certain document is on file in the Office of the City Clerk of the City of Fairview, Oklahoma, being marked and designated as the International Existing Building Code 2015 Edition, but not to include the Appendix Chapters, together with any annual amendments thereof, as published by the International Code Council, be and is hereby adopted as the Code for regulating and governing the repair, alteration, change of occupancy, addition, and relocation of existing buildings, as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said Existing Building Code on file in the office of the

City Clerk of the City of Fairview, Oklahoma, are hereby referred to, adopted, and made a part hereof, as if fully set out in this ordinance, with the following additions, insertions, deletions and changes:

Section 101.1, insert the City of Fairview, Oklahoma

Section 1201.2, insert October 16, 2012.

SECTION 5-111 OUTDOOR PRIVATE SWIMMING POOLS

A. Except as provided in Subsection B hereinbelow, an outdoor private swimming pool, including an in-ground, above ground or on-ground pool, 18 inches or taller, shall comply with the following:

1. The top of the fence shall be at least 48 inches above the finished ground level.

2. Fences must be composed of acceptable fencing material.

3. Enclosure fences shall be constructed so as to prohibit the passage of a sphere larger than four (4) inches in diameter through any opening or under the fence.

4. All fences must be approved by the code enforcement officer.

5. Spas and/or hot tubs shall be enclosed or equipped with an approved safety cover.

B. With the City Manager's written approval and consent, any person who provides for an automatic, mechanical pool cover over an outdoor private swimming pool, which pool cover is composed of such substantial materials which would prevent persons, without exercising undue effort, from entering the pool, may be exempt from the requirements of Subsection A, provided that such pool cover shall at all time be operable and such pool shall be covered when not being used.

SECTION 5-112 RESIDENTIAL BUILDING CONTRACTOR; REGISTRATION AND INSURANCE REQUIRED; STATE FEE TO BE ASSESSED AND ADMINISTRATIVE FEE CHARGED.

A. Residential Building Contractor; Registration and Insurance Required.

1. No person shall work at the occupation or engage in the business of the construction of residential dwellings within the City, or making repairs thereto, for which a residential building permit is required, without registering with the City Clerk and securing a residential building contractors' registration. A residential building permit shall be defined for this section as any building permit for a single-family or a duplex residential structure and shall include construction of a new structure, remodel of an existing structure, and the addition to an existing structure. Not included under the definition of a residential building permit are a single-family or a duplex carport, patio cover, storage building, accessory building, pool, or fence.

2. Applicants for registration shall pay an annual, initial registration fee of \$50.00 (\$25.00 annual renewal), with such registrations to expire annually on June 30.

3. At all times that such registration is effective, the residential building contractor shall furnish the City Clerk a certificate of insurance from an appropriate insurer providing that contractor with general liability insurance in an amount required by other trade contractors licensed by the Construction Industries Board and workers' compensation insurance, for such contractor and employees, or a workers' compensation exemption verification document.

4. The City Council, upon notice and adequate opportunity for a public hearing, may revoke the registration of any residential building contractor for violation of any of the provisions or regulations of the City related to building construction or for any cause specified in the state law or municipal code.

5. All services performed by utility companies operating under a franchise or other agreement or permit, and the employees of such utility companies are hereby exempt from the registration and insurance requirements for work done under the supervision and direction of the utility companies.

6. This section shall not apply to a person or persons performing the construction or remodeling to his, her, or their own existing single-family or duplex structure on their own property, unless the modifications are being performed by and the permit acquired by a general contractor or subcontractor, in which case the general contractor or subcontractor shall meet the requirements set forth in this section.

B. State Fee to Be Assessed and Collected; Administrative Fee. The City shall assess and collect a fee for any building permit and/or renewal of such permit, in addition to other fees charged and collected by the City, in an amount and at such time as directed by the Oklahoma Uniform Building Code Commission. The calculation of such fee shall be made in accordance with the rules and regulations promulgated by the Oklahoma Uniform Building Code Commission. For purpose of such calculation the fee may be charged on any process, oral or written, wherein authorization, approval or registration is required prior to construction even though: 1) the permitting or registration document is not issued at that time; 2) the City refers to the authorization, approval or registration as something other than a "permit"; or 3) the only activities performed by the City are fee-based inspections of the work performed. For purpose of this section each segment of a multi-segment permit shall be considered a separate building permit if the segment meets each of the following conditions: 1) the City requires a separate, stand-alone building permit for the segment work when said work is not performed as part of a multi-segment construction project; 2) the City charges a stand-alone building permit fee for the segment work when said work is not performed as part of a multi-segment construction project; and 3) the segment work is subject to the requirements of the State Adopted Building Codes. Such fee shall be placed in a city account created for that purpose and such fees shall be monthly remitted by the municipality to the State Treasury for deposit in the Oklahoma Uniform Building Code Commission Revolving Fund. Along with such monthly deposit, the City shall submit a report stating the total amount of funds collected and the total number of fees imposed during the preceding month. In addition to the fee that shall be collected and remitted as provided hereinabove, then City shall charge an additional administrative fee of \$0.50 on each fee collected and reported to the state.

ARTICLE 2

PLUMBING CODE

Section 5-201 INTERNATIONAL PLUMBING CODE ADOPTED.

That a certain document is on file in the Office of the City Clerk of the City of Fairview, Oklahoma, being marked and designated as the International Plumbing Code 2015 Edition, including all appendix chapters, together with any annual amendments thereof, as published by the International Code Council, be and is hereby

adopted as the Plumbing Code of the City of Fairview, State of Oklahoma, for regulating and governing the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of plumbing systems as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said Plumbing Code on file in the office of the City Clerk of the City of Fairview, Oklahoma, are hereby referred to, adopted, and made a part hereof, as if fully set out in this section, with the additions, insertions, deletions and changes as set out in Section 5-202.

Section 5-202 ADDITIONS, INSERTIONS AND CHANGES TO THE INTERNATIONAL PLUMBING CODE

The following sections contained in the International Plumbing Code 2015, are hereby revised:

Section 101.1, insert the City of Fairview, Oklahoma

Section 106.6.2, insert as provided by resolution of the City or as provided in the Fairview Municipal Code, 2013.

Section 106.6.3, insert in first blank 75% and second blank 50%

Section 108.4, insert as provided by Section 1-108 of the Fairview Municipal Code, 2013.

Section 108.5, insert as provided by Section 1-108 of the Fairview Municipal Code, 2013

Section 305.6.1, insert 18"

Section 904.1, insert 12"

State Law Reference: City powers to supervise plumbing, 59 O.S. §§ 1001 et seq.

SECTION 5-203 PLUMBERS; REGISTRATION.

A. The phrases and words "journeyman plumber," "plumber's apprentice," "plumbing contractor," and "plumbing," when used in the ordinances, regulations and other official acts and communications of this City, shall have the meanings respectively prescribed for

them by Sections 1001 et seq. of Title 59 of the Oklahoma Statutes, the state plumbing license law, and the City's plumbing code, unless the context clearly indicates a different meaning.

B. No person shall work at the occupation or engage in the business of installing, altering, replacing or repairing any plumbing equipment, fixtures or apparatus within the City without registering with the City Clerk and securing a plumbing contractors' registration. The City Clerk shall issue such registration upon presentation of a valid license or registration issued by the state department of health and upon payment of the required fees.

C. Applicants for certificates of registration, after complying with the laws of the state and with the City code, and after payment of the fee hereinafter specified, shall be registered with the City. The registration shall expire annually, on June 30, but may be renewed from year to year. Plumbing contractors desiring to renew their registration shall furnish the same evidence of compliance with the state licensing laws and the same bond is required as set forth by City code.

D. An applicant for plumbing contractor's registration shall also furnish bond in such sum and such conditions as set by the City Council.

E. All plumbing registrations not renewed within ninety (90) days after the date of expiration thereof shall be canceled, and a new application for registration must be made and the fee for a new registration paid.

F. The fee for registration shall be as set forth in the fee schedule.

G. The City Council, upon notice and adequate opportunity for a public hearing, may revoke the City registration of any plumbing contractor or journeyman plumber for violating any provision of the ordinances or regulations of the City relating to the installation of plumbing or for any other cause specified in the state plumbing license law.

H. All services performed by utility companies operating under a franchise agreement, and the employees of such utility companies are hereby exempt from Subsection B for work done under the supervision and direction of the utility companies.

State Law Reference: State plumbing licenses, requirements, 59 O.S. §§ 1001 et seq.

SECTION 5-204 PLUMBING, PERMITS AND INSPECTIONS.

A. No plumbing work shall be undertaken without a permit from the City as provided in the City's plumbing code.

B. The application for such work shall be as required by the City.

C. The permit inspection fee for plumbing shall be as set forth in Chapter 18. Such payment will be made upon application. No work may be commenced prior to payment of the fee. The permit fee shall also cover the cost of inspection.

D. Inspection of such work shall conform to the guidelines set forth in the City code.

SECTION 5-205 PLUMBING INSPECTOR; APPOINTMENT; POWERS AND DUTIES.

A. The plumbing inspector shall be appointed by the City Manager.

B. The plumbing inspector shall have the powers and duties prescribed for him by the City's plumbing codes.

C. All taps to main sewer or water lines shall be made only under the supervision of a City official and employee.

ARTICLE 3

ELECTRICAL CODE

SECTION 5-301 DEFINITIONS.

Words and phrases in this chapter shall be as defined in the state law, Sections 1680 et seq. of Title 59 of the Oklahoma Statutes and the City's electrical code.

State Law Reference: State electrical requirements, licensing by state, 59 O.S. §§ 1680 to 1696.

SECTION 5-302 NATIONAL ELECTRICAL CODE.

All installations of electrical equipment shall be in conformity with the provisions of this chapter, with the statutes of the state and any orders, rules and regulations issued by authority thereof, and with approved electrical standards for safety to persons and property. Where no specific standards are prescribed by this chapter or by the statutes of the State of Oklahoma or by any orders, rules, or regulations issued by authority thereof, conformity with the regulations set forth in the National Electrical Code 2014 as approved by the National Board of Fire Underwriters shall be prima facia evidence of conformity with approved standards for safety to persons or to property.

SECTION 5-303 UNDERWRITERS LABORATORIES, INC.

All electrical equipment installed or used shall be in conformity with the provisions of this chapter, the statutes of the state and the provisions of this chapter, the statutes of the state and any orders, rules and regulations issued by the authority thereof, and with approved electrical standards for safety to persons or to property. Unless by this chapter, by a statute of the state or any orders, rules, or regulations issued by authority thereof, a specific type or class of electrical equipment is disapproved for installation and use, conformity with the standards of Underwriters' Laboratories, Inc., shall be prima facie evidence of conformity with approved standards for safety to persons or to property.

SECTION 5-304 CITY COUNCIL MAY MAKE SPECIAL RULINGS.

The City Council of the City, by motion or resolution, shall have the authority to make special rulings, when circumstances warrant, for the safeguarding of life and property and the improvement of electrical installations. In all cases persons engaged in the installing of electrical equipment and holding an electrical license must be notified by letter of these decisions.

SECTION 5-305 PERMIT REQUIRED FOR ELECTRICAL INSTALLATIONS;
ISSUANCE.

A. It is unlawful for any person to commence any work on electrical installations for light, heat or power or make extensions to any existing electrical installations without first securing a permit from the City.

B. Applications for electrical permits shall be made to the City; and the applicant shall provide such plans, specifications, and other data as may be reasonably required.

C. The fee for an electrical permit shall be as prescribed in the fee schedule.

Cross Reference: See also Sections 17-101 et seq. for electrical utility fees.

SECTION 5-306 INSPECTION FEE.

The permit fee shall cover the cost of inspection. If the electrical inspector is called in to inspect and upon arrival the job is not ready for inspection, a fee as set by the Council shall be charged for the call, over and above any permit fee.

SECTION 5-307 ELECTRICIAN'S REGISTRATION REQUIRED, BOND.

A. It is unlawful for any person to engage in the business, trade or vocation of electrical contractor, journeyman electrician or apprentice electrician or do any electrical work for which an electrical permit is required without a certificate of registration as such secured from the City.

B. The fee for a registration certificate, and any renewal, to be paid to the City Clerk, shall be as set by the City Council.

C. The City Clerk shall issue such registration upon presentation of a valid license issued by the state and upon payment of the required fee. All registrations shall expire annually on June 30. After the expiration, an application for a new certificate must be requested and the initial fee paid again.

D. The certificate is not transferable to any other individual or company.

E. Every person receiving a certificate as an electrical contractor shall file with the City Clerk a bond in such sum as set by the City Council, executed with a surety company authorized to do business in the state, in the sum as set by the Council. The bond shall be conditioned that the principal will install all electrical wiring, fixtures, appliances, and equipment in accordance with the law and the ordinances and other regulations of the City relating to electrical installations and in a workmanlike manner;

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 may be fully indemnified and held harmless from any and all costs, expenses or damage resulting from the performance of his work as an electrical contractor or apprentice electrician, as the case may be.

F. All services performed by the City or utility companies operating under franchise agreements, and the employees of such utility company or City, are hereby exempt from Subsection A for work done under the supervision and direction of the utility company or City.

G. After adequate opportunity for a hearing, the City Council may revoke the certificate of an electrical contractor, apprentice electrician, or a journeyman electrician.

SECTION 5-308 COMPLIANCE WITH REGULATIONS.

All electrical construction and all materials, appliances, motors, heating devices and apparatus used in connection with electrical work and the operation of all electrical apparatus within the City limits shall conform to the rules and requirements of the code adopted by this chapter. The electrical inspector shall have the responsibility and authority for making interpretations of the provisions of such code, for deciding upon the approval of equipment, materials and construction and for granting the special permission contemplated in a number of provision of such code, and the electrical inspector, where necessary, shall follow the code procedure for securing official interpretations of such code. In cases of necessity, the electrical inspector may require larger size wire, more branch circuits and better types of equipment than the minimum specified in the National Electrical Code.

SECTION 5-309 INSPECTION OF WORK; REMOVAL OF DEFECTIVE INSTALLATIONS.

A. Upon the completion of any work for which a permit has been issued under Section 5-305, it shall be the duty of the permit holder to notify the electrical inspector who shall, as early as possible, inspect the wiring, installation, appliances and apparatus and execute a certificate of satisfactory inspection, which shall contain the date of such inspection and the result of his examination. No such certificate shall be issued unless such

wiring, motors, heating devices, appliances and apparatus are in strict accord with the rules, requirements and spirit of this chapter. No current shall be turned on until such certificate is issued.

B. The amount of fee or charge to be made for such inspections and certificates shall be fixed and determined by the City Council.

C. Whenever electric wiring, appliances or apparatus are found to be defective or hazardous through improper manufacture or improper or insufficient installation or for any other reason, the electrical inspector shall at once cause the removal of such defect, at the expense of the owner of such wiring, appliance or apparatus.

SECTION 5-310 DISCONTINUING CURRENT FOR FAILURE TO COMPLY WITH CHAPTER.

Upon failure to comply with this chapter, the electrical inspector shall have authority, after due notice, to cut off electric current. In an emergency the electrical inspector shall have such authority without notice.

SECTION 5-311 OFFICE OF ELECTRICAL INSPECTOR.

A. There is created the office of City electrical inspector. Such inspector shall be appointed by the City Manager.

B. It is the duty of the electrical inspector to enforce all provisions of this chapter. He is hereby granted the authority to enter all buildings in the City, in the performance of his duties.

ARTICLE 4

MECHANICAL CODE

SECTION 5-401 INTERNATIONAL MECHANICAL CODE ADOPTED.

That a certain document is on file in the Office of the City Clerk of the City of Fairview, Oklahoma, being marked and designated as the International Mechanical Code 2015 Edition, including all appendix chapters, together with any annual amendments thereof, as published by the International Code Council, be and is hereby adopted as the Mechanical Code of the City of Fairview, State of Oklahoma, for regulating and governing the design, construction,

quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of mechanical systems as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said Mechanical Code on file in the office of the City Clerk of the City of Fairview, Oklahoma, are hereby referred to, adopted, and made a part hereof, as if fully set out in this section, with the following additions, insertions, deletions and changes:

Section 101.1, insert the City of Fairview, Oklahoma

Section 106.6.2, insert as provided by resolution of the City or as provided in the Fairview Municipal Code, 2013.

Section 106.5.3, insert in first blank 75% and second blank 50%

Section 108.4, insert as provided by Section 1-108 of the Fairview Municipal Code, 2013

Section 108.5, insert as provided by Section 1-108 of the Fairview Municipal Code, 2013

SECTION 5-402 DEFINITIONS.

Words and phrases in this chapter shall be as defined in the State Mechanical Licensing Act, Section 1850.1 et seq. of Title 59 of the Oklahoma Statutes, or as such sections may be hereinafter amended.

SECTION 5-403 REGISTRATION REQUIRED.

A. No person shall work at the occupation or engage in the business of installing, altering, replacing or repairing any mechanical equipment, fixtures or apparatus within the City without registering with the City Clerk and securing a mechanical contractor's registration. The City Clerk shall issue such registration upon presentation of a valid license or registration issued by the state department of health and upon payment of the required fee.

B. Applicants for certificates of registration, after complying with the laws of the state and with the City code, and after payment of the fee hereinafter specified, shall be registered by the City. The registration shall expire annually, on June 30,

but may be renewed from year to year. Mechanical contractors desiring to renew their registration shall furnish the same evidence of compliance with state licensing laws and the same bond is required as set forth by City code.

C. An applicant for mechanical contractor's registration shall also furnish bond in such sum and such conditions as set by the City Council.

D. All mechanical registrations not renewed within ninety (90) days after the date of expiration thereof shall be canceled, and a new application for registration must be made and the fee for a new registration must be paid.

E. The fee for registration shall be as set forth by the City Council by motion or resolution.

F. The City Council, upon notice and adequate opportunity for a public hearing, may revoke the City registration of any mechanical contractor or journeyman mechanical contractor for violating any provisions of the ordinances or regulations of the City relating to the installation of mechanical or for any other reason specified in the state mechanical license law.

G. All services performed by utility companies operating under a franchise agreement, and the employees of such utility companies or City are hereby exempt from Subsection A for work done under the supervision and direction of the utility companies or City.

SECTION 5-404 MECHANICAL PERMITS AND INSPECTIONS.

A. No mechanical work shall be undertaken without a permit from the City as provided in the City's mechanical code.

B. The application for such work shall be as required by the City.

C. All persons making mechanical installations shall be charged a permit inspection fee as set forth in the fee schedule. Such payment will be made upon application. No work may be commenced prior to payment of the fee. The permit fee shall also cover the cost of inspection.

D. Inspection of such work shall conform to the guidelines

set forth in City code.

SECTION 5-405 OFFICE OF MECHANICAL INSPECTOR.

A. There is created the office of City mechanical inspector. Such inspector shall be appointed by City Manager.

B. It is the duty of the mechanical inspector to enforce all provisions of this chapter. He is hereby granted the authority to enter all buildings in the City, in the performance of his duties.

ARTICLE 5

LIQUEFIED PETROLEUM GAS

SECTION 5-501 CODE ADOPTED.

It is 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 with and complies with all provisions of the law and ordinances relating thereto, and has any license or permit which may be required by state law. The pamphlet, Storage and Handling of Liquefied Petroleum Gases, as contained in Pamphlet No. 58 issued by the National Fire Protection Association, the latest edition thereof, adopted by the Oklahoma Liquefied Petroleum Gas Board, shall have full force and effect within this City. Any violation of these rules and regulations shall be deemed a violation of the ordinances of the City and shall be punished accordingly. Liquefied petroleum gas may only be located in properly zoned districts.

State Law Reference: State rules, 52 O.S. § 420.1 et seq.

Cross Reference: See also Sec. 13-101 et seq. on fire prevention code.

SECTION 5-502 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 provision of this chapter, 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 chapter or by state statutes, or by any orders, rules or regulations issued by authority thereof, conformity with the standards of the National Fire Protection Association for the design, installation and construction of containers and pertinent equipment for the storage and handling of liquefied petroleum gases, as amended, shall be prima facie evidence of conformity with generally recognized standards for safety to persons and property.

SECTION 5-503 RESERVED

SECTION 5-504 PARKING OF LPG TRUCKS PROHIBITED; EXCEPTIONS.

No person shall park, or cause to be parked, any liquefied petroleum gas transport truck or vehicle on any public street or alley, or on any public private property or driveway, within the corporate limits of the City whether or not any such transport truck or vehicle is carrying any liquefied petroleum gas on board, except when any such transport truck or vehicle is actually engaged in dispensing liquefied 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.

Cross Reference: See also Sec. 15-721 on hazardous trucks, parking.

ARTICLE 6

GAS PIPING CODE

Section 5-601 INTERNATIONAL FUEL GAS CODE ADOPTED.

That a certain document is on file in the Office of the City Clerk of the City of Fairview, Oklahoma, being marked and designated as the International Fuel Gas Code 2015 Edition, including all appendix chapters, together with any annual amendments thereof, as published by the International Code Council, be and is hereby adopted as the Fuel Gas Code of the City of Fairview, State of Oklahoma, for regulating and governing fuel gas systems and gas-fired appliances as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said

Fuel Gas Code on file in the office of the City Clerk of the City of Fairview, Oklahoma, are hereby referred to, adopted, and made a part hereof, as if fully set out in this section, with the following additions, insertions, deletions and changes:

Section 101.1, insert the City of Fairview, Oklahoma

Section 106.5.2, insert as provided by resolution of the City or as provided in the Fairview Municipal Code, 2013.

Section 106.5.3, insert in first blank 75% and second blank 50%

Section 108.4, insert as provided by Section 1-108 of the Fairview Municipal Code, 2013

Section 108.5, insert as provided by Section 1-108 of the Fairview Municipal Code, 2013.

ARTICLE 7

HOUSING CODE

SECTION 5-701 INTERNATIONAL RESIDENTIAL CODE ADOPTED.

That a certain document is on file in the Office of the City Clerk of the City of Fairview, Oklahoma, being marked and designated as the International Residential Code 2015 Edition, including all appendix chapters, together with any annual amendments thereof, as published by the International Code Council, be and is hereby adopted as the Residential Code of the City of Fairview, State of Oklahoma, for regulating and governing the construction, alteration, movement, enlargement, replacement, repair, equipment, location, removal and demolition of detached one and two family dwellings and multiple single family dwellings (City houses) not more than three stories in height with separate means of egress as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said Residential Code on file in the office of the City Clerk of the City of Fairview, Oklahoma, are hereby referred to, adopted, and made a part hereof, as if fully set out in this section, with the following additions, insertions, deletions and changes:

Section R101.1, insert the City of Fairview, Oklahoma

Section P2603.6.1, insert 18"

Section P3103.1, insert 12"

Cross Reference: Permits, fees, see Article 1 of this Code.

ARTICLE 8

FAIR HOUSING

Section 5-801 PURPOSES; DEFINITIONS.

A. The general purposes of this chapter are:

1. To secure for all people equal access to housing in all neighborhoods; and
2. To preserve the public safety, health and welfare.

B. Definitions. Definitions for the words used in the Article shall be as found in Title 25, Section 1451 of the Oklahoma Statutes, as such statute is currently constituted or as it may be hereinafter amended.

Section 5-802 ACTS PROHIBITED.

It is unlawful for any person, commercial lending institution, real estate broker, real estate salesman or agent 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, sex, religion, gender, national origin, age, familial status or disability;

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, sex, religion, gender, national origin, age, familial status or disability;

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 ground of loss of value due to the present or prospective entry into the neighborhood of a person or persons of another race, color, sex, religion, gender, national origin, age, familial status or disability, 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, or making statements designed to induce a residential property owner to sell or lease his property due to such change in the neighborhood;

4. Deny or make different terms or conditions for home loans by a commercial lender, such as a bank, savings and loan association, mortgage institution or insurance company; or

5. Commit any other unlawful discriminatory act as set out in Title 25, Section 1452 of the Oklahoma Statutes, as such statute is currently constituted or as it may be hereinafter amended.

6. File a complaint alleging a violation of this article, with knowledge that such complaint is false in any material respect, or to file such complaint for the sole purpose of harassment.

Section 5-803 EXEMPTIONS.

Section 5-802 shall not:

1. Apply to any religious nonprofit organization, association, or society operated, supervised or controlled by or in conjunction with a religious organization, association, or society from limiting the sale or rental of dwellings units owned or operated for other than a commercial purpose to persons of the same religion, or from giving preferences to such such persons, unless membership in such religion is restricted on account of race, color, or national origin.

2. Prohibit a religious organization, association, or society, or a nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society, from:

a. limiting the sale, rental, or occupancy of dwellings that it owns or operates for other than a commercial purpose to persons of the same religion, or

b. giving preference to persons of the same religion, unless membership in the religion is restricted because of race, color, or national origin; or

3. Prohibit a private club not open to the public that, as an incident to its primary purpose, provides lodging that it owns or operates for other than a commercial purpose from limiting the rental or occupancy of that lodging to its members or from giving preference to its members.

B. Nothing provided for in Section 5-802 relating to familial status applies to housing for older persons. As used in this section, "housing for older persons" means housing:

1. That the Oklahoma Attorney General's Office of Civil Rights Enforcement determines is specifically designed and operated to assist elderly persons pursuant to a federal or state program;

2. Intended for, and solely occupied by, persons sixty-two (62) years of age or older; or

3. Intended and operated for occupancy by at least one person fifty-five (55) years of age or older per unit as determined by rules of the Attorney General's Office of Civil Rights Enforcement.

C. Section 5-802 shall not apply to:

a. the sale or rental of a single-family house sold or rented by an owner if:

(1) the owner does not:

(a) own more than three single-family houses at any one time,
or

(b) own any interest in, or is there owned or reserved on his or her behalf, pursuant to any express or voluntary agreement, title to or any right to any part of the proceeds from the sale or rental of more than three single-family houses at any one time, and

(2) the house was sold or rented without:

(a) the use of the sales or rental facilities or services of a real estate broker, agent, or salesman licensed pursuant to the

Oklahoma Real Estate License Code, or of an employee or agent of a licensed broker, agent, or salesman, or the facilities or services of the owner of a dwelling designed or intended for occupancy by five or more families, or

(b) the publication, posting, or mailing of a notice, statement, or advertisement prohibited by the terms of this Article.

b. the sale or rental of rooms or units in a dwelling containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner maintains and occupies one of the living quarters as the owner's residence.

Section 5-804 FAIR HOUSING BOARD CREATED.

There is hereby created a fair housing board of the city, hereinafter referred to as "board", composed of five (5) members, to be appointed by the mayor and city council of the city, for terms of three (3) years, excepting that of the members first appointed under this chapter, two (2) shall be appointed for a term of one year, and two (2) shall be appointed for a term of two (2) years, and one shall be appointed for a term of three (3) years.

Section 5-805 PROCEDURE.

A. Any person aggrieved by discriminatory practice prohibited by this chapter, may file with the fair housing board, a complaint in writing, under oath. The complaint shall be signed by the person claiming to be aggrieved, and shall state the name and address of the person alleged to have violated the provisions of this chapter, and shall further set forth the particulars of the violation, and may include such other information as may be required by the board. Complaints filed under this Section must be filed within thirty (30) days after the alleged violation, and failure to file within that time, shall be considered a waiver of the application of this chapter. The board may issue a complaint on its own initiative, at any time it is within the knowledge of the board that a person has violated any of the provisions of this chapter.

B. The board shall investigate each complaint filed with the board, and shall attempt an adjustment of the complaint by means of conference and conciliation. Sixty (60) days shall be allowed for the purpose of investigation, conference and conciliation. Upon determination that a complaint is not well founded, the board shall

dismiss the complaint and notify the complainant and respondent in writing of the dismissal. If it appears that the complaint might have merit, the complainants shall be advised of their rights under existing state and federal laws.

C. If conference or conciliation does not result in compliance with this chapter, the board shall cause to be issued and served in the name of the city, a written notice, together with a copy of the complaint, requiring the person named in the complaint, hereinafter referred to as respondent, to answer charges of the complaint at a hearing before the board at a time and place to be specified in the notice.

D. At the hearing, provided for in Subsection C above, the complaint shall be heard by the board. At the hearing, the complainant or person aggrieved may appear in person or by counsel, and the respondent may file a written answer to the complaint and may appear in person or by legal counsel. The board, when conducting any hearing, pursuant to this Section, may permit amendments to any complaint or answer, and the testimony taken at the hearing shall be under oath, and shall be transcribed at the request of either party, or at the direction of the board, the party requesting the transcription to be responsible for the costs thereof. If the board finds at the hearing, that the respondent has engaged in any discriminatory practice or practices, prohibited by this chapter, it shall state its findings of fact, and shall so certify the matter to the city attorney for appropriate action. No prosecution shall be brought under this chapter except upon such certification. If the board, upon hearing, finds that respondent has not engaged in any discriminatory practice, it shall state its findings of fact, and shall issue and file an order, dismissing the complaint. The board shall establish rules and regulations to govern and expedite and effectuate the foregoing procedure, and shall maintain the files provided for herein.

Section 5-806 NOTICES.

Any and all notices required under the provisions of this chapter to be served upon any person, may be served personally on such person, or by mailing a copy thereof by certified or registered mail, with return receipt requested, to the most current business or residence address of such person.

ARTICLE 9

TRAILER PARKS AND MOBILE HOMES

SECTION 5-901 TRAILER, MOBILE HOME, AUTOMOBILE TRAILER OR TRAILER COACH DEFINED.

A trailer, mobile home, automobile trailer or trailer coach mean any vehicle or structure so designed and constructed in such manner as will permit occupancy thereof as sleeping quarters for one or more persons, or the conduct of any business or profession, occupation or trade or use as a selling or advertising device, and so designed that it is or may be mounted on wheels and used as a conveyance on highways or city streets, propelled or drawn by its own power or other motor power, excepting a device used exclusively upon stationary rails or tracks.

SECTION 5-902 DEFINITIONS.

As used herein:

1. "Camper" means a vehicle or structure designed or manufactured to be used as a camper trailer for camping purposes and which is used for such purposes not less than four (4) times each year. In case of dispute, a city council shall on proper application make a determination of such vehicle or structure alleged to be a trailer.

2. "Trailer Park" means any park, trailer park, trailer court, camp, site, lot, parcel, or tract of land designed, maintained or intended for the purpose of supplying a location or accommodations for not less than five (5) trailers or mobile homes and upon which any trailer or mobile homes are parked and shall include all buildings used or intended for use as part of the equipment thereof whether a charge is made for the use of the trailer park and its facilities or not. Trailer park shall not include automobile or trailer sales lots on which unoccupied trailers are parked for purposes of inspection and sale; and

3. "Unit" means a section of ground in a trailer park of not less than three thousand (3,000) square feet of unoccupied space in an area designed as the location for only one automobile and one trailer.

SECTION 5-903 RESERVED

SECTION 5-904 LICENSE FOR TRAILER PARK; APPLICATION AND ISSUANCE

A. It shall be unlawful for any person to establish, operate, maintain or permit to be established, operated, maintained or permitted upon any property owned or controlled by such person, a trailer park within the corporate limits of the city without first having secured a license from the city clerk, granted and existing in compliance with the terms of this Article. Such license shall expire one year from the date of the issuance but may be renewed under the provisions of this Article for additional periods of one year.

B. The application for such license, or the renewal thereof, shall be filed with the city clerk attached to a plot plan and shall be accompanied by a fee of One Dollar for each unit in the existing or proposed park.

C. Licenses issued under the terms of this Article convey no right to erect any building or to do any plumbing or electrical work.

SECTION 5-905 ZONING OF TRAILER PARKS

No trailer park shall be located in the city unless it complies with the recognized setback line for the zoning district in which such trailer park is located, provided no trailer shall be placed less than ten (10) feet from any building.

SECTION 5-906 PARK PLAN

Requirements for a trailer park are as follows:

1. Every trailer shall be located on a well drained area, and the premises shall be properly graded so as to prevent the accumulation of storm or other waters.

2. Units shall be clearly designed and the park so arranged that all units shall face or abut on a driveway of not less than sixteen feet in width, giving easy access to the public street. Such driveway shall be hard surfaced, and maintained in good condition, having a natural drainage into a city street catch basin, be well lighted at night, and shall not be obstructed.

3. Every trailer unit shall be furnished with an electric service outlet. Such outlet shall be equipped with an externally

operated switch or fuse of not less than thirty amperes capacity, and a heavy duty outlet receptacle.

4. Trailer coach spaces shall be provided consisting of a minimum of three thousand (3000) square feet for each space which shall be at least twenty-five wide and clearly defined. Trailer coaches shall be so harbored on each space that there shall not be less than ten (10) foot clearance between trailers.

5. An adequate supply of city water, furnished through a pipe distribution system connected directly with the city water main, shall be furnished for drinking and domestic purposes.

6. All waste water shall be piped into the sewer system extended from and connected to the city sewer system. Each faucet site shall be equipped with facilities for drainage of waste and excess water into the sewer. In no case shall any waste water or sewage be thrown or discharged upon the surface of the ground or disposed of by means other than as herein provided.

7. Every trailer shall be provided and equipped with garbage depositories from which the contents shall be removed by the solid waste collection service.

ARTICLE 10

PENALTY

SECTION 5-1001 PENALTY.

Any person, firm or corporation who shall engage in any business, trade or vocation for which a license, permit, certificate or registration is required by this chapter, without having a valid license, permit, certificate, or certificate of registration as required, or who shall fail to do anything required by this chapter or by any code adopted by this chapter, or who shall otherwise violate any provision of this chapter or of any code adopted by this chapter, or who shall violate any lawful regulation or order made by any officers provided for in this chapter, shall be guilty of an offense, and upon conviction thereof, shall be punished as provided in Section 1-108 of this code. Each day such violation is committed or continues to exist shall constitute a separate offense and is punishable as such.

SECTION 5-1002 RELIEF IN COURTS.

No penalty imposed by and pursuant to this chapter shall interfere with the right of the City to apply to the proper courts of the state for a mandamus, injunction or other appropriate action against such person, firm or corporation that violates any provision of this chapter.

SECTION 5-1003 SUSPENSION OR REVOCATION OF REGISTRATIONS ISSUED BY City.

A. The Mayor and Council may suspend or revoke any plumbing, electrical, mechanical or other registration issued pursuant to this Chapter, if it finds that the holder has:

1. Made a material misstatement in the application for any registration or renewal thereof;
2. Loaned or illegally used his registration;
3. Violated any provision of this code; or
4. Committed any act specified in this code as grounds for suspension or revocation of any registration.

B. Complaints against any person registered pursuant to this chapter shall be filed with the City Clerk and thereafter investigated by the appropriate City department head, or his designee. All complaints shall be in writing, signed and duly verified; provided however, this procedure shall not be exclusive and shall not preclude the filing of a complaint in the municipal court.

C. The person against whom the complaint is signed shall be entitled to a public hearing before the Mayor and Council. Within ten (10) days after the filing of a written complaint, the appropriate City department head shall serve written notice of the complaint upon the registered person. The notice shall be served personally or by certified mail (return receipt requested). If the notice is served personally it must be served at least ten (10) days prior to the scheduled hearing. If the notice is served by mail it must be postmarked at least ten (10) days prior to any scheduled hearing. The notice shall include:

1. A statement of the time, place and nature of the hearing;

2. A statement of the legal authority and jurisdiction under which the hearing is to be held;

3. A reference to the particular sections of this code and rules involved;

4. A copy of the complaint;

5. A statement that the accused has a right to a public hearing in his defense at which time he may respond to the allegation in the complaint by his testimony, the testimony of witnesses or other admissible evidence;

6. A statement that the individual has a right to be represented by legal counsel and a right to confront his accusers; and

7. A statement that based upon the evidence presented at the hearing, the Mayor and Council shall decide to either dismiss the complaint or recommend the suspension or revocation of the registration.

D. All writings or documents admitted into evidence shall become a part of the record of the proceedings. A party or members of the board may conduct direct and cross examinations required for a full and true disclosure of the facts. After all evidence has been submitted, the Mayor and Council shall vote to either dismiss the complaint or suspend or revoke the registration. A suspension shall include a recommendation for a time period during which the registration is to be suspended; provided however, that a registration cannot be suspended for a period of time exceeding six (6) months.

CHAPTER 6. COURT

ARTICLE 1

MUNICIPAL COURT

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TO PERFORM
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PERFORM

CHAPTER 6. COURT

ARTICLE 1

MUNICIPAL COURT

Section 6-101 ORGANIZATION OF MUNICIPAL COURT.

This chapter shall govern the organization and operation of the municipal criminal court not of record of the City of Fairview Oklahoma, as put into operation by resolution, duly passed and filed in accordance with law, as authorized by Sections 27-101 and 27-102 of Title 11 of the Oklahoma Statutes. To the extent of conflict between any provisions of this chapter and the provisions of any ordinances of this City, the provisions of this chapter shall control.

State Law Reference: Municipal courts not of record, organization, rules and procedures, 11 O.S. Section 27-101 to 27-132.

Section 6-102 DEFINITIONS.

As used in this chapter, unless the context required a different meaning, the following words shall have the meanings ascribed to them in this Section:

1. "Chief of police" means the peace officer in charge of the police force of the municipality;
2. "Clerk" means the clerk of this municipality, including any deputy or member of the office staff of the clerk while performing duties of the clerk's office;
3. "Court" means the municipal court of the City of Fairview;
4. "Governing body" means the City Council for the City of Fairview;
5. "Judge" means the judge of the municipal court, including any acting judge or alternate judge thereof as provided for by the statutes of this state and this chapter;
6. "Municipality" or "this municipality" means the City of Fairview, Oklahoma; and

7. "This judicial district" means the district court judicial district of the State of Oklahoma wherein the government of this municipality is situated.

Section 6-103 JURISDICTION OF COURT.

The court shall exercise original jurisdiction to hear and determine all prosecutions wherein a violation of any ordinance of this municipality is charged, including any such prosecutions transferred to the court in accordance with applicable law.

Section 6-104 JUDGE; QUALIFICATIONS.

There shall be one judge of the court. The mayor, with consent of the governing body, may appoint as judge:

1. An attorney licensed to practice law in Oklahoma, who resides in Major County or in an adjacent county; or
2. An attorney licensed to practice law in Oklahoma who maintains a permanent office in the City of Fairview; or
3. Any suitable person who resides in Major County or in an adjacent county.

The judge may serve as judge of other municipal courts, if such service may be accomplished consistently with his/her duties as judge of this court, with the consent of the City Council. A judge should have a good moral character. A judge who is a licensed attorney may engage in the practice of law in other courts, but the judge shall not accept employment inconsistent with his duties as judge, or arising out of facts which gives rise to or is connected with cases within the jurisdiction of the court, pending therein or which might become the subject of proceedings therein.

Section 6-105 TERM OF JUDGE.

The official term of the judge shall be two (2) years expiring on the 1st day of June of each odd-numbered year and until a successor is appointed and qualified, unless removed by the vote of a majority of all members of the governing body for such cause as is provided for by law for the removal of public officers. Any appointment to fill a vacancy shall be for the unexpired term.

Section 6-106 ALTERNATE JUDGE.

There shall be appointed for each judge of the court an alternate judge possessed of the same qualifications required of the judge in this chapter. The alternate judge's appointment shall be for the same term and made in the same manner as the judge. The alternate judge shall sit as acting judge of the court in any case if the judge is:

1. Absent from the court;
2. Unable to act as judge; or
3. Disqualified from acting as judge in the case.

Section 6-107 APPOINTMENT AND COMPENSATION TO JUDGES.

A. Judges and alternative judges shall be appointed by the Mayor with the consent of the governing body.

B. All judges shall receive compensation as set by the governing body by motion or resolution.

Section 6-108 DISQUALIFICATION OF JUDGE.

In prosecutions before the court no change of venue shall be allowed; but the judge before whom the case is pending may certify disqualification or may be disqualified from sitting under the terms, conditions and procedure provided by law for courts of record. If a judge is disqualified, the matter shall be heard by an alternate judge appointed as provided in this chapter.

Section 6-109 PROCEDURE-JUDICIAL NOTICE OF STATUTES AND ORDINANCES-WRITS AND PROCESS-SERVICE OF ARREST WARRANTS.

Except as otherwise provided for by law, the code of procedure in the municipal court shall be the same as is provided for by law for the trial of misdemeanors. The court shall take judicial notice of state statutes and the ordinances of the City in which it is located. Writs and processes of the court may be issued by the judge or clerk hereof to any proper officer. All writs and processes of the municipal court in which a violation of a municipal ordinance is charged shall be directed to the chief of police of the City, a county sheriff, or to some other appropriate peace officer. A law enforcement officer of the City or county sheriff may serve

an arrest warrant issued by the municipal court any place within this state. If the warrant is served by a county sheriff, the municipality shall pay the Sheriff's Service Fee Account a fee as set by state law.

Section 6-110 MUNICIPAL COURT CLERK.

The municipal court clerk and/or deputy shall be appointed by the City Manager of the City, and shall be independent of the municipal police and judicial department. The clerk of the court shall:

1. Assist the judge in recording the proceedings of the court, preparation of writs, processes, or other papers;

2. Administer oaths required in judicial or other proceedings before the court;

3. Be responsible for the entry of all pleadings, processes, and proceedings in the dockets of the court;

4. Perform such other clerical duties in relation to the proceedings of the court as the judge shall direct; and

5. Receive and give receipt for and disburse or deliver to the municipal treasurer or to other City personnel all fines, forfeitures, fees, deposits, and sums of money properly payable to the municipal court. Such funds and sums of money while in the custody of the clerk shall be deposited and disbursed upon vouchers as directed by the municipal governing body.

Section 6-111 MUNICIPAL ATTORNEY AS PROSECUTOR.

The municipal attorney of the City may be the prosecutor of the municipal court. The prosecutor shall have full power to prosecute for the violations of any ordinance of the municipality in the municipal court and shall have the power to prosecute and resist appeals and proceedings in error and review from the municipal court.

Section 6-112 BOND OF CLERK.

The court clerk of the court shall give bond in the amount as set by the City Council, in the form provided by Section 27-111 of Title 11 of the Oklahoma Statutes. When executed, the bond shall

be submitted to the governing body for approval. When approved, it shall be filed with the clerk of this municipality and retained in the municipal archives.

Section 6-113 RULES OF COURT.

The judge may prescribe rules, consistent with the laws of the state and with the ordinances of this municipality for the proper conduct of the business of the court.

Section 6-114 ENFORCEMENT OF RULES.

Obedience to the orders, rules and judgments made by the judge or by the court may be enforced by the judge, who may fine or imprison for contempt committed while holding court, or committed against process issued by any authorized person, in the same manner and to the same extent as the district courts of this state.

Section 6-115 PROSECUTIONS BY VERIFIED COMPLAINT.

A. All prosecutions commenced in the municipal court shall be by complaint which shall be subscribed by the person making the complaint and shall be verified before a judge, the court clerk, a deputy court clerk, or a police officer. No warrant for arrest shall be issued until the complaint has been approved by the judge of the municipal court. All prosecutions for the violation of municipal ordinances shall be styled, "The City of Fairview vs. _____ (naming the person charged.)"

B. The information shall be properly verified if:

1. The issuing officer subscribes the officer's signature on the citation, ticket or complaint to the following statement:

"I, the undersigned issuing office, hereby certify and swear that I have read the foregoing information and know the facts and contents thereof and that the facts supporting the criminal charge stated therein are true."

Such a subscription by an issuing officer, in all respects, shall constitute a sworn statement, as if sworn to upon an oath administered by an official authorized by law to administer oaths; and

2. The citation or ticket states the specific facts

supporting the criminal charge and the ordinance or statute alleged to be violated; or

3. A complainant verifies by oath, subscribed on the citation, ticket or complaint, that he has read the information, knows the facts and contents thereof and that the facts supporting the criminal charge stated therein are true. For purposes of such an oath and subscription, any law enforcement officer of the municipality issuing the citation, ticket or complaint shall be authorized to administer the oath to the complainant.

SECTION 6-116 TRAFFIC VIOLATIONS BUREAU CREATED; PAYMENT OF FINES; FINES IN LIEU OF APPEARANCE

A. A traffic violations bureau is established as a division of the office of the clerk of the court, to be administered by the clerk or by subordinates designated for that purpose. Persons who are cited for violation of one of the traffic ordinances of this city, other than a second offense within a twelve-month period, a driver's license offense or an offense punishable by more than One Hundred Dollars (\$100.00), may elect to pay a fine in the violations bureau according to a schedule of fines prescribed from time to time by the judge with approval of the city council. In the event the defendant elects to pay the fine as hereinbefore provided, but fails to enter a plea to the charge, the payment of such fine shall constitute a no contest plea or bond forfeiture, at the discretion of the court clerk, and such finding shall be entered into the court records. The payment shall constitute a final determination of the cause against the defendant.

B. The court may adopt rules to carry into effect this section. If a defendant who has elected to pay a fine under this section fails to do so, prosecution shall proceed under the provisions of this chapter.

Section 6-117 TRAFFIC BAIL BOND PROCEDURES.

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

1. The arrested person has been issued a valid license to

operate a motor vehicle by this state, another state jurisdiction within the United States which is a participant of the Nonresident Violator Compact, or any party jurisdiction of the Nonresident Violator Compact;

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

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

4. The violation does not constitute:

- a. A felony;
- b. Negligent homicide;
- c. Driving or being in actual physical control of a motor vehicle while impaired or under the influence of alcohol or other intoxicating substances;
- d. Eluding or attempting to elude a law enforcement officer;
- e. Operating a motor vehicle without having been issued a valid driver's license, or while the license is under suspension, revocation, denial or cancellation;
- f. An arrest based upon an outstanding warrant;
- g. A traffic violation coupled with any offense stated in subparagraphs a through f of this paragraph;
- h. An overweight violation, or the violation of a special permit exceeding the authorized permit weight; or
- i. A violation relating to the transportation of hazardous materials.

B. If the arrested person is eligible for release on person recognizance as provided for in subsection A of this Section, then the arresting officer shall:

1. Designate the traffic charge;
2. Record information from the arrested person's driver's license on the citation form, including the name, address, date of birth, personal description, type of driver's license, driver's license number, issuing state, and expiration date;
3. Record the motor vehicle make, model and tag information;
4. Record the arraignment date and time on the citation; and
5. Permit the arrested person to sign a written promise to appear as provided for in the citation.

The arresting officer shall then release the person upon personal recognizance based upon the assigned's promise to appear. The citation shall contain a written notice to the arrested person that release upon personal recognizance based upon a signed written promise to appear for arraignment is conditional and that failure to timely appear for arraignment shall result in the suspension of the arrested person's drivers license in this state, or in the nonresident's home state pursuant to the Nonresident Violator Compact.

C. The court, or the court clerk as directed by the court, may continue or reschedule the date and time of arraignment upon request of the arrested person or his attorney. If the arraignment is continued or rescheduled, the arrested person shall remain on personal recognizance and written promise to appear until such arraignment, in the same manner and with the same consequences as if the continued or rescheduled arraignment was entered on the citation by the arresting officer and signed by the defendant. An arraignment may be continued or rescheduled more than one time; provided however, the court shall require an arraignment to be had within a reasonable time. It shall remain the duty of the defendant to appear for arraignment unless the citation is satisfied as provided for in Subsection D of this Section. Procedures for arraignment, continuances and scheduling, timely appearances, pleas of guilty or nolo contendere, posting bail, payment of fines and costs, issuance of arrest warrants, and requests for suspension of drivers license, shall be required by the City or as provided in state law, Sections 1115.1 through 1115.5 of Title 22 of the Oklahoma Statutes.

- D. A defendant released upon personal recognizance may elect

to enter a plea of guilty or nolo contendere to the violation charged at any time before he is required to appear for arraignment by indicating such plea on the copy of the citation furnished to him or on a legible copy thereof, together with the date of the plea and his signature. The defendant shall be responsible for assuring full payment of the fine and costs to the court clerk. Payment of the fines and costs may be made by personal, cashier's traveler's, certified or guaranteed bank check, postal or commercial money order, or other form of payment approved by the court in the amount presented as bail for the offense. However, the defendant shall not use currency for payment by mail. If the defendant has entered a plea of guilty or nolo contendere as provided for in this subsection, such plea shall be accepted by the court and amount of the fine and costs shall be as prescribed by ordinance for the violation charged or as prescribed by the court or, in the absence of such ordinance, in the amount prescribed by the court.

E. If, pursuant to the provisions of subsection D of this Section, the defendant does not timely elect to enter a plea of guilty or nolo contendere and fails to timely appear for arraignment, the court may issue a warrant for the arrest of the defendant and the municipal or district court clerk, within one hundred twenty (120) calendar days from the date the citation was issued by the arresting officer, shall notify the State Department of Public Safety that:

1. The defendant was issued a traffic citation and released upon personal recognizance after signing a written promise to appear for arraignment as provided for in the citation;

2. The defendant has failed to appear for arraignment without good cause shown;

3. The defendant has not posted bail, paid a fine, or made any other arrangement with the court to satisfy the citation; and

4. The citation has not been satisfied as provided by law.

The court clerk shall request the State Department of Public Safety to either suspend the defendant's driver's license to operate a motor vehicle in this state, or notify the defendant's home state and request suspension of the defendant's driver's license in accordance with the provisions of the Nonresident Violator Compact. Such notice and request shall be on a form approved or furnished by the State Department of Public Safety. The court clerk shall not

process the notification and request provided for in this subsection if, with respect to such charges:

1. The defendant was arraigned, posted bail, paid a fine, was jailed, or otherwise settled the case;

2. The defendant was not released upon personal recognizance upon a signed written promise to appear as provided for in this Section or if released, was not permitted to remain on such personal recognizance for arraignment;

3. The violation relates to parking or standing, an overweight violation, an overweight permit, or the transportation of hazardous materials; or

4. A period of one hundred twenty (120) calendar days or more has elapsed from the date the citation was issued by the arresting officer.

F. The court clerk shall maintain a record of each request for driver's license suspension submitted to the State Department of Public Safety pursuant to the provisions of this Section. When the court or court clerk receives appropriate bail or payment of the fine and costs, settles the citation, makes other arrangements with the defendant, or otherwise closes the case, the court clerk shall furnish proof thereof to such defendant, if defendant personally appears, or shall make such proof by first class mail, postage prepaid, to the defendant at the address noted on the citation or as such other address as is furnished by the defendant. Additionally, the court or court clerk shall notify the home jurisdiction of the defendant as listed on the citation, if such jurisdiction is a member of the Nonresident Violator Compact, and shall in all other cases, notify the State Department of Public Safety of the resolution of the case. The form of proof and the procedures for notification shall be approved by the State Department of Public Safety. Provided however, the court or court clerk's failure to furnish such proof or notice in the manner provided for in this subsection shall in no event create any civil liability upon the court, the court clerk, the state or any political subdivision thereof, or any state department or agency or any employee thereof but duplicate proof shall be furnished to the person entitled thereto upon request.

Section 6-118 EXCEPTIONS TO BAIL BOND PROCEDURE.

A. If a person arrested for a traffic violation is released upon personal recognizance as provided for in Section 6-117, but subsequently posts bail and thereafter fails to timely appear as provided for by law, the court may issue a warrant for the person's arrest and the case shall be processed pursuant to Section 27-118 of Title 11 of the Oklahoma Statutes.

B. If the defendant is not eligible for release upon personal recognizance as provided for in Section 6-117 of this code, or if eligible but refuses to sign a written promise to appear, the officer shall deliver the person to the judge for arraignment and the judge shall proceed as otherwise provided for by law. If no judge is available, the defendant shall be placed in the custody of the municipal jailer, to be held until a judge is available or bail is posted.

C. Notwithstanding any other provision of law, a juvenile may be held in custody pursuant to the provisions of this Section, but shall be incarcerated separately from any adult offender. Provided, however, the arresting officer shall not be required to:

1. Place a juvenile into custody as provided for in this Section; or

2. Place any other traffic offender into custody:

- a. Who is injured, disabled, or otherwise incapacitated;
- b. If custodial arrest may require impoundment of a vehicle containing livestock, perishable cargo, or items requiring special maintenance or care; or
- c. If extraordinary circumstances exist, which, in the judgment of the arresting officer, custodial arrest should not be made.

In such cases, the arresting officer may designate the date and time for arraignment on the citation and release the person. If the person fails to appear without good cause shown, the court may issue a warrant for the person's arrest.

Section 6-119 DISHONORED CHECKS OR INSTRUMENTS, WARRANTS.

A personal check or other instrument tendered to the court clerk for bail or for the payment of fine and costs, if dishonored and returned to the clerk for any reason other than the lack of proper endorsement, shall constitute nonpayment of bail or fine, as the case may be, and the court, in addition to any civil or criminal remedy otherwise provided for by law, may issue a bench warrant for the arrest of the person named on the citation to require his appearance on the charge specified.

Section 6-120 ARREST, CITATION AND BAIL FOR ORDINANCE VIOLATIONS.

A. If a resident of a municipality served by a municipal court is arrested by a law enforcement officer, for the violation of any traffic ordinance for which Section 6-117 does not apply, or is arrested for the violation of a non-traffic ordinance, the officer shall immediately release the person if the person acknowledges receipt of a citation by signing it. Provided, however, the arresting officer need not release the person if it reasonably appears to the officer:

1. That the person may cause injury to himself or others or damage to property if released;
2. That the person will not appear in response to the citation; or
3. The person is arrested for an offense against a person or property.

If the person fails to appear in response to the citation, a warrant shall be issued for his arrest and his appearance shall be compelled. If the arrested resident is not released by being permitted to sign a citation as herein provided, he shall be admitted to bail either before or after arraignment, or shall be released on personal recognizance.

B. If a nonresident of a municipality served by a municipal court is arrested by a law enforcement officer for a violation of any ordinance for which this Section does not apply, the defendant shall be eligible to be admitted to bail either before or after arraignment.

Section 6-121 SUMMONS FOR ARREST.

A. Upon the filing of a complaint charging violation of any ordinance, the judge, unless he determines to issue a warrant of arrest, or unless the defendant previously has been issued a citation or has been arrested and has given bond for appearance, he shall issue a summons, naming the person charged, specifying his address or place or residence, if known, stating the offense with which he is charged and giving him notice to answer the charge in the court on a certain day as specified after the summons is served upon him, and including such other pertinent information as may be necessary.

B. The summons shall be served by delivering a copy to the defendant personally. If he fails to appear and to answer the summons within the prescribed period, a warrant shall be issued for his arrest, as provided by this chapter.

Section 6-122 FORM OF ARREST WARRANT.

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

The City of Fairview to the Police Chief of Fairview, Oklahoma

Complaint upon oath having this day been made by (naming complainant) that the offense (naming the offense in particular but general terms) has been committed and accusing (name of defendant) thereof, you are commanded therefore forthwith to arrest the above-named defendant and bring the above named (name of defendant) before me, at the municipal courtroom,

Witness my hand this _day of_, 20__.

Judge of the Municipal Court
Fairview, Oklahoma

B. It is the duty of the police chief, personally, or through a duly constituted member of the police force of this municipality, or through any other person lawfully authorized so to act, to

execute a warrant as promptly as possible.

Section 6-123 PROCEDURES FOR BAIL OR BOND.

A. Upon arrest, or upon appearance without arrest in response to citation or summons, or at any time before trial, before or after arraignment, the defendant shall be eligible to be released upon giving bail for his appearance in an amount and upon conditions fixed by this chapter or the judge, who shall prescribe appropriate rules of court for the receipt of bail. In case of arrests made at night or under other conditions or emergency or when the judge is not available, the rules shall authorize the chief of police, or his designated representative, to accept a temporary cash bond of not less than Ten Dollars (\$10.00) nor more than the maximum monetary penalty provided by ordinance for the offense charged.

B. A bail bond schedule may be adopted by the judge and be amended from time to time.

Section 6-124 ARRAIGNMENT AND PLEADINGS BY DEFENDANT.

Upon making his appearance before the court, the defendant shall be arraigned. The judge, or the attorney of the municipality, shall read the complaint to the defendant, inform him of his legal rights, including the right of trial by jury, if available, and of the consequences of conviction, and ask him whether he pleads guilty or not guilty. If the defendant pleads guilty, the court may proceed to judgment and sentence or may continue the matter for subsequent disposition. If the plea is not guilty, and the case is not for jury trial, the court may proceed to try the case, or may set it for hearing at a later date.

Section 6-125 TRIALS AND JUDGMENTS.

A. Before trial commences, either party, upon good cause shown, may obtain a reasonable postponement thereof.

B. The defendant must be present in person at the trial or be represented by counsel if permitted by the judge.

C. In all trials, as to matters not covered in this chapter, or by the statutes relating to municipal criminal courts, or by rules duly promulgated by the Supreme Court of Oklahoma, the procedure applicable in trials of misdemeanors in the district courts shall apply to the extent that they can be made effective.

D. If the defendant pleads guilty or is convicted after the trial, the court must render judgment thereon, fixing the penalty within the limits prescribed by the applicable ordinance and imposing sentence accordingly.

E. At the close of trial, judgment must be rendered immediately by the judge who shall cause it to be entered in his docket.

F. If judgment is of acquittal, and the defendant is not to be detained for any other legal cause, he must be discharged at once.

G. A judgment that the defendant pay a fine may also direct that he be imprisoned until the fine is satisfied at the rate of one day imprisonment for each Twenty-five Dollars (\$25.00) of fine or as set out in Subsection H hereof for defendants who are without means to make such payment.

H. If the defendant is without means to pay the fine or costs, the municipal judge may direct the total amount due to be entered upon the court minutes and to be certified to the district court of the county wherein the status 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 the judgment as are available to any other judgment creditor.

Section 6-126 WITNESS FEES.

Witnesses in any proceeding in the court other than the police officers or peace officers shall be entitled to a sum per day of attendance. However, no witness shall receive fees in more than one case for the same period of time or the same travel. A defendant seeking to subpoena witnesses must deposit with the clerk a sum sufficient to cover fees for one day of attendance for each witness to be summoned, but such deposit shall not be required from an indigent defendant who files an affidavit setting out:

1. The names of no more than three (3) witnesses;
2. That the defendant, by reason of poverty, is unable to provide the fees allowed by law;

3. That the testimony of the witnesses is material; and

4. That their attendance at the trial is necessary for his proper defense.

The fees of such witnesses shall be paid by the municipality.

Section 6-127 SENTENCING.

A. The judge may suspend, modify, defer or reduce a sentence in accordance with Sections 27-123 and 27-124 of Title 11 of the Oklahoma Statutes. For all offenses which impose a fine of more than Two Hundred Dollars (\$200.00), excluding court costs, a jury trial shall be had unless waived by the defendant and the City; effective on and after November 1, 2006, the maximum fine requiring a jury trial if demanded shall be a fine greater than Five Hundred Dollars (\$500.00), excluding court costs.

B. A judge who is licensed to practice law in this state in imposing a judgment and sentence, at his discretion, is empowered to modify, reduce or suspend or defer the imposition of such sentence or any party thereof and to authorize probation for a period not to exceed six (6) months from the date of sentence, under such terms or conditions as the judge may specify. Procedures relating to suspension of the judgment or costs or both shall be as provided in Section 27-123 of Title 11 of the Oklahoma Statutes. Upon completion of the probation term, the defendant shall be discharged without a court judgment of guilt, and the verdict, judgment of guilty or plea of guilty shall be expunged from the record and the charge dismissed with prejudice to any further action. Upon a finding of the court that the conditions of probation have been violated, the municipal judge may enter a judgment of guilty. The judge may continue or delay imposing a judgment and sentence for a period of time not to exceed six (6) months from the date of sentence. At the expiration of such period of time the judge may allow the municipal attorney to amend the charge to a lesser offense. If a deferred sentence is imposed, an administrative fee of not to exceed One Hundred Dollars (\$100.00) may be imposed as costs in the case. If the municipal judge is not a licensed attorney but has complied with the education requirements of subsection 11 O.S. §27-104F and the education requirements of 47 O.S. §18-101, the maximum fine that the judge may impose shall be Five Hundred Dollars (\$500.00). No City ordinance may impose a penalty, including fine or deferral fee in lieu of a fine and costs, which is greater than that established by statute for the same

offense. The maximum fine or deferral fee in lieu of a fine for traffic-related offenses relating to speeding or parking shall not exceed Two Hundred Dollars (\$200.00). The maximum fine or deferral fee in lieu of a fine for alcohol-related or drug-related offenses shall not exceed Eight Hundred Dollars (\$800.00). For all other offenses, the maximum fine or deferral fee in lieu of a fine shall not exceed Seven Hundred Fifty Dollars (\$750.00). The court shall remit Fifty Dollars (\$50.00) of each alcohol fine or deferral fee to a restricted cash account of the City that shall be used to defray costs for enforcement of laws relating to juvenile access to alcohol, other laws relating to alcohol and other intoxicating substances, and traffic-related offenses involving alcohol or other intoxicating substances.

Section 6-128 IMPRISONMENT, WORK BY PRISONERS; COST OF INCARCERATION TO BE COLLECTED

A. All sentences of imprisonment shall be executed by the chief of police of the municipality, and any person convicted of a violation of any ordinance of the municipality and sentenced to imprisonment shall be confined in the jail, farm or workhouse, of the municipality, in the discretion of the court, for the time specified in the sentence.

B. If, after conviction, judgment of imprisonment is entered, a copy thereof, certified by the clerk, shall be delivered to the chief of police, the sheriff of the county or other appropriate police officer. Such copy shall be sufficient warrant for execution of the sentence.

C. All prisoners confined to jail on conviction or on plea of guilty may be compelled, if their health permits, to work on the public streets, avenues, alleys, parks buildings, or other public premises or property. For each day of such work, the prisoner shall be credited for serving one day of imprisonment under his sentence.

D. The chief of police, subject to the direction of the governing body, shall direct where the work shall be performed. The head of the department in charge of the place where the work is to be performed, himself, or by some person designated by him, shall oversee the work. If a guard is necessary, the chief of police shall make provision therefore.

E. Costs of Incarceration to be collected.

1. For purpose of this section, "Costs of incarceration" shall mean the costs of booking, receiving and processing out, housing, food, clothing, medical care, dental care, and psychiatric services.

2. The costs for incarceration shall be determined by the chief of police for city jails and by applicable contract provision (between the City and County) for county jails. A notice of such costs shall be provided to the defendant.

3. The court shall order the defendant to reimburse all actual costs of incarceration, upon conviction or upon entry of a deferred judgment and sentence unless the defendant is a mentally ill person as defined by Section 1-103 of Title 43A of the Oklahoma Statutes. The defendant shall have an opportunity to object to the amount of costs solely on the grounds that the number of days served is incorrect. If no objection is made, the costs may be collected in the amount stated in the notice to the defendant. The court clerk shall be notified of any amount collected.

4. Costs of incarceration shall be a debt of the defendant owed to the municipality responsible for the operation of the jail and may be collected as provided by law for collection of any other civil debt or criminal penalty. Jail fees shall not exceed Three Thousand Dollars (\$3,000.00).

F. Effective November 1, 2004, any person fined for violation of a municipal ordinance who is financially able but refuses or neglects to pay the fine or costs may be compelled to satisfy the amount owed by working on the streets, alleys, avenues, areas and public grounds of the City, subject to direction by the Town Administrator or other proper officer, at a rate per day of Twenty-five Dollars (\$25.00) per day for useful labor, until the fine or costs are satisfied.

Section 6-129 COSTS.

Costs in the amount of Thirty Dollars (\$30.00) plus the fees and mileage of jurors and witnesses shall be charged and collected by the clerk of the municipal court in all cases other than those in which the defendant is acquitted or found not guilty or those which are dismissed upon motion of the defendant or the City attorney. Court costs in the amount of Thirty Dollars (\$30.00) shall be charged and collected by the clerk of the municipal court in all cases in which the defendant pleads guilty before the traffic

violations bureau. Provided however, court costs shall not be collected on cases involving parking, standing and seat belt violations (but not to include violation of child restraint systems).

State Law Reference: Costs, 11 O.S. Section 27-126; suspension of judgment or costs, 11 O.S. Section 27-123.

Section 6-130 PENALTY ASSESSMENTS

A. For purposes of this section, the word "convicted" shall mean any final adjudication of guilty, whether pursuant to a plea of guilty or nolo contendere or otherwise, and deferred or suspended sentence or judgment.

B. Any person convicted of an offense, including traffic offenses but excluding parking and standing violations, punishable by a fine of Ten Dollars (\$10.00) or more or by incarceration or any person forfeiting bond when charged with such an offense, shall be ordered by the court to pay:

1. Ten Dollars (\$10.00), less 5.85% of such amount which may be retained and deposited into the City's General Fund. and with the balance paid into certain CLEET Funds as provided by 20 O.S. 1991 Section 1313.2

2. Ten Dollars (\$10.00) less \$1.00 of such amount which may be retained and deposited into the City's General Fund, and with the balance paid to the A.F.I.S. Fund created by 74 O.S. 150.25.

3. Ten Dollars (\$10.00) less 5% of such amount which may be retained and deposited into the City's General Fund, and with the balance paid to as a Forensic Science Improvement Assessment.

4. Five Dollars (\$5.00) for any marijuana or paraphernalia charge to be paid to Oklahoma Bureau of Narcotics.

D. These penalty assessments shall be in addition to and not in substitution for any and all fines and penalties and costs otherwise provided for such offense. Such penalty assessments shall be deposited as required by state law.

State Law Reference: Similar provision, 20 O.S. Section 1313.1 through 1313.3.

Section 6-131 ISSUANCE OF SUMMONS AND WARRANT.

A. Upon the filing of a complaint charging violation of an ordinance, the judge, unless he determines to issue a warrant of arrest, or unless the defendant previously has been issued a citation or has been arrested and has given bond for appearance, shall issue a summons, naming the person charged, specifying his address or place of residence, if known, stating the offense with which he is charged and giving him notice to answer the charge in the court on a day certain, containing a provision for the official return of the summons, and including such other pertinent information as may be necessary.

B. The summons shall be served by delivering a copy to the defendant personally. If he fails to appear to answer the summons within the prescribed period, a warrant shall be issued for his arrest.

C. Upon proper application, the judge is hereby authorized to issue a search warrant if he is satisfied of the existence of grounds of the application or if there is probable cause to believe their existence. Such warrant shall be signed by the judge with his name of office to the police chief, commanding him forthwith to search the person or place named, for the property specified, and to bring it before the magistrate, and also to arrest the person in whose possession the same may be found, to be dealt with according to law.

State Law Reference: Complaints, 11 O.S. Section 27-115.

Section 6-132 SECURITY FOR COSTS BEFORE COMMENCEMENT OF PROSECUTION.

When application is made by any person to commence any prosecution in the municipal court, the municipal judge may, at his discretion, before any such proceeding is commenced, require the person making such application to give good and sufficient security for costs in the event the prosecution should fail.

Section 6-133 MALICIOUS PROSECUTION; COSTS.

If upon the trial of any case in the municipal court, it shall appear to the satisfaction of the court that the prosecution was commenced without probable cause, and from malicious motive, the court shall state the name of the complainant in the finding, and

shall impose the costs of prosecution upon him; and the judgment shall be rendered against such complainant that he pay such costs and stand committed until the costs are paid.

Section 6-134 FAILURE TO OBEY PROMISE OR NOTICE TO APPEAR; FAILURE TO OBEY ORDER OF THE COURT.

A. Written Promise to Appear. It shall be unlawful for any person to violate his written promise to appear in the municipal court at the date and time stated in the citation given by an officer upon the issuance of any promise to appear regardless of the disposition of the charge for which such promise or notice to appear was originally issued.

B. Notice to Appear. It shall be unlawful for any person to fail to appear in the municipal court at the date and time stated in any notice to appear regardless of the disposition of the charge for which such notice to appear was served.

C. Appearance by Counsel. The appearance of an Attorney on behalf of the person who has given a written promise to appear or has been served notice to appear shall be treated as the appearance required under this section.

D. Appearance of Parent of Minor Child. It shall be unlawful for the parent, legal guardian, or other adult person having the care and custody of a minor child who is charged with a violation of a municipal ordinance who has executed a written promise to appear or has received a notice to appear in the Municipal Court with said minor child to fail to so appear with the minor child at the date and time stated in the citation or notice.

E. Failure to Obey Order of the Court It shall be unlawful for any person to violate, disobey, or otherwise fail to comply with any order of the Municipal Court.

Section 6-135 DISPOSITION AND RECORDS.

A. The chief of police, or other responsible officer, shall cause the original copy of every ticket issued to an alleged violator of any ordinance to be deposited with the municipal court in the manner provided by rule.

B. Upon the deposit of such ticket with the municipal court said ticket may be disposed of only by trial in said court, or other

official action by a judge of said court, including forfeiture of bail, or by payment of a fine, to the court clerk; provided however, the provisions of this subsection shall not apply to cases which City attorney declines to prosecute or are withdrawn by a citizen complainant.

C. It shall be unlawful and official misconduct for any person to dispose of, alter or deface a ticket or any copies thereof, or the record of the issuance or disposition of any ticket or warrant in a manner other than authorized.

D. The chief of police shall maintain or cause to be maintained a record of all warrants issued by the municipal court and which are delivered to the police department for service, and of the final disposition of all warrants.

Section 6-136 COMMUNITY SERVICE IN LIEU OF IMPRISONMENT; FAILURE TO PERFORM.

All sentences of imprisonment shall be executed by the chief of police of the municipality, and any person convicted of a violation of any ordinance of the municipality and sentenced to imprisonment shall be confined in the municipal jail, in the discretion of the court, for the time specified in the sentence, provided, however, the court may, in lieu of imprisonment, order the defendant to engage in a term of community service without compensation. If the defendant fails to perform the required community service or if the conditions of community service are violated, the judge may impose a sentence of imprisonment, not to exceed the maximum sentence allowable for the violation for which the defendant was convicted.

Section 6-137 COMMUNITY SERVICE IN LIEU OF A FINE; FAILURE TO PERFORM.

Whenever any person is convicted in municipal court for violation of a municipal ordinance, the court may order the defendant to a term of community service or remedial action in lieu of fine or in conjunction with imprisonment. If the defendant fails to perform the required community service or if the conditions of community service are violated, the judge may impose a sentence of imprisonment, not to exceed the maximum sentence allowable for the violation for which the defendant was convicted.

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DIVISION 1

TELEPHONE EXCHANGE FEE

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CHAPTER 7: FINANCE AND TAXATION

ARTICLE 1

FINANCE AND BUDGET ADMINISTRATION

DIVISION 1

General Provisions

Section 7-100 FUNDS; ESTABLISHMENT OF NEW FUNDS.

The purpose of this section is to limit the number of funds created by the City and its public trust authorities in order to simplify accounting and financial records. Many funds, which exist on the date of the enactment of this ordinance, have been converted to restricted cash accounts, which procedure should be followed by future governing bodies rather than the creation of additional funds. The City shall have the funds required by state or federal law and local ordinance or resolution.

The Fairview Utility Authority shall have the following funds:

Utility Fund

Note: Section amended by Ordinance No. 2014-10 approved on June 24, 2014.

Section 7-101 DEPOSITORIES DESIGNATED; FUNDS TO BE DEPOSITED.

All banks which are incorporated under federal or state law, and other institutions approved by the mayor and council, may be designated as depositories for the funds of the city. The city treasurer shall deposit daily all public funds received by him in such banks.

State Law Reference: Deposits by treasurers, designation of depositories; 11 O.S. Section 12-110.

Section 7-102 FUNDS SECURED BY UNIT COLLATERAL SYSTEM.

The deposits of the city shall be secured by the Unit Collateral System provided by the Oklahoma Statutes.

State Law Reference: Unit Collateral System, 62 O.S. Sections

516.1 et seq.

Section 7-103 CERTAIN OFFICER AND EMPLOYEES PROHIBITED FROM
CONDUCTING CERTAIN BUSINESS WITH MUNICIPALITY-VIOLATIONS-EMPLOYEES
OF FINANCIAL INSTITUTION

A. Except as otherwise provided by this Section, no municipal officer or employee, or any business in which the officer, employee, or spouse of the officer or employee has a proprietary interest, shall engage in:

1. Selling, buying, or leasing property, real or personal, to or from the municipality;

2. Contracting with the municipality; or

3. Buying or bartering for or otherwise engaging in any manner in the acquisition of any bonds, warrants, or other evidence of indebtedness of the municipality.

B. The provisions of this section shall not apply to any officer or employee of any municipality of this state with a population of not more than five thousand (5000) according to the latest Federal Decennial Census, who has a proprietary interest in a business which is the only business of that type within five (5) miles of the corporate limits of the municipality. However, any activities permitted by this subsection shall not exceed Twenty-five Hundred Dollars (\$2500.00) for any single activity and shall not exceed Fifteen Thousand Dollars (\$15,000.00) for all activities in any calendar year. Provided, however, such activity may exceed Fifteen Thousand Dollars (\$15,000.00) per year if the municipality purchases items therefrom that are regularly sold to the general public in the normal course of business and the price charged to the municipality by the business does not exceed the price charged to the general public. Provided however, this provision shall not apply to any officer of the City, their spouse or any business in which the officer or spouse has any interest.

C. Provisions of this section shall not apply where competitive bids were obtained consistent with municipal ordinance or state law and two or more bids were submitted for materials, supplies, or services to be procured by the municipality, regardless of the population restrictions of Subsection B of this section, provided notice of bids was made public and open to all potential

bidders. Provided however, this provision shall not apply to any officer of the City, their spouse or any business in which the officer or spouse has any interest.

D. All bids, both successful and unsuccessful, and all contracts requiring bonds shall be placed on file and maintained in the main office if the awarding municipality for a period of five (5) years from the date of opening of bids for a period of three (3) years from the date of the completion of the contract, whichever is longer, shall be open to public inspections and shall be matters of public record.

E. For purposes of this Section, "employee" means any person who is employed by a municipality more than ten (10) hours in a week for more than thirteen (13) consecutive weeks and who enters into, recommends or participates in the decision to enter into any transaction described in subsection A of this Section. Any person who receives wages, reimbursement for expenses, or emoluments of any kind from a municipality, any spouse of the person, or any business in which the person or spouse has a proprietary interest shall not buy or otherwise become interested in the transfer of any surplus property of a municipality or a public trust of which the municipality is beneficiary unless the surplus property is offered for sale to the public after notice of the sale is published. For purposes of this Section, "proprietary interest" means ownership of more than twenty-five percent (25%) of the business or of the stock therein or any percentage which constitutes a controlling interest but shall not include any interest held by a blind trust.

F. Any person convicted of violating the provisions of this Section shall be guilty of an offense. Any transaction entered into in violation of the provisions of this Section is void. Any member of a governing body who approves any transaction in violation of the provisions of this Section shall be held personally liable for the amount of the transaction.

G. Notwithstanding the provisions of this Section, any officer, director or employee of a financial institution may serve on a board of a public body. Provided, the member shall abstain from voting on any matter relating to a transaction between or involving the financial institution in which they are associated and the public body in which they serve.

Section 7-103A PAYROLL DISBURSEMENTS

A. For all employees and officers of the City of Fairview and the Fairview Utilities Authority, a documented record shall be maintained in a personnel file of the authorized rate of pay or salary for each employee and officer.

B. For each pay period, a record of time worked shall be prepared in the form of time sheets or logs or by electronic timekeeping for each employee and officer to be paid (Such record of time worked shall be verified as to its accuracy). Time will be entered into the payroll accounting software (the system) by the Payroll Clerk. A report detailing time worked by each employee will be printed from the system, reviewed for accuracy, then initialed and dated by the Payroll Clerk.

C. Upon verification of the work record, a payroll register including the amount of gross pay, authorized deductions, and net pay shall be prepared by the payroll clerk.

D. The net payroll checks shall be prepared from the payroll register, along with checks for payment of related payroll taxes and other payroll benefits required by law or contract.

E. The payroll checks and the payroll register shall be presented to at least one authorized check signer who shall compare the payroll checks to the payroll register and verify their accuracy. Upon verification, such authorized check signer shall approve distribution as evidenced by initialing and dating the first page of the payroll register.

F. The payroll register shall be provided to and reviewed by the City/Trust Manager; governing body approval is not required prior to payment of payroll related costs if incurred and paid in accordance with the provisions above.

Section 7-104 PURCHASES OF GOODS AND SERVICES (OTHER THAN PAYROLL AND PAYROLL RELATED)

A. The following employees or officers have been designated as purchasing officers empowered to purchase or contract against budget appropriation accounts:

1. City Clerk
2. Public Works Director

3. Department Heads
4. City Manager

B. The officer or employee receiving satisfactory delivery of merchandise or contract services shall acknowledge such fact by signing the invoice or delivery ticket. The invoice, along with delivery ticket if applicable, must then be verified by the authorized purchasing officer as to quantities, services, and prices. If correct, the invoice must then be signed by the authorized purchasing officer and coded with the fund(s) and budget line item(s) to be charged.

C. The accounts payable clerk shall review all invoices for proper signatures and appropriateness of fund(s) and budget line item(s) to be charged. Upon acceptance of the invoices, the accounts payable clerk shall prepare checks in payment of the invoices, and shall cancel each invoice as its check is prepared. Invoices shall be cancelled by noting on the invoice the date paid, the check number used to pay the invoice, and the amount paid with the check.

D. The invoices and checks shall be presented to the City Clerk who shall compare the checks to the invoices and verify their accuracy. Upon verification, the City Clerk shall prepare the checks for distribution. The City Clerk shall update the check batch to the system (defined above) and post approved payments to the general ledger. The City Clerk will then print a check register from the system. The check register shall list in check number order the check date, check number, vendor, and check amount.

E. The check register shall be provided to the governing body for informational purposes at their next regular meeting; however, governing body approval is not required prior to payment of invoices if paid charges were incurred and paid in accordance with the provisions above.

F. For all purchases of goods and services over \$50,000.00, contracts shall be prepared and approved by the governing body prior to the time the commitment is made, and such approval shall be recorded in the minutes of the governing body. Additionally, the City Clerk shall immediately determine that there exists an available unencumbered appropriation in the accounts to be charged, and such determination shall also be recorded in the minutes. Should the appropriation not be available for the proposed purchase or commitment, the purchase or commitment shall not proceed until

necessary budget amendments are authorized.

Section 7-104A INTERFUND TRANSFERS

A. All transfers between funds shall only be made in accordance with governing body appropriations as reflected in the original or amended City budget.

B. Once lawfully appropriated, interfund transfers may be made by the City Clerk without further governing body approval in the manner used for payment of purchases of goods and services.

Section 7-105 PETTY CASH

A. As provided for in Title 11 O.S., Section 17-102(D), the City may have petty cash accounts for use in making certain small payments for costs incurred in operating the City.

B. Each petty cash account established shall require governing body approval, including the imprest amount of the petty cash account. However, in no case should the imprest balance exceed \$3,500.

C. The petty cash accounts shall be reimbursed by utilizing properly itemized invoices in the manner used for payment of purchases of goods and services. However, in no case shall an individual payment from petty cash exceed \$300.

Section 7-106 DEBT SERVICE, FINANCIAL REPORTING & PUBLIC TRUST APPLICABILITY

1. Debt Service

A. All long-term indebtedness in the form of bonds, notes, or lease purchase obligations shall be incurred in the manner provided by law.

B. Once lawfully incurred, the accounts payable clerk shall make payments of principal and interest on the debt in accordance with the terms specified by the lender without further approval of the governing body.

C. The manner of payment shall be consistent with the manner used for payment of goods and services. The City Manager may authorize to make debt payments via electronic transfer as initiated

by the trustee bank in accordance with the debt agreement approved by the Council.

D. Current balances on outstanding debt shall be maintained by the City Clerk in the appropriate journals.

2. Financial Reporting

A. The Financial Consultant or City Clerk shall prepare written monthly financial reports which disclose at least all receipts and expenditures by fund in the same format as the approved budget and showing the variance from the budget.

B. The financial reports shall be placed on the agenda for acknowledgment by the governing body at each regular meeting.

3. Applicability to Public Trusts

A. For all public trusts created pursuant to Title 60 O.S., Sections 176-180, for which the City is the sole beneficiary and for which the trust's board of trustees is comprised entirely of members of the City Council, all sections of this ordinance shall apply.

B. For the purposes of public trusts as defined above, City Clerk shall mean Trust Secretary as defined by the trust indenture.

C. City Manager authorized to make certain payments without prior governing body approval. In addition to the authority provided hereinabove, the City Manager is hereby authorized to approve payments of invoices without prior council approval, including but not limited to those times necessary to avoid late payment penalties, provide for payment of C.O.D.'s, emergency purchases, to take advantage of discounts, to attend and bid at private or public auctions, or pursuant to any provision in any contract which has heretofore been approved by the Council. Except for emergency purchases, no payments made pursuant to this Section shall exceed the expenditure classification of the respective department as approved in the current budget. Such payments shall be placed on the next regularly scheduled council meeting under the category of Prepaid Invoices or Payments.

Section 7-107 STATEMENT OF NON-COLLUSION.

A. Except as provided in subsections B and C of this Section, on every invoice submitted to the City, for payment to an architect,

contractor, engineer or supplier of material of Twenty-five Thousand Dollars (\$25,000.00) or more shall be the following signed and notarized statement:

STATE OF OKLAHOMA)
) SS
COUNTY OF MAJOR)

The undersigned (architect, contractor, supplier or engineer), of lawful age, being first duly sworn, on oath says that this invoice or claim is true and correct. Affiant further states that the (work, services or materials) as shown by this invoice or claim have been (completed or supplied) in accordance with the plans, specifications, orders or requests furnished the affiant. Affiant further states that (s)he has made no payment directly or indirectly to any elected official, officer or employee of the State of Oklahoma, any county or local subdivision of the state, of money or any other thing of value to obtain payment of the invoice or procure the contract or purchase order pursuant to which an invoice is required.

(Contractor, supplier or engineer)

Subscribed and sworn to before me this _____ day of _____, 20____

Notary Public (or Clerk or Judge)

A notarized statement of non-collusion shall not be required on purchase to procure materials and equipment, provided this provision shall not exempt the requirement for a notarized statement of non-collusion on invoices for services or materials and equipment.

B. When the City executes a contract with any architect, contractor, supplier or engineer for work, services or materials which are needed on a continual basis from such architect, contractor, supplier or engineer under the terms of such contract, the City may require that the architect, contractor, supplier or engineer complete a signed and notarized affidavit in substantial form as provided by subsection A of this Section which shall apply to all work, services or materials completed or supplied under the terms of the contract and shall be in lieu of all individual affidavits for each invoice submitted in relation to such contract as required in subsection A of this Section.

C. In lieu of the affidavit required in subsection A of this

Section, the following procedures may be used:

1. Any purchases issued by the City shall require the signature of the vendor and include a notice to the vendor that the vendor's submission of the signed invoice or acceptance of payment pursuant to the purchase constitutes a statement by the vendor that:

- a. the invoice or claim is true and correct,
- b. the work, services or materials as shown by the invoice or claim have been completed or supplied in accordance with the plans, specifications, orders or requests furnished the vendor, and
- c. the vendor has made no payment, directly or indirectly, to any elected official, officer or employee of this state or any county or local subdivision of the state, of money or any other thing of value to obtain payment;

2. Any vendor who submits the signed invoice or accepts payment pursuant to a purchase containing the notice provided for in paragraph 1 of this subsection shall be deemed to adopt and affirm the statement contained in the notice unless the vendor states on the invoice that the statement is incorrect in whole or in part; and

3. The City may recover from the vendor the full amount paid pursuant to the purchase if the statement adopted and affirmed by the vendor is false.

Section 7-108 FINANCIAL PROCEDURES FOR ADMINISTERING FEDERAL GRANTS

A. Cash Management Procedures - Grant Funding

In compliance with 2 CFR 200.305 the following procedures are implemented to address the responsibilities of the City and City staff when administering federal grants. The City shall maintain accounting methods and internal control procedures that assure all financial responsibilities are met.

B. Reimbursement Payment Procedures

For reimbursements of federal grant funds, the City will:

1. Monitor the fiscal activity (payments and
reimbursements) under each grant on a continuous basis as provided

by the grant administrator and/or engineer;

2. Request reimbursement for actual expenditures incurred under the federal grants quarterly or more often as the granting agency requires. Reimbursement will be limited to expenditures that have already been incurred and disbursed by the City and comply with all applicable award requirements.

3. The City will maintain source documentation/accounting records (invoices, engineer reports, time sheets, payroll stubs, etc.) that reconcile to the reimbursement request.

4. Reimbursements of actual expenditures will not involve interest calculations.

C. Advance Payment Procedures

1. When the City receives advance payments of federal grant funds, the City shall minimize the time elapsing between the receipt of the funds by the City and the expenditure of those funds on allowable costs of the applicable federal program. (2 CFR Sec. 200.305(b)). The City shall attempt to expend all advances of federal funds within seventy-two (72) hours of receipt. In addition, the City shall use their good faith and best efforts to:

- a. Monitor the fiscal activity (payments and reimbursements) under each grant on continuous basis as provided by the grant administrator and/or engineer;
- b. Draw down only the amount of funds necessary to meet the immediate needs of the program/project (including the proportionate share of any allowable indirect costs) and minimize the time between receiving and disbursing those funds;
- c. When applicable, the City shall use existing resources available within a program before requesting additional advances. Such resources include program income (including repayments to a revolving fund), rebates, refunds, contract settlements, audit recoveries, and interest earned on such funds. (2 CFR Sec. 305(b)(5));
- d. Pay out federal funds for expenditures that comply with all applicable grant requirements as soon as

administratively feasible;

2. The City shall hold federal advance payments in insured accounts;

3. The City shall hold federal advance payments in interest bearing accounts;

4. The City may retain for administrative expense up to \$500.00 per year of interest earned on federal grant cash balances;

5. Interest earnings exceeding \$500 per year shall be remitted annually to the respective granting agency (2 CFR Sec. 200.305(b)(9)).

Note: Section 7-108 approved by Ordinance No. 2019-7 approved on July 16, 2019.

DIVISION 2

COMPETITIVE BIDDING

Section 7-109 PURPOSE AND EFFECT.

The primary purpose of Division 2 of this Article is to codify in the Fairview Municipal Code 2013, the essential statutory requirements of the Competitive Bidding Act of 1974 (Title 61, Section 101 et seq. of the Oklahoma Statutes) and the essential requirements of the Title 60, Section 1076 H, known as competitive bidding requirements of the "Public Trust Law." A secondary but equally important purpose of this Division is to establish local competitive bidding procedures, which procedures are guidelines, but not requirements, to be considered for use during those times that neither the Competitive Bidding Act of 1974 nor any other state law requires competitive bidding. In that state law does not require municipalities to competitively bid professional services or the purchase of equipment, materials and supplies, in order to "fill the gap" and thereby reduce the potential for improprieties, these local competitive bidding procedures are adopted. Since such local competitive bidding procedures are merely guidelines. In addition, since these local competitive bidding procedures are discretionary and not mandatory, no resident, competing vendor or seller, or any other person, firm or corporation, may secure a temporary restraining

order, injunction (temporary or permanent), or sue for damages, costs, or attorney fees, based on the Mayor and/or City Council's action with respect to local competitive bidding, or any other failure to follow the procedure contained herein, unless such person proves that a violation of federal or state law has occurred.

SECTION 7-110 DEFINITIONS.

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

1. "City" means this City and means the City government in all its forms, including not only the City departments but also any agency, the City Council, or other persons or entities acting for or on behalf of the City.

2. "Emergency" means the conditions resulting from a sudden unexpected happening or unforeseen occurrence or a condition and situation wherein the public health or safety is in endangered;

3. "Public construction contract" or "contract" for purposes of Section 7-111 and the Public Competitive Bidding Act of 1974, as amended (hereinafter the "Act"), shall mean any contract, exceeding Fifty Thousand Dollars (\$50,000.00) in amount, awarded by the City or any of its public trust authorities for the purpose of making any public improvements or constructing any public building or making repairs to or performing maintenance on to same, except where the improvements or buildings leased to a person or other legal entity exclusively for private and not for public use and no public tax revenues shall be expended on or for the contract unless the public tax revenues used for the project are authorized by a majority vote of the applicable public agency voting at an election held for that purpose and the public tax revenues do not exceed twenty-five percent (25%) of the total project cost. The amount of public tax dollars committed to the project will not exceed a fixed amount established by resolution of the governing body prior to or concurrent with approval of the project;

4. "Public improvement" means any beneficial or valuable change or addition, betterment, enhancement or amelioration of or upon any real property, or interest therein, belonging to a public agency, intended to enhance its value, beauty or utility

or adapt it to new or future purposes. The term does not include the direct purchases of materials, provided the materials are not purchased in increments for an amount less than Fifty Thousand Dollars (\$50,000.00) and used for the purposes of completing a single project, equipment or supplies by the City or any of its public trust authorities or personal property as defined herein.

5. "Personal property" for purpose of this Division shall include but not be limited to:

a. Portable, or otherwise moveable, buildings and structures;

b. Prefabricated metal buildings and structures, along with necessary utility services for such buildings or structures;

c. Roofs placed over existing roof structures; provided, lease purchase of retrofit metal roofs shall be awarded by competitive bids and the City shall comply with the Act where the total payment of principal and interest provided by the lease-purchase contract are anticipated to exceed Twenty-five Thousand Dollars; and

d. Other structures that can be disassembled after installation and removed without permanent damage to existing property.

6. "Supplies" mean and include all property except real property, materials and equipment that the City acquires for its use or consumption.

Section 7-111 OKLAHOMA PUBLIC COMPETITIVE BIDDING ACT

A. Unless otherwise provided by law, all public construction contracts exceeding Fifty Thousand Dollars (\$50,000.00) shall be let and awarded to the lowest responsible bidder, by free and open competitive bidding after solicitation for sealed bids, in accordance with the terms of the Public Competitive Bidding Act of 1974, 61 Okla. Stat. 101, et seq. or as hereafter amended by the State Legislature. No work shall be commenced until a written contract is executed and all required bonds and insurance have been provided by the contractor to the city.

1. Except as provided in subsection C hereinbelow, other

construction contracts for the purpose of making any public improvements or constructing any public building or making repairs to the same for Fifty Thousand dollars (\$50,000.00) or less shall be let and awarded to the lowest responsible bidder by receipt of written bids or awarded on the basis of competitive quotes to the lowest responsible qualified contractor as provided in this subsection. In providing for such written bids, the City Clerk may solicit bids from qualified bidders after posting a notice at city hall for at least three (3) days preceding the last day set for the receipt of bids or by causing the notice inviting bids to be published in the local newspaper of the city, at least once, three (3) days preceding the last day set for the receipt of proposals. The notice required herein, shall include a general description of the services required and shall state where bid blanks and specifications may be secured, and the time and place for opening bids. Work may be commenced in accordance with these purchasing policies of the City.

2. Public construction contracts for less than Five Thousand Dollars (\$5000.00) may be negotiated with a qualified contractor and work commenced in accordance with the purchasing policies of the City.

B. For public construction contracts exceeding Fifty Thousand Dollars (\$50,000.00), Department heads or third party contractors shall prepare bid specifications along with requisitions and submit same to the City Council for their approval.

C. The City Clerk will develop a bidder's list. Bid solicitations will be made equally and uniformly known to all prospective bidders and the public:

1. For public construction contracts exceeding Fifty Thousand Dollars (\$50,000.00), notice will be mailed twenty (20) days prior to the bid opening date to prospective bidders who have made known, in writing, to the using agency their interest in bidding within twelve (12) months immediately preceding the date of opening the bids;

2. For public construction contracts exceeding Fifty Thousand Dollars (\$50,000.00), notice will be published in two (2) consecutive issues of a newspaper of general circulation twenty (20) days prior to the bid opening date; and

3. For public construction contracts exceeding Fifty Thousand Dollars (\$50,000.00), notice will be sent to trade or construction publications when the estimated cost exceeds Fifty Thousand Dollars (\$50,000.00).

D. One complete set of bid documents will be kept on file in the City Clerk's office twenty (20) days prior to the bid opening date. Copies may be obtained by prospective bidders after paying a reasonable deposit as set by the City Manager.

E. A bidder on a public construction contract exceeding Fifty Thousand Dollars (\$50,000.00) will accompany the bid with:

1. A certified or cashier's check or bid bond or irrevocable letter of credit in an amount equal to five percent (5%) of the bid, which shall be deposited with the Town as a guaranty; or

2. An irrevocable letter of credit containing terms the Department of Central Services prescribes, issued by a financial institution insured by the Federal Deposit Insurance Corporation for the benefit of the state, on behalf of the awarding public agency, in an amount equal to five percent (5%) of the bid. The City shall deposit the irrevocable letter or credit with the Department of Central Service.

The cost of republication of the notice to bidders, actual expenses incurred by reason of the bidder's default and the difference between the low bid of the defaulting bidder and the amount of the bid of the bidder to whom the contract is subsequently awarded, but not to exceed the amount of the certified check, bid bond or irrevocable letter of credit may, at the discretion of the City, be forfeited to the City in the event the apparently successful bidders fails to execute the contract or fails to provide the required bonds or irrevocable letters of credit and insurance to the City.

F. A non-collusion affidavit and a business relationship affidavit shall also accompany bidder proposals.

G. Any bid received by the City or an officer and employee thereof, more than ninety-six (96) hours, excluding Saturdays, Sundays and holidays, before the time set for the opening of the bids, or any bid so received after the time set for opening of the bids, shall not be considered by the City and shall be returned unopened to the bidder submitting the same.

H. All bids shall be sealed and opened only at the time and place mentioned in the bid Section, and read aloud in the presence of an administrative officer of the City. Such bid openings shall be open to the public and to all bidders.

I. Except as otherwise provided by law, within such period of time, not to exceed sixty (60) days, as shall be specified in the bid notice by the City, a contract embodying the terms set forth in the bidding documents shall be executed by the City and the successful bidder. No bidder shall obtain any property rights in a contract awarded under the provisions of the Public Competitive Bidding Act of 1974 until the contract has been fully executed by both the bidder and the City.

J. Bonds, irrevocable letters of credit and insurance as provided by Section 113 of Title 61 of the Oklahoma Statutes, shall be provided by the successful bidder to the City.

K. If an award is made to other than the lowest bidder, the City shall accompany its action with a publicized statement setting forth the reason for its action. Such statement shall be placed on file, open to public inspection and be a matter of public record.

L. All invoices submitted for work performed shall be accompanied by a sworn certification by the architect or engineer that the work has been completed in accordance with specifications.

M. The City Council by a majority vote may reject any and all bids and rebid the project if the public interest would be better served.

N. If no timely bid is received on any public construction contract not exceeding Fifty Thousand Dollars (\$50,000.00), the City Council may direct the City Manager to negotiate a contract with the prospective bidder. The amount of the contract which may be awarded by the governing body pursuant to this Section shall not exceed Fifty Thousand Dollars (\$50,000.00) and the work to be performed shall be as specified in the initial bidding documents. The contract shall be executed within six (6) months after the date initially set for opening of bids. The contract and contract procedure shall conform to all the other applicable provisions of the Public Competitive Bidding Act of 1974.

O. The City shall return the certified or cashier's check, bid bond, or irrevocable letter of credit to the successful bidder on execution and delivery of the contract and required bonds or irrevocable letters of credit and insurance. Checks of unsuccessful bidders shall be returned at them in accordance with the terms of the bid solicitation.

P. Nothing herein shall be construed so as to prevent the City or the courts from exonerating the bidder and other parties to the bid security document from liability upon a timely showing that the bidder committed what the courts have determined under the common

law to be an excisable bidding error and for that reason it would not be equitable to enforce the bid security.

Q. Change Orders.

1. Change orders or addenda to public construction contracts of One Million Dollars (\$1,000,000.00) or less shall not exceed a fifteen percent (15%) cumulative increase in the original contract amount.

2. Change orders or addend to public construction contracts of over One Million Dollars (\$1,000,000.00) shall not exceed the greater of One Hundred Fifty Thousand Dollars (\$150,000.00) or a ten percent (10%) cumulative increase in the original contract amount.

3. Change orders or cumulative change orders which exceed the limits of Subsection Q1 and Q2 of this Section shall require a re-advertising for bids on the incomplete portions of the contract.

4. If a construction contract contains unit pricing, and the change order pertains to the unit price, the change order will not be subject to Subsection Q1 and Q2 of this Section.

5. When the unit price change does not exceed Ten Thousand Dollars (\$10,000.00), the unit price change order computation may be based on an acceptable unit price basis in lieu of the following cost itemization, which shall be performed as follows in all other incidents.

Such change orders shall contain a unit price and a total

for each of the following items:

- a. All materials with cost per item;
- b. Itemization of all labor with number of hours per operation and cost per hour;
- c. Itemization of all equipment with the type of equipment, number of each type, cost per hour for each type, and number of hours of actual operation for each type;
- d. Itemization of insurance cost, bond cost, social security, taxes, workers; compensation, employee fringe benefits and overhead cost;
- e. Profit for the contractor.

Section 7-112 FAIRVIEW UTILITIES AUTHORITY; COMPETITIVE BIDDING

In addition to the requirements provided in Section 7-111 hereinabove, Contracts for construction, labor, equipment, materials or repairs in excess of Fifty Thousand Dollars (\$50,000.00) shall be awarded by the public trust authorities to the lowest and best competitive bidder, pursuant to public invitation to bid, which shall be published at least once a week for two (2) successive weeks in a newspaper of general circulation in Major County; such advertisement shall also appear in the county where the work, or the major part if it is to be done, or the equipment or the materials are to be delivered, or the services to be rendered. Provided, however, should the trustee or trustees of the public trust authorities find that an immediate emergency exist, which finding shall be entered in the journal of the trust proceedings, by reason of which an immediate outlay of trust funds in an amount exceeding Fifty Thousand Dollars (\$50,000.00) is necessary in order to avoid loss of life, substantial damage to property or damage to the public peace or safety, then such contracts may be made and entered into without public notice or competitive bid. Notwithstanding the provisions of this subsection, equipment or materials may be purchased by a public trust directly from any contract duly awarded by this state or any state agency under the Oklahoma Central Purchasing Act, or from any contract duly awarded by a governmental entity which is the beneficiary of the public trust.

Section 7-113 FORMAL CONTRACT PROCEDURE

A. Except as provided by this Division, all expenditures for supplies, materials, equipment or contractual services, when the estimate cost thereof will exceed Fifty Thousand Dollars (\$50,000.00) shall be purchased by formal written contract or purchase order from the lowest responsible bidder after due notice inviting proposals, except that in cases where the prices bid are higher than prices available under contract let by the State of Oklahoma or a division, branch or agency of the United States of America, the city shall exercise the option of awarding its own contract or of buying it under the terms of the state or federal contract.

B. The City Clerk shall cause to be published notice inviting bids in the daily newspaper of the city, at least once, three (3) days preceding the last day set for the receipt of proposals. The newspaper notice required herein, shall include a general description of the services required or the articles to be purchased, shall state where bid blanks and specifications may be secured, and the time and place for opening bids.

C. When deemed necessary by the City Manager, bid deposits shall be prescribed in the public notices inviting bids. Unsuccessful bidders shall be entitled to the return of the surety where it has been required. The successful bidder shall forfeit any surety required upon failure on his part to enter into a contract within twenty (20) days after the award.

D. Bid opening procedures are as follows:

1. The bid shall be submitted sealed to the office of the City Clerk, and shall be identified as "bids" on the envelope;

2. Bids for supplies, materials, equipment or contractual services shall be opened by the City Clerk at the time and place stated in the public notices. Such bid opening shall be open to the public and to all bidders; and

3. A tabulation of all bids received shall be made by the City Clerk or appropriate department head, and the tabulation shall be available for public inspection in the office of the City Clerk.

E. The City Council shall have the authority to reject all

bid or parts of all bids, included in the proposed contract, when the public interest would be served thereby. The city shall not accept the bids of a contractor who is in default on the payment of taxes, license or other monies due the city.

F. Procedure for award of contracts is as follows:

1. The City Council shall have the authority to award contracts within the purview of this Section;

2. Contracts shall be awarded to the lowest responsible bidder. In determining "lowest responsible bidder", in addition to price, the following factors shall be considered:

- a. The ability, capacity and skill of the bidder to perform the contract or to provide the service required;
- b. Whether the bidder can perform the contract or provide the service promptly or within the time specified, without delay or interference;
- c. The character, integrity, reputation, judgment, experience and efficiency of the bidder;
- d. The quality of performance of previous contracts for services;
- e. The previous and existing compliance by the bidder with laws and ordinances relating to contract or service;
- g. The quality, availability and adaptability of the supplies or the contractual services to the particular use required;
- h. The ability of the bidder to provide future maintenance and service for the use of the subject of the contracts; and
- i. The number and scope of conditions attached to the bid;

3. When the award is not given to the lowest bidder, a full and complete statement of reasons for placing the order elsewhere shall be prepared by the City Clerk and shall be a public record;

4. If two (2) or more bids received are for the same total amount of unit price, quality and service being equal, the contract should be awarded to the local bidder;

5. The City Council shall have the authority to require a performance bond, before entering into the contract, in such amount as the City Council shall find reasonably necessary to protect the best interest of the city;

6. No contract or purchase shall be subdivided to avoid the requirements of this article;

7. If no timely bid is received after bid notices have been published on any supplies, materials, equipment or contractual services whose estimated cost Fifty Thousand Dollars (\$50,000.00), the City Council may direct the City Manager to negotiate a contract with a prospective supplier or contractor; sufficient unencumbered appropriation balance in excess of all unpaid obligations, to defray the amount of such order.

Section 7-114 OPEN MARKET PURCHASES - UNDER \$50,000.00

A. Open Market Purchases. All purchases of supplies or contractual services of less than Fifty Thousand Dollars (\$50,000.00) may be made in the open market without a newspaper advertisement and without observing the procedure for a formal bid award. The user department will prepare the encumbrance slip and forward same to the Purchasing for recording request. The Purchasing Clerk will encumber the funds and issue a requisition form. No order for delivery on a contract or open market purchase shall be issued until the Department Head determines that there are unencumbered funds to the credit of the using department sufficient to pay the cost of the order. Bid award will be to the lowest responsible bidder. Bid prices may be honored for 90 days from bid solicitation for additional identical items. Specifically, all purchases of supplies or contractual services of less than Fifty Thousand Dollars (\$50,000.00) but greater than Ten Thousand Dollars (\$10,000.00) may be made without formal bids and without advertisement but shall be procured based on the receipt of three (3) written or verbal quotes (with any verbal quotes reduced to writing), and by attaching such quotes to the requisition form. Open market purchases \$10,000.00 or less shall be based upon an open market direct solicitation.

B. Award. Awards, for purchases requiring written or

verbal quotations, in the above instances shall be to the lowest responsible bidder in accordance with this Article. The City Clerk will maintain a written record of all open market bids and such records will be open to the public.

C. Payment. Upon receipt of the invoice, the Purchasing Clerk will be notified to process payment to the vendor. Such notice will consist of receipt of copies of the encumbrance slip, requisition form, and invoice. Such clerk shall ensure that the invoices are signed and dated by the department head and verify the accuracy of the invoice. Vendor payment may be made by warrant, check or wire transfer and shall be signed as provided by city policy.

D. The City Manager shall give due consideration as to whether a contract shall be provided for any and all purchases. The City Attorney shall prepare or review the contracts.

Section 7-115 ENCUMBRANCE OF FUNDS

Except in cases of emergency or as otherwise provided herein, no officer or employee shall issue any order for delivery on a contract or requisition form until the City Clerk shall have certified that there is to the credit of the using agency concerned sufficient unencumbered appropriation balance in excess of all unpaid obligations, to defray the amount of such order.

Section 7-116 EMERGENCY PURCHASES

The provisions of this Division with reference to notice and bids shall not apply to an emergency if:

1. The City Council declares by a two-thirds (2/3) majority vote of all of its members that an emergency exists; or

2. The City Manager, without a governing body, declares that an emergency exists; provided however, the City Manager's authority to declare an emergency whereby the provisions in reference to notice and bids shall not apply is limited to contracts less than Seventy-five Thousand Dollars (\$75,000.00) in amount. The City Manager shall notify the City Council within ten (10) days of the declaration of an emergency if the City Council did not approve the emergency. The notification shall contain a statement of the reasons for the action and shall be recorded in the official minutes of the City Council. For purpose of this section, the term "Emergency" shall be limited to conditions

resulting from a sudden unexpected happening or unforeseen occurrence or condition whereby the public health or safety is endangered. The City Manager shall report an emergency within ten (10) days of the emergency declaration and include the official minutes of the City Council, to the State Construction Administrator of the Construction and Properties Division of the Office of Management and Enterprise Services.

Section 7-117 PROFESSIONAL SERVICES

A. All professional services where the estimated cost will exceed Fifty Thousand Dollars (\$50,000.00), the City Council may direct that the same be purchased by formal written contract after due notice inviting proposals, from the proposer whose services are determined to be in the best interest of the city, except those services or situations specifically exempted by the City Council.

B. Professional services shall include, but are not limited to, the following disciplines:

1. Appraisal services;
2. Architectural services;
3. Consulting services;
4. Engineering services;
5. Financial services;
6. Accounting and auditing services;
7. Health insurance services;
8. Photographic, art or marketing services; and
9. Testing and inspection services.

C. Specifications for professional services to be procured shall include:

1. Instructions to the prospective proposer specifying when, to whom and where proposals should be sent;
2. A complete technical description of the problem or work task; further the specification shall specify whether written

questions can be sent to the city and whether a bidder's conference will be held to answer any questions;

3. An objective or statement of what is expected to be accomplished;

4. Scope of work or task and the extent to which the city staff will be available to assist the contractor;

a. For submission of progress reports; and

b. For completion of tasks;

5. Term or estimated time schedule including:

a. Dates for commencement or performance;

b. For the submission of progress reports;

c. For completion of tasks;

6. Selection criteria;

7. Standard contract terms and conditions; and

8. Understanding for compensation and rate for additional work authorized.

D. The City Council shall have the right to negotiate any and all professional service contracts with the successful proposer. Such negotiation may include limiting or enlarging the scope of work, changing any terms and conditions where necessary or negotiating the compensation to be paid. The City Council may base their selection decision on the following:

1. Experience of the proposer on similar projects;

2. The qualifications of the proposer;

3. The ability of the proposer to meet the work schedule;

4. The completeness of the project approached;

5. The geographic location of the proposer;

6. Samples of work representing quality;

7. Additional services and skills available;

8. Work space requirements or city staff support; and
9. The overall proposer's cost.

SECTION 7-118 SALES; CITY COUNCIL TO DECLARE SURPLUS OR OBSOLETE; DISPOSAL AS DIRECTED BY THE CITY COUNCIL.

No surplus or obsolete supplies, materials or equipment may be sold until the City Council shall have declared same obsolete or surplus. The City Council may dispose of such obsolete or surplus property as they deem to be in the best interest of the City. All sales of surplus supplies, materials or equipment in excess of Twenty-five Thousand Dollars shall be based on sealed bids and awarded to the highest bidder. All sales of surplus supplies, materials or equipment less Twenty-five Thousand Dollars may be sold to any person, firm or entity without bids but must be for fair consideration.

SECTION 7-119 RULES AND RATES FOR RENTAL OF FAIRVIEW CONFERENCE CENTER.

A. Rental periods for the renting of the city conference center shall be as follows:

1. Eight (8) hour period defined as any period of time not to exceed eight (8) hours between the hours of 6:00 a.m. and until 12:00 midnight.
2. One day defined as 6:00 a.m. and until 12:00 midnight

B. The rental fees for the rental periods shall be set by the City Council by motion or resolution.

C. The following rules relative to the rental of the city conference center shall be complied with by all persons or organizations using the facility.

1. A printed rental form will be filled out and signed by the person or the organization making the reservation.
2. All rental fees, deposit fees and set up fees must be paid at the time the reservation is made.
3. School functions and youth meetings must be chaperoned by an adult.

4. Upon completion of the term of the rental agreement the property shall be inspected by the City Manager or his designee. If the equipment and property is in the same condition with no damages the deposit shall be returned to the renter. If damage to the equipment and/or property occurs, an amount equal to the monies required to repair or replace the damage shall be retained from the deposit. The premises shall be inspected prior to its use so that the renter may be made aware of any existing damages.

5. No one is permitted in the stage area unless it is a part of the program being presented.

6. Nothing is to be attached to the walls or curtains.

7. The City Manager or his designee reserves the right to refuse or cancel any reservation.

D. These rules relative to the rental of the Fairview Conference Center are designed as guidelines and are subject to change at the discretion of the City Manager, in order to reduce the potential of impropriety and promote an efficient process in tailoring the Rental Agreement to a specific or unique need.

Section 7-120 WAIVER OF COMPETITIVE BIDDING

The City Council may waive the requirement for competitive contractual bidding for the purchase of supplies, materials, equipment, vehicles, contractual services or any other item (other than contracts required to be bid pursuant to Section 7-111 and Section 7-112) when (i) some material feature or characteristic of the item or service sought to be purchased is unique, (ii) the item or service is available from only one source, (iii) pursuant to any state bid or State Central Purchasing, or from any federal, state or local public entity or political subdivision or (iv) for any reason should same be deemed necessary in the public interest, and the City Manager or his/her designee certify in writing such specific facts or reasons for the waiver. A full and complete statement of the reasons for approving such waiver of competitive bidding shall be entered in the minutes of the City Council. Nothing in this subsection shall be construed to prohibit emergency purchases made in accordance with Section 7-116 of this Division.

Note: This Section 7-120 was approved by Ordinance No. 2017-11.21 approved on November 21, 2017.

ARTICLE 2

SALES TAX

SECTION 7-201 CITATION AND CODIFICATION.

This chapter shall be known and may be cited as "City of Fairview Sales Tax Ordinance."

State Law Reference: Authority to levy (sales) taxes for municipal purposes, 68 O.S. § 2701; 68 O.S. §§ 1350 et seq.

SECTION 7-202 DEFINITIONS.

A. The definitions of words, terms and phrases contained in the Oklahoma Sales Tax Code, Section 1352 of Title 68 of the Oklahoma Statutes, and in Sections 576 and 593 of Title 37 of the Oklahoma Statutes, are hereby adopted by reference and made a part of this chapter.

B. A sale 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 otherwise occurs.

C. The definition of "gross receipts" in the State Sales Tax Code is hereby augmented to contain the additional following words: "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 or service occurs shall constitute the gross receipts from such transaction."

SECTION 7-203 TAX COLLECTOR DEFINED.

The term "tax collector" as used in this Article means the department of the City or the official agency of the state duly designated according to law or contract, and authorized by law to administer the collection of the tax levied in this Article.

SECTION 7-204 CLASSIFICATION OF TAXPAYERS.

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

SECTION 7-205 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 City permit for the same purpose.

SECTION 7-206 PURPOSE OF REVENUES.

A. There is hereby imposed an excise (sales) tax of two percent (2%) of the gross proceeds or gross receipts derived from all sales taxable under the Oklahoma Sales Tax Code, which tax is levied pursuant to Ordinance No. 93-3, and as amended by Ordinance No. 2008-1, which ordinance is incorporated herein by reference, the proceeds of which are for the use and benefit of the City of Fairview, to be used as follows:

1. One percent (1%) shall be used to support the functions of the municipal government of the City of Fairview, which one percent (1%) shall be unlimited in duration.

2. One percent (1%) shall be used for the purpose of providing revenues to be used for capital expenditures for the use and benefit of the City of Fairview, Oklahoma, and any public trust having the City as beneficiary thereto and/or for the payment of debt service in connection with obligations issued to finance said capital expenditures. The collection of the excise tax shall terminate and said excise tax shall not be collected after December 31, 2023.

B. There is hereby imposed an excise (sales) tax of one percent (1%) of the gross proceeds or gross receipts derived from all sales taxable under the Oklahoma Sales Tax Code, which tax is levied pursuant to Ordinance No. 2012-1 ("tax"), and which tax shall be levied and assessed on and after October 1, 2012, and thereafter until September 30, 2027, with the proceeds of such tax to be used exclusively for capital improvements of the City, including costs and debt service in connection with obligations issued to finance said capital improvements, which tax shall be imposed and levied on all taxable sales within the City, in addition to all other municipal, county or state sales taxes, and with the tax proceeds deposited into a limited purpose fund and accumulated, earmarked and expended, both principal and interest, for the above stated purpose. For purpose of this section the term "capital improvements" shall mean those items normally and customary designated as capital improvements, to include but not to be limited to public construction contracts, including the

construction, maintenance and repair of any such public improvements; the purchase of real and personal property related to a municipal purpose; water, sewer, street, drainage, electric construction, maintenance and repair; dilapidated building or structure removal and related costs; and as local financial leverage to match state, federal or private grants.

C. There is hereby imposed an excise (sales) tax of one percent (1%) of the gross proceeds or gross receipts derived from all sales taxable under the Oklahoma Sales Tax Code within the City, in addition to all other municipal, county or state sales taxes, which tax is levied pursuant to Ordinance No. 2002-4, as amended by Ordinance No. 2014-04 ("tax"), which ordinances are incorporated herein by reference, which tax shall be levied and assessed on and after October 1, 2002, and thereafter until September 30, 2027, the proceeds of which are to provide revenues for the purpose of renovating, expanding, equipping, and/or maintaining the Fairview Municipal Hospital facilities and/or to be applied or pledged toward the payment of principal and interest on any indebtedness, including refunding indebtedness, incurred by or on behalf of the City for such purpose, and with the tax proceeds deposited into a limited purpose fund and accumulated, earmarked and expended, both principal and interest, for the above stated purpose.

Note: Subsection A was adopted by Ordinance No. 93-3 and superceded Ordinance No. 74-8 as amended by Ordinance No. 80-6. Ordinance No. 93-3 was subsequently amended by Ordinance No. 2008-1. Subsection B was amended by Ordinance No. 2012-1 and approved by the voters on June 26, 2012. Subsection C was amended (the term was extended until 2027) by Ordinance No. 2014- 04 which as approved by the City Council on May 20, 2014.

SECTION 7-207 TAX IMPOSED; AMOUNT.

A. There is hereby levied an excise tax in the amount of (4.00%) upon the gross proceeds or gross receipts derived from all sales taxable under the Oklahoma Sales Tax Code, including but not exclusive of the following:

1. Tangible personal property, except newspapers and periodicals;

2. Natural or artificial gas, electricity, ice, steam, or any other utility or public service, and associated delivery or transmission services, except water, sewage and refuse and those specifically exempt pursuant to the provisions of 68 O.S. §1357;

3. Transportation for hire to persons by common carriers, including railroads both steam and electric, motor transportation companies, Pullman car companies, airlines, and other means of transportation for hire, excluding:

- a. transportation services provided by a tourism service broker which are incidental to the rendition of tourism brokerage services by such broker to a customer regardless of whether or not such transportation services are actually owned and operated by the tourism service broker. For purposes of this subsection, "tourism service broker" means any person, firm, association or corporation or any employee of such person, firm, association or corporation which, for a fee, commission or other valuable consideration, arranges or offers to arrange trips, tours or other vacation or recreational travel plans for a customer, and
- b. transportation services provided by a funeral establishment to family members and other persons for purposes of conducting a funeral in this state;

4. Telecommunications services that originate and terminate in this state and that originate or terminate in this state and are charged to the consumer's telephone number or account in this state regardless of where the billing for such service is made, all mobile telecommunications services that are sourced to this state pursuant to the federal Mobile Telecommunications Sourcing Act, 4 U.S.C. 116-126, and all local telecommunications service and rental charges, including all installation and construction charges and all service and rental charges having any connection with transmission of any message or image. Provided:

- a. the term "telecommunications services" shall mean the transmission of any interactive, two-way electromagnetic communications, including voice, image, data and information, through the use of any medium such as wires, cables, microwaves, cellular radio, radio waves, light waves, or any combination of those or similar media, but shall not include the following: (1) sales of value-added nonvocal services in which computer processing applications are used to act on the form, content, code, or protocol of the information to be transmitted, including charges for the storage of data or information for subsequent retrieval but not including services commonly known as voice mail, (2) any interstate telecommunications service which is: (a)

rendered by a company for private use within its organization, or (b) used, allocated, or distributed by a company to its affiliated group, or (3) sales of any carrier access services, right of access services, telecommunications services to be resold, or telecommunications services used in the subsequent provision of, use as a component part of, or integrated into end-to-end telecommunications service, and

- b. the term "telecommunications services" shall include, but not be limited to sales of any interstate telecommunications services which: (1) entitle the subscriber to inward or outward calling respectively between a station associated with an access line in the local telephone system area or a station directly connected to any interexchange carrier's facilities and telephone or radiotelephone stations in diverse geographical locations specified by the subscriber, or (2) entitle the subscriber to private communications services which allow exclusive or priority use of a communications channel or group of channels between exchanges, and c. the term "interstate" includes any international service that either originates or terminates outside of the fifty (50) United States and the District of Columbia;

5. Printing or printed matter of all types, kinds, or character and, except for services of printing, copying or photocopying performed by a privately owned scientific and educational library sustained by monthly or annual dues paid by members sharing the use of such services with students interested in the study of geology, petroleum engineering or related subjects, any service of printing or overprinting, including the copying of information by mimeograph, multigraph, or by otherwise duplicating written or printed matter in any manner, or the production of microfiche containing information from magnetic tapes or other media furnished by customers;

6. Service of furnishing rooms by hotel, apartment hotel, public rooming house, motel, public lodging house, or tourist camp;

7. Service of furnishing storage or parking privileges by auto hotels or parking lots;

8. Computer hardware, software, coding sheets, cards, magnetic tapes or other media on which pre-written programs have

been coded, punched, or otherwise recorded, including the gross receipts from the licensing of software programs;

9. Foods, confections, and all drinks sold or dispensed by hotels, restaurants, or other dispensers, and sold for immediate consumption upon the premises or delivered or carried away from the premises for consumption elsewhere;

10. Advertising of all kinds, types, and characters, including any and all devices used for advertising purposes except those specifically exempt pursuant to the provisions of 68 O.S. § 1357;

11. Dues or fees to clubs including free or complimentary dues or fees which have a value equivalent to the charge that would have otherwise been made, including any fees paid for the use of facilities or services rendered at a health spa or club or any similar facility or business;

12. Tickets for admission to or voluntary contributions made to places of amusement, sports, entertainment, exhibition, display, or other recreational events or activities, including free or complimentary admissions which have a value equivalent to the charge that would have otherwise been made;

13. Charges made for the privilege of entering or engaging in any kind of activity, such as tennis, racquetball, or handball, when spectators are charged no admission fee;

14. Charges made for the privilege of using items for amusement, sports, entertainment, or recreational activity, such as trampolines or golf carts;

15. The rental of equipment for amusement, sports, entertainment, or other recreational activities, such as bowling shoes, skates, golf carts, or other sports or athletic equipment;

16. The gross receipts from sales from any vending machine without any deduction for rental to locate the vending machine on the premises of a person who is not the owner or any other deductions therefrom;

17. The gross receipts or gross proceeds from the rental or lease of tangible personal property, including rental or lease of personal property when the rental or lease agreement requires the vendor to launder, clean, repair, or otherwise service the rented or leased property on a regular basis, without any deduction for the cost of the service rendered. If the rental or lease charge

is based on the retail value of the property at the time of making the rental or lease agreement and the expected life of the property, and the rental or lease charge is separately stated from the service cost in the statement, bill, or invoice delivered to the consumer, the cost of services rendered shall be deducted from the gross receipts or gross proceeds;

18. Flowers, plants, shrubs, trees, and other floral items, whether or not produced by the vendor, sold by persons engaged in florist or nursery business in this state, including all orders taken by an Oklahoma business for delivery in another state. All orders taken outside this state for delivery within this state shall not be subject to the taxes levied in this Section;

19. Tangible personal property sold to persons, peddlers, solicitors, or other salesmen, for resale when there is likelihood that this state will lose tax revenue due to the difficulty of enforcing the provisions of the Oklahoma Sales Tax Code because of:

- a. the operation of the business,
- b. the nature of the business,
- c. the turnover of independent contractors,
- d. the lack of place of business in which to display a permit or keep records,
- e. lack of adequate records,
- f. the fact that the persons are minors or transients,
- g. the fact that the persons are engaged in service businesses, or
- h. any other reasonable reason;

20. Any taxable services and tangible personal property including materials, supplies, and equipment sold to contractors for the purpose of developing and improving real estate even though said real estate is intended for resale as real property, hereby declared to be sales to consumers or users, however, taxable materials, supplies and equipment sold to contractors as provided by this subsection which are purchased as a result of and subsequent to the date of a contract entered into either prior to the effective date of any law increasing the rate of sales tax imposed by this article, or entered into prior to the effective date of an ordinance or other measure increasing the sales tax levy of a political subdivision shall be subject to the rate of sales tax applicable, as of the date such contract was entered into, to sales of such materials, supplies and equipment if such purchases are required in order to complete the contract. Such rate shall be applicable to purchases made pursuant to the contract or any change order under the contract until the

contract or any change order has been completed, accepted and the contractor has been discharged from any further obligation under the contract or change order or until two (2) years from the date on which the contract was entered into whichever occurs first. The increased sales tax rate shall be applicable to all such purchases at the time of sale and the contractor shall file a claim for refund before the expiration of three (3) years after the date of contract completion or five (5) years after the contract was entered into, whichever occurs earlier. However, the Oklahoma Tax Commission shall prescribe rules and regulations and shall provide procedures for the refund to a contractor of sales taxes collected on purchases eligible for the lower sales tax rate authorized by this subsection; and

21. Any taxable services and tangible personal property sold to persons who are primarily engaged in selling their services, such as repairmen, hereby declared to be sales to consumers or users.

Section 7-208 EXEMPTIONS; SALES SUBJECT TO OTHER TAX

There is hereby specifically exempted from the tax levied by this Article the gross receipts or gross proceeds exempted from the Oklahoma Sales Tax Code inclusive, but not exclusive of, and derived from the:

1. Sale of gasoline, motor fuel, methanol, "M-85" which is a mixture of methanol and gasoline containing at least eighty-five percent (85%) methanol, compressed natural gas, liquefied natural gas, or liquefied petroleum gas on which the Motor Fuel Tax, Gasoline Excise Tax, Special Fuels Tax or the fee in lieu of Special Fuels Tax levied in Article 5, 6, or 7 of Title 68 of the Oklahoma Statutes has been, or will be paid;

2. Sale of motor vehicles or any optional equipment or accessories attached to motor vehicles on which the Oklahoma Motor Vehicle Excise Tax levied in Article 21 of Title 68 of the Oklahoma Statutes has been, or will be paid;

3. Sale of crude petroleum or natural or casing head gas and other products subject to gross production tax pursuant to the provisions of Articles 10 and 11 of Title 68 of the Oklahoma Statutes. This exemption shall not apply when such products are sold to a consumer or user for consumption or use, except when used for injection into the earth for the purpose of promoting or facilitating the production of oil or gas. This paragraph shall not operate to increase or repeal the gross production tax levied by the laws of this state;

4. Sale of aircraft on which the tax levied pursuant to the provisions of Sections 6001 through 6004 of Title 68 of the Oklahoma Statutes has been, or will be paid or which are specifically exempt from such tax pursuant to the provisions of Section 6003 of Title 68 of the Oklahoma Statutes;

5. Sales from coin-operated devices on which the fee imposed by Sections 1501 through 1513 of Title 68 of the Oklahoma Statutes has been paid;

6. Leases of twelve (12) months or more of motor vehicles in which the owners of the vehicles have paid the vehicle excise tax levied by Section 2103 of Title 68 of the Oklahoma Statutes;

7. Sales of charity game equipment on which a tax is levied pursuant to the Oklahoma Charity Games Act, Section 401 et seq. of Title 3A of the Oklahoma Statutes;

8. Sales of cigarettes or tobacco products to:

- a. a federally recognized Indian tribe or nation which has entered into a compact with the State of Oklahoma pursuant to the provisions of subsection C of Section 346 of Title 68 of the Oklahoma Statutes or to a licensee of such a tribe or nation, upon which the payment in lieu of taxes required by the compact has been paid, or
- b. a federally recognized Indian tribe or nation or to a licensee of such a tribe or nation upon which the tax levied pursuant to the provisions of Section 349 or Section 426 of Title 68 of the Oklahoma Statutes has been paid; and

9. Leases of aircraft upon which the owners have paid the aircraft excise tax levied by Section 6001 et seq. of Title 68 or which are specifically exempt from such tax pursuant to the provisions of Section 6003 of Title 68 of the Oklahoma Statutes.

Section 7-209 RESERVED

Section 7-210 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 Oklahoma Sales Tax Code.

Section 7-211 PAYMENT OF TAX; BRACKETS

A. The tax herein levied shall be paid to the tax collector at the time and in the form and manner provided for payment of state sales tax.

B. The bracket system for the collection of the City sales tax by the tax collector shall be the same as is hereafter adopted by the agreement of the City and the tax collector, in the collection of both the City sales tax and the state sales tax.

Section 7-212 EXEMPTIONS-GOVERNMENTAL AND NONPROFIT ENTITIES

The gross receipts or gross proceeds exempted from the Oklahoma Sales Tax Code are hereby exempted from the tax levied under this article. There are hereby specifically exempted from the tax levied by this article:

1. Sale of tangible personal property or services to the United States government or to the State of Oklahoma, any political subdivision of this state or any agency of a political subdivision of this state; provided, all sales to contractors in connection with the performance of any contract with the United States government, State of Oklahoma or any of its political subdivisions shall not be exempted from the tax levied by this article, except as hereinafter provided;

2. Sales of property to agents appointed by or under contract with agencies or instrumentalities of the United States government if ownership and possession of such property transfers immediately to the United States government;

3. Sales of property to agents appointed by or under contract with a political subdivision of this state if the sale of such property is associated with the development of a qualified federal facility, as provided in the Oklahoma Federal Facilities Development Act, and if ownership and possession of such property transfers immediately to the political subdivision or the state;

4. Sales made directly by county, district or state fair authorities of this state, upon the premises of the fair authority, for the sole benefit of the fair authority;

5. Sale of food in cafeterias or lunch rooms of elementary schools, high schools, colleges or universities which are operated primarily for teachers and pupils and are not operated primarily for the public or for profit;

6. Dues paid to fraternal, religious, civic, charitable or educational societies or organizations by regular members thereof, provided, such societies or organizations operate under what is commonly termed the lodge plan or system, and provided such societies or organizations do not operate for a profit which inures to the benefit of any individual member or members thereof to the exclusion of other members and dues paid monthly or annually to privately owned scientific and educational libraries by members sharing the use of services rendered by such libraries with students interested in the study of geology, petroleum engineering or related subjects;

7. Sale of tangible personal property or services to or by churches, except sales made in the course of business for profit or savings, competing with other persons engaged in the same or a similar business;

8. The amount of proceeds received from the sale of admission tickets which is separately stated on the ticket of admission for the repayment of money borrowed by any accredited state-supported college or university or any public trust of which a county in this state is the beneficiary, for the purpose of constructing or enlarging any facility to be used for the staging of an athletic event, a theatrical production, or any other form of entertainment, edification or cultural cultivation to which entry is gained with a paid admission ticket. Such facilities include, but are not limited to, athletic fields, athletic stadiums, field houses, amphitheaters and theaters. To be eligible for this sales tax exemption, the amount separately stated on the admission ticket shall be a surcharge which is imposed, collected and used for the sole purpose of servicing or aiding in the servicing of debt incurred by the college or university to effect the capital improvements hereinbefore described;

9. Sales of tangible personal property or services to the Board organizations or similar state supervisory organizations of the Boy Scouts of America, Girl Scouts of U.S.A. and the Campfire Boys and Girls shall be exempt from sales tax;

10. Sale of tangible personal property or services to any county, municipality, rural water district, public school district, the institutions of The Oklahoma State System of Higher Education, the Grand River Dam Authority, the Northeast Oklahoma Public Facilities Authority, the Oklahoma Municipal Power Authority, City of Tulsa-Rogers County Port Authority, Muskogee City-County Port Authority or to any person with whom any of the above-named subdivisions or agencies of this state has duly

entered into a public contract pursuant to law, necessary for carrying out such public contract or to any subcontractor to such a public contract. Any person making purchases on behalf of such subdivision or agency of this state shall certify, in writing, on the copy of the invoice or sales ticket to be retained by the vendor that the purchases are made for and on behalf of such subdivision or agency of this state and set out the name of such public subdivision or agency. Any person who wrongfully or erroneously certifies that purchases are for any of the above-named subdivisions or agencies of this state or who otherwise violates this Section shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount equal to double the amount of sales tax involved or incarcerated for not more than sixty (60) days or both;

11. Sales of tangible personal property or services to private institutions of higher education and private elementary and secondary institutions of education accredited by the State Department of Education or registered by the State Board of Education for purposes of participating in federal programs or accredited as defined by the Oklahoma State Regents for Higher Education which are exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C. 501 (c)(3), including materials, supplies, and equipment used in the construction and improvement of buildings and other structures owned by the institutions and operated for educational purposes. Any person, firm, agency or entity making purchases on behalf of any institution, agency or subdivision in this state, shall certify in writing, on the copy of the invoice or sales ticket the nature of the purchases, and violation of this paragraph shall be a misdemeanor as set forth in paragraph 10 of this Section;

12. Tuition and educational fees paid to private institutions of higher education and private elementary and secondary institutions of education accredited by the State Department of Education or registered by the State Board of Education for purposes of participating in federal programs or accredited as defined by the Oklahoma State Regents for Higher Education which are exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C. 501(c)(3);

13. Sales of tangible personal property made by:

- a. a public school,
- b. a private school offering instruction for grade levels kindergarten through twelfth grade,

- c. a public school district,
- d. a public or private school board,
- e. a public or private school student group or organization,
- f. a parent-teacher association or organization, or
- g. public or private school personnel for purposes of raising funds for the benefit of a public or private school, public school district, public or private school board or public or private school student group or organization. The exemption provided by this paragraph for sales made by a public or private school shall be limited to those public or private schools accredited by the State Department of Education or registered by the State Board of Education for purposes of participating in federal programs. Sale of tangible personal property in this paragraph shall include sale of admission tickets and concessions at athletic events;

14. Sales of tangible personal property by:

- a. local 4-H clubs,
- b. county, regional or state 4-H councils,
- c. county, regional or state 4-H committees,
- d. 4-H leader associations,
- e. county, regional or state 4-H foundations, and
- f. authorized 4-H camps and training centers. The exemption provided by this paragraph shall be limited to sales for the purpose of raising funds for the benefit of such organizations. Sale of tangible personal property exempted by this paragraph shall include sale of admission tickets;

15. The first Seventy-five Thousand Dollars (\$75,000.00) each year from sale of tickets and concessions at athletic events by each organization exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C. 501(c)(4);

16. Items or services which are subsequently given away by the Oklahoma Tourism and Recreation Department as promotional

items pursuant to Section 1834 of Title 74 of the Oklahoma Statutes;

17. Sales of tangible personal property or services to fire departments organized pursuant to Section 592 of Title 18 of the Oklahoma Statutes which items are to be used for the purposes of the fire department. Any person making purchases on behalf of any such fire department shall certify, in writing, on the copy of the invoice or sales ticket to be retained by the vendor that the purchases are made for and on behalf of such fire department and set out the name of such fire department. Any person who wrongfully or erroneously certifies that the purchases are for any such fire department or who otherwise violates the provisions of this Section shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined an amount equal to double the amount of sales tax involved or incarcerated for not more than sixty (60) days, or both;

18. Complimentary or free tickets for admission to places of amusement, sports, entertainment, exhibition, display or other recreational events or activities which are issued through a box office or other entity which is operated by a state institution of higher education with institutional employees or by a municipality with municipal employees;

19. The first Fifteen Thousand Dollars (\$15,000.00) each year from sales of tangible personal property by fire departments organized pursuant to Titles 11, 18, or 19 of the Oklahoma Statutes for the purposes of raising funds for the benefit of the fire department. Fire departments selling tangible personal property for the purposes of raising funds shall be limited to no more than six (6) days each year to raise such funds in order to receive the exemption granted by this paragraph;

20. Sales of tangible personal property or services to any Boys & Girls Clubs of America affiliate in this state which is not affiliated with the Salvation Army and which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C. 501(c)(3);

21. Sales of tangible personal property or services to any organization, which takes court-adjudicated juveniles for purposes of rehabilitation, and which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C. 501(c)(3), provided that at least fifty percent (50%) of the juveniles served by such organization are court adjudicated and the organization receives state funds in an amount less than ten percent (10%) of the annual budget of the organization;

22. Sales of tangible personal property or services to:

- a. any federally qualified community health center as defined in Section 254c of Title 42 of the United States Code,
- b. any migrant health center as defined in Section 254b of Title 42 of the United States Code,
- c. any clinic receiving disbursements of state monies from the Indigent Health Care Revolving Fund pursuant to the provisions of Section 66 of Title 56 of the Oklahoma Statutes, and
- d. any community based health center which meets all of the following criteria:
 - (1) provides primary care services at no cost to the recipient, and
 - (2) is exempt from taxation pursuant to the provisions of Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. 501 (c)(3);

23. Dues or fees, including free or complimentary dues or fees which have a value equivalent to the charge that could have otherwise been made, to YMCAs, YWCAs or municipally-owned recreation centers for the use of facilities and programs;

24. The first Fifteen Thousand Dollars (\$15,000.00) each year from sales of tangible personal property or services to or by a cultural organization established to sponsor and promote educational, charitable and cultural events for disadvantaged children, and which organization is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C. 501 (c)(3);

25. Sales of tangible personal property or services to museums or other entities which have been accredited by the American Association of Museums. Any person making purchases on behalf of any such museum or other entity shall certify, in writing, on the copy of the invoice or sales ticket to be retained by the vendor that the purchases are made for and on behalf of such museum or other entity and set out the name of such museum or other entity. Any person who wrongfully or erroneously certifies that the purchases are for any such museum or other entity or who otherwise violates the provisions of this

paragraph shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined an amount equal to double the amount of sales tax involved or incarcerated for not more than sixty (60) days, or by both such fine and incarceration;

26. Sales of tickets for admission by any museum accredited by the American Association of Museums. In order to be eligible for the exemption provided by this paragraph, an amount equivalent to the amount of the tax which would otherwise be required to be collected pursuant to the provisions of Section 1350 et seq. of Title 68 of the Oklahoma Statutes shall be separately stated on the admission ticket and shall be collected and used for the sole purpose of servicing or aiding in the servicing of debt incurred by the museum to effect the construction, enlarging or renovation of any facility to be used for entertainment, edification or cultural cultivation to which entry is gained with a paid admission ticket;

27. Sales of tangible personal property or services occurring on or after June 1, 1995, to children's homes which are supported or sponsored by one or more churches, members of which serve as trustees of the home;

28. Sales of tangible personal property or services to the organization known as the Disabled American Veterans, Department of Oklahoma, Inc., and subordinate chapters thereof;

29. Sales of tangible personal property or services to youth camps which are supported or sponsored by one or more churches, members of which serve as trustees of the organization;

30. Transfer of tangible personal property made pursuant to Section 3226 of Title 63 of the Oklahoma Statutes by the University Hospitals Trust;

31. Sales of tangible personal property or services to a municipality, county or school district pursuant to a lease or lease-purchase agreement executed between the vendor and a municipality, county or school district. A copy of the lease or lease-purchase agreement shall be retained by the vendor;

32. Sales of tangible personal property or services to any spaceport user, as defined in the Oklahoma Space Industry Development Act;

33. The sale, use, storage, consumption, or distribution in this state, whether by the importer, exporter, or another person, of any satellite or any associated launch vehicle, including

components of, and parts and motors for, any such satellite or launch vehicle, imported or caused to be imported into this state for the purpose of export by means of launching into space. This exemption provided by this paragraph shall not be affected by:

- a. the destruction in whole or in part of the satellite or launch vehicle,
- b. the failure of a launch to occur or be successful, or
- c. the absence of any transfer or title to, or possession of, the satellite or launch vehicle after launch;

34. The sale, lease, use, storage, consumption, or distribution in this state of any space facility, space propulsion system or space vehicle, satellite, or station of any kind possessing space flight capacity, including components thereof;

35. The sale, lease, use, storage, consumption, or distribution in this state of tangible personal property, placed on or used aboard any space facility, space propulsion system or space vehicle, satellite, or station possessing space flight capacity, which is launched into space, irrespective of whether such tangible property is returned to this state for subsequent use, storage, or consumption in any manner;

36. The sale, lease, use, storage, consumption, or distribution in this state of tangible personal property meeting the definition of "Section 38 property" as defined in Sections 48(a)(1)(A) and (B)(i) of the Internal Revenue Code of 1986, that is an integral part of and used primarily in support of space flight; however, Section 38 property used in support of space flight shall not include general office equipment, any boat, mobile home, motor vehicle, or other vehicle of a class or type required to be registered, licensed, titled, or documented in this state or by the United States government, or any other property not specifically suited to supporting space activity. The term "in support of space flight", for purposes of this paragraph, means the altering, monitoring, controlling, regulating, adjusting, servicing, or repairing of any space facility, space propulsion systems or space vehicle, satellite, or station possessing space flight capacity, including the components thereof;

37. The purchase or lease of machinery and equipment for use at a fixed location in this state, which is used exclusively in the manufacturing, processing, compounding, or producing of any

space facility, space propulsion system or space vehicle, satellite, or station of any kind possessing space flight capacity. Provided, the exemption provided for in this paragraph shall not be allowed unless the purchaser or lessee signs an affidavit stating that the item or items to be exempted are for the exclusive use designated herein. Any person furnishing a false affidavit to the vendor for the purpose of evading payment of any tax imposed by Section 1354 of this title shall be subject to the penalties provided by law. As used in this paragraph, "machinery and equipment" means "Section 38 property" as defined in Sections 48(a)(1)(A) and (B)(i) of the Internal Revenue Code of 1986, which is used as an integral part of the manufacturing, processing, compounding, or producing of items of tangible personal property. Such term includes parts and accessories only to the extent that the exemption thereof is consistent with the provisions of this paragraph;

38. The amount of a surcharge or any other amount which is separately stated on an admission ticket which is imposed, collected and used for the sole purpose of constructing, remodeling or enlarging facilities of a public trust having a municipality or county as its sole beneficiary;

39. Sales of tangible personal property or services which are directly used in or for the benefit of a state park in this state, which are made to an organization which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C. 501(c)(3) and which is organized primarily for the purpose of supporting one or more state parks located in this state;

40. The sale, lease or use of parking privileges by an institution of The Oklahoma State System of Higher Education; and

41. Sales of tangible personal property or services for use on campus construction projects for the benefit of institutions of The Oklahoma State System of Higher Education or private institutions of higher education accredited by the Oklahoma State Regents for Higher Education when such projects are financed by or through the use of nonprofit entities which are exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C. 501(c)(3);

42. Sales of tangible personal property or services by an organization which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C. 501(c)(3), in the course of conducting a national championship sports event, but only if all or a portion of the payment in exchange therefor

would qualify as the receipt of a qualified sponsorship payment described in Internal Revenue Code, 26 U.S.C. 513(i). Sales exempted pursuant to this paragraph shall be exempt from all Oklahoma sales, use, excise and gross receipts taxes.

State Law Reference: Similar provisions, 68 O.S. Section 1305.

Section 7-213 SAME-GENERALLY

The gross receipts or gross proceeds exempted from the Oklahoma Sales Tax Code are hereby exempted from the tax levied under this article. There are hereby specifically exempted from the tax levied by this article:

1. Transportation of school pupils to and from elementary schools or high schools in motor or other vehicles;

2. Transportation of persons where the fare of each person does not exceed One Dollar (\$1.00), or local transportation of persons within the corporate limits of a municipality except by taxicabs;

3. Sales for resale to persons engaged in the business of reselling the articles purchased, whether within or without the state, provided that such sales to residents of this state are made to persons to whom sales tax permits have been issued as provided in Section 1350 et seq. of Title 68 of the Oklahoma Statutes. This exemption shall not apply to the sales of articles made to persons holding permits when such persons purchase items for their use and which they are not regularly engaged in the business of reselling; neither shall this exemption apply to sales of tangible personal property to peddlers, solicitors and other salespersons who do not have an established place of business and a sales tax permit. The exemption provided by this paragraph shall apply to sales of motor fuel or diesel fuel to a Group Five vendor, but the use of such motor fuel or diesel fuel by the Group Five vendor shall not be exempt from the tax levied by Section 1350 et seq. of Title 68 of the Oklahoma Statutes. The purchase of motor fuel or diesel fuel is exempt from sales tax when the motor fuel is for shipment outside this state and consumed by a common carrier by rail in the conduct of its business. The sales tax shall apply to the purchase of motor fuel or diesel fuel in Oklahoma by a common carrier by rail when such motor fuel is purchased for fueling, within this state, of any locomotive or other motorized flanged wheel equipment;

4. Sales of advertising space in newspapers and periodicals and billboard advertising service, and any advertising through the electronic media, including radio, television and cable television, and the servicing of any advertising devices;

5. Eggs, feed, supplies, machinery and equipment purchased by persons regularly engaged in the business of raising worms, fish, any insect or any other form of terrestrial or aquatic animal life and used for the purpose of raising same for marketing. This exemption shall only be granted and extended to the purchaser when the items are to be used and in fact are used in the raising of animal life as set out above. Each purchaser shall certify, in writing, on the invoice or sales ticket retained by the vendor that the purchaser is regularly engaged in the business of raising such animal life and that the items purchased will be used only in such business. The vendor shall certify to the Oklahoma Tax Commission that the price of the items has been reduced to grant the full benefit of the exemption. Violation hereof by the purchaser or vendor shall be a misdemeanor;

6. Sale of natural or artificial gas and electricity, and associated delivery or transmission services, when sold exclusively for residential use after December 31, 1980. Provided, nothing herein shall be construed as limiting or prohibiting cities and Citys, and counties levying a tax pursuant to the provisions of Section 1370.2 of Title 68 of the Oklahoma Statutes, from levying and collecting taxes on the sale of natural or artificial gas and electricity. Provided further, any sales tax levied by a city or City, or a county levying a tax pursuant to the provisions of Section 1370.2 of Title 68 of the Oklahoma Statutes, on natural or artificial gas and electricity shall be in effect regardless of ordinance or contractual provisions referring to previously imposed state sales tax on such items;

7. In addition to the exemptions authorized by Section 1357.6 of Title 68 of the Oklahoma Statutes, sales of medicines or drugs prescribed for the treatment of human beings by a person licensed to prescribe the medicines or drugs. Provided, this exemption shall not apply to proprietary or patent medicines as defined by Section 353.1 of Title 59 of the Oklahoma Statutes;

8. Transfers of title or possession of empty, partially filled, or filled returnable oil and chemical drums to any person who is not regularly engaged in the business of selling, reselling or otherwise transferring empty, partially filled, or filled returnable oil drums;

9. Sales of one-way utensils, paper napkins, paper cups, disposable hot containers and other one-way carry out materials to a vendor of meals or beverages;

10. Sales of food or food products for home consumption which are purchased in whole or in part with coupons issued pursuant to the federal food stamp program as authorized by Sections 2011 through 2029 of Title 7 of the United States Code, as to that portion purchased with such coupons. The exemption provided for such sales shall be inapplicable to such sales upon the effective date of any federal law that removes the requirement of the exemption as a condition for participation by the state in the federal food stamp program;

11. Sales of food or food products, or any equipment or supplies used in the preparation of the food or food products to or by an organization which: a. is exempt from taxation pursuant to the provisions of Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. 501 (c)(3), and which provides and delivers prepared meals for home consumption to elderly or homebound persons as part of a program commonly known as "Meals on Wheels" or "Mobile Meals", or b. is exempt from taxation pursuant to the provisions of Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. 501 (c)(3), and which receives federal funding pursuant to the Older Americans Act of 1965, as amended, for the purpose of providing nutrition programs for the care and benefit of elderly persons;

12. Sales of tangible personal property or services to or by organizations which are exempt from taxation pursuant to the provisions of Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. 501(c)(3), and which are primarily involved in the collection and distribution of food and other household products to other organizations which are exempt from taxation pursuant to the provisions of Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. 501(c)(3), which facilitate the distribution of such products to the needy, except sales made in the course of business for profit or savings, competing with other persons engaged in the same or similar business;

13. Sales of tangible personal property or services to children's homes which are located on church-owned property and are operated by organizations exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C. 501(c)(3);

14. Sales of computers, data processing equipment, related peripherals and telephone, telegraph or telecommunications service and equipment for use in a qualified aircraft maintenance

or manufacturing facility. For purposes of this paragraph, "qualified aircraft maintenance or manufacturing facility" means a new or expanding facility primarily engaged in aircraft repair, building or rebuilding whether or not on a factory basis, whose total cost of construction exceeds the sum of Five Million Dollars (\$5,000,000.00) and which employs at least two hundred fifty (250) new full-time-equivalent employees, as certified by the Oklahoma Employment Security Commission, upon completion of the facility. In order to qualify for the exemption provided for by this paragraph, the cost of the items purchased by the qualified aircraft maintenance or manufacturing facility shall equal or exceed the sum of Two Million Dollars (\$2,000,000.00);

15. Sales of tangible personal property consumed or incorporated in the construction or expansion of a qualified aircraft maintenance or manufacturing facility as defined in paragraph 14 of this Section. For purposes of this paragraph, sales made to a contractor or subcontractor that has previously entered into a contractual relationship with a qualified aircraft maintenance or manufacturing facility for construction or expansion of such a facility shall be considered sales made to a qualified aircraft maintenance or manufacturing facility;

16. Sales of any interstate telecommunications services which:

- a. entitle the subscriber to inward or outward calling respectively between a station associated with an access line in the local telephone system area or a station directly connected to any interexchange carrier's facilities and telephone or radiotelephone stations in diverse geographical locations specified by the subscriber, or
- b. entitles the subscriber to private communications services which allow exclusive or priority use of a communications channel or group of channels between exchanges;

17. Sales of railroad track spikes manufactured and sold for use in this state in the construction or repair of railroad tracks, switches, sidings and turnouts;

18. Sales of aircraft and aircraft parts provided such sales occur at a qualified aircraft maintenance facility. As used in this paragraph, "qualified aircraft maintenance facility" means a facility operated by an air common carrier at which there were employed at least two thousand (2,000) full-time-equivalent

employees in the preceding year as certified by the Oklahoma Employment Security Commission and which is primarily related to the fabrication, repair, alteration, modification, refurbishing, maintenance, building or rebuilding of commercial aircraft or aircraft parts used in air common carriage. For purposes of this paragraph, "air common carrier" shall also include members of an affiliated group as defined by Section 1504 of the Internal Revenue Code, 26 U.S.C. 1504;

19. Sales of machinery and equipment purchased and used by persons and establishments primarily engaged in computer services and data processing: a. as defined under Industrial Group Numbers 7372 and 7373 of the Standard Industrial Classification (SIC) Manual, latest version, which derive at least fifty percent (50%) of their annual gross revenues from the sale of a product or service to an out-of-state buyer or consumer, and b. as defined under Industrial Group Number 7374 of the SIC Manual, latest version, which derive at least eighty percent (80%) of their annual gross revenues from the sale of a product or service to an out-of-state buyer or consumer. Eligibility for the exemption set out in this paragraph shall be established, subject to review by the Tax Commission, by annually filing an affidavit with the Tax Commission stating that the facility so qualifies and such information as required by the Tax Commission. For purposes of determining whether annual gross revenues are derived from sales to out-of-state buyers or consumers, all sales to the federal government shall be considered to be to an out-of-state buyer or consumer;

20. Sales of prosthetic devices to an individual for use by such individual. For purposes of this paragraph, "prosthetic device" means a device which replaces a missing part of the human body and shall include any supplies physically connected to the device;

21. Sales of tangible personal property or services to a motion picture or television production company to be used or consumed in connection with an eligible production. For purposes of this paragraph, "eligible production" means a documentary, special, music video, or a television program that will serve as a pilot for or be a segment of an ongoing dramatic or situation comedy series filmed or taped for network or national or regional syndication or a feature-length motion picture intended for theatrical release or for network or national or regional syndication or broadcast. The provisions of this paragraph shall apply to sales occurring on or after July 1, 1996;

22. Sales of diesel fuel sold for consumption by commercial vessels, barges and other commercial water craft;

23. Sales of tangible personal property or services to tax-exempt independent nonprofit biomedical research foundations that provide educational programs for Oklahoma science students and teachers and to tax-exempt independent nonprofit community blood banks headquartered in this state;

24. Effective May 6, 1992, sales of wireless telecommunications equipment to a vendor who subsequently transfers the equipment at no charge or for a discounted charge to a consumer as part of a promotional package or as an inducement to commence or continue a contract for wireless telecommunications services;

25. Effective January 1, 1991, leases of rail transportation cars to haul coal to coal-fired plants located in this state which generate electric power;

26. Beginning July 1, 2000, sales of aircraft engine repairs, modification, and replacement parts, sales of aircraft frame repairs and modification, aircraft interior modification, and paint, and sales of services employed in the repair, modification and replacement of parts of aircraft engines, aircraft frame and interior repair and modification, and paint. The exemption provided by this paragraph shall be limited to aircraft repairs, modification, and replacement parts for aircraft weighing more than twelve thousand five hundred (12,500) pounds and less than one hundred thousand (100,000) pounds and which aircraft are brought into this state exclusively for such repairs or modification. The exemption provided by this paragraph shall be limited to repairs or modifications made by a new or expanded aircraft repair facility. As used in this paragraph, the term "aircraft" shall have the same meaning as such term is defined in Section 6001 of Title 68. The term "new or expanded aircraft repair facility" shall mean any new or expanded facility which repairs, modifies or replaces aircraft parts in which more than Four Million Dollars (\$4,000,000.00) was invested to establish the new facility or expand an existing facility and which construction was commenced or was in progress on or after January 1, 1999; and

27. Sales of materials and supplies to the owner or operator of a ship, motor vessel or barge that is used in interstate or international commerce if the materials and supplies:

- a. are loaded on the ship, motor vessel or barge and used in the maintenance and operation of the ship, motor vessel or barge, or
- b. enter into and become component parts of the ship, motor vessel or barge.

Section 7-214 SAME-MANUFACTURERS

The gross receipts or gross proceeds exempted from the Oklahoma Sales Tax Code are hereby exempted from the tax levied under this article. There are hereby specifically exempted from the tax levied by this article:

1. Sales of goods, wares, merchandise, tangible personal property, machinery and equipment to a manufacturer for use in a manufacturing operation;

2. Ethyl alcohol when sold and used for the purpose of blending same with motor fuel on which motor fuel tax is levied by Section 500.4 of Title 68 of the Oklahoma Statutes;

3. Sales of containers when sold to a person regularly engaged in the business of reselling empty or filled containers or when purchased for the purpose of packaging raw products of farm, garden, or orchard for resale to the consumer or processor. This exemption shall not apply to the sale of any containers used more than once and which are ordinarily known as returnable containers, except returnable soft drink bottles and the cartons, crates, pallets, and containers used to transport returnable soft drink bottles. Each and every transfer of title or possession of such returnable containers in this state to any person who is not regularly engaged in the business of selling, reselling or otherwise transferring empty or filled containers shall be taxable under this Code. Additionally, this exemption shall not apply to the sale of labels or other materials delivered along with items sold but which are not necessary or absolutely essential to the sale of the sold merchandise;

4. Sales of or transfers of title to or possession of any containers, after June 30, 1987, used or to be used more than once and which are ordinarily known as returnable containers and which do or will contain beverages defined by paragraphs 4 and 14 of Section 506] of Title 37 of the Oklahoma Statutes, or water for human consumption and the cartons, crates, pallets, and containers used to transport such returnable containers;

5. Sale of tangible personal property when sold by the manufacturer to a person who transports it to a state other than Oklahoma for immediate and exclusive use in a state other than Oklahoma. Provided, no sales at a retail outlet shall qualify for the exemption under this paragraph;

6. Machinery, equipment, fuels and chemicals or other materials incorporated into and directly used or consumed in the process of treatment to substantially reduce the volume or harmful properties of hazardous waste at treatment facilities specifically permitted pursuant to the Oklahoma Hazardous Waste Management Act and operated at the place of waste generation, or facilities approved by the Department of Environmental Quality for the cleanup of a site of contamination. The term "hazardous" waste may include low-level radioactive waste for the purpose of this paragraph;

7. Sales of tangible personal property to a qualified manufacturer to be consumed or incorporated in a new manufacturing facility or to expand an existing manufacturing facility. For purposes of this paragraph, sales made to a contractor or subcontractor that has previously entered into a contractual relationship with a qualified manufacturer for construction or expansion of a manufacturing facility shall be considered sales made to a qualified manufacturer. For the purposes of this paragraph, "qualified manufacturer" means:

- a. any enterprise whose total cost of construction of a new or expanded facility exceeds the sum of Five Million Dollars (\$5,000,000.00) and in which at least one hundred (100) new full-time-equivalent employees, as certified by the Oklahoma Employment Security Commission, are added and maintained for a period of at least thirty-six (36) months as a direct result of the new or expanded facility,
- b. any enterprise whose total cost of construction of a new or expanded facility exceeds the sum of Ten Million Dollars (\$10,000,000.00) and the combined cost of construction material, machinery, equipment and other tangible personal property exempt from sales tax under the provisions of this paragraph exceeds the sum of Fifty Million Dollars (\$50,000,000.00) and in which at least seventy-five (75) new full-time-equivalent employees, as certified by the Oklahoma Employment Security Commission, are added and maintained for a period of at least thirty-six (36) months as a direct result of the new or expanded facility, or

- c. any enterprise whose total cost of construction of an expanded facility exceeds the sum of Three Hundred Million Dollars (\$300,000,000.00) and in which the manufacturer has and maintains an average employment level of at least one thousand seven hundred fifty (1,750) full-time-equivalent employees, as certified by the Employment Security Commission. For purposes of this paragraph, the total cost of construction shall include building and construction material and engineering and architectural fees or charges directly associated with the construction of a new or expanded facility. The total cost of construction shall not include attorney fees. For purposes of subparagraph c of this paragraph, the total cost of construction shall also include the cost of qualified depreciable property as defined in Section 2357.4 of Title 68 of the Oklahoma Statutes and labor services performed in the construction of an expanded facility. The employment requirement of this paragraph can be satisfied by the employment of a portion of the required number of new full-time-equivalent employees at a manufacturing facility that is related to or supported by the new or expanded manufacturing facility as long as both facilities are owned by one person or business entity. For purposes of this Section, "manufacturing facility" shall mean building and land improvements used in manufacturing as defined by the Standard Industrial Classification Code and shall also mean building and land improvements used for the purpose of packing, repackaging, labeling or assembling for distribution to market, products at least seventy percent (70%) of which are made in Oklahoma by the same company but at an off-site in-state manufacturing facility or facilities. It shall not include a retail outlet unless the retail outlet is operated in conjunction with and on the same site or premises as the manufacturing facility. Up to ten percent (10%) of the square feet of a manufacturing facility building may be devoted to office space used to provide clerical support for the manufacturing operation. Such ten percent (10%) may be in a separate building as long as it is part of the same contiguous tract of property on which the manufacturing facility is located. Only sales of tangible personal property made after June 1, 1988, shall be eligible for the exemption provided by this paragraph;

8. Sales of tangible personal property purchased and used by a licensed radio or television station in broadcasting. This exemption shall not apply unless such machinery and equipment is used directly in the manufacturing process, is necessary for the proper production of a broadcast signal or is such that the failure of the machinery or equipment to operate would cause broadcasting to cease. This exemption begins with the equipment used in producing live programming or the electronic equipment directly behind the satellite receiving dish or antenna, and ends with the transmission of the broadcast signal from the broadcast antenna system. For purposes of this paragraph, "proper production" shall include, but not be limited to, machinery or equipment required by Federal Communications Commission rules and regulations;

9. Sales of tangible personal property purchased or used by a licensed cable television operator in cable casting. This exemption shall not apply unless such machinery and equipment is used directly in the manufacturing process, is necessary for the proper production of a cablecast signal or is such that the failure of the machinery or equipment to operate would cause cable casting to cease. This exemption begins with the equipment used in producing local programming or the electronic equipment behind the satellite receiving dish, microwave tower or antenna, and ends with the transmission of the signal from the cablecast head-end system. For purposes of this paragraph, "proper production" shall include, but not be limited to, machinery or equipment required by Federal Communications Commission rules and regulations;

10. Sales of packaging materials for use in packing, shipping or delivering tangible personal property for sale when sold to a producer of agricultural products. This exemption shall not apply to the sale of any packaging material which is ordinarily known as a returnable container;

11. Sales of any pattern used in the process of manufacturing iron, steel or other metal castings. The exemption provided by this paragraph shall be applicable irrespective of ownership of the pattern provided that such pattern is used in the commercial production of metal castings;

12. Deposits or other charges made and which are subsequently refunded for returnable cartons, crates, pallets, and containers used to transport cement and cement products;

13. Beginning January 1, 1998, machinery, electricity, fuels, explosives and materials, excluding chemicals, used in the mining of coal in this state; and

14. Deposits, rent or other charges made for returnable cartons, crates, pallets, and containers used to transport mushrooms or mushroom products from a farm for resale to the consumer or processor.

Section 7-215 SAME-AGRICULTURE

The gross receipts of gross proceeds exempted from the Oklahoma Sales Tax Code are hereby exempted for the tax levied under this article. There are hereby specifically exempted from the tax levied by this article:

1. Sales of agricultural products produced in this state by the producer thereof directly to the consumer or user when such articles are sold at or from a farm and not from some other place of business, as follows:

- a. farm, orchard or garden products, and
- b. dairy products sold by a dairy producer or farmer who owns all the cows from which the dairy products offered for sale are produced; provided, the provisions of this paragraph shall not be construed as exempting sales by florists, nursery operators or chicken hatcheries, or sales of dairy products by any other business except as set out herein;

2. Livestock, including cattle, horses, mules or other domestic or draft animals, sold by the producer by private treaty or at a special livestock sale;

3. Sale of baby chicks, turkey poults and starter pullets used in the commercial production of chickens, turkeys and eggs, provided that the purchaser certifies, in writing, on the copy of the invoice or sales ticket to be retained by the vendor that the pullets will be used primarily for egg production;

4. Sale of salt, grains, tankage, oyster shells, mineral supplements, limestone and other generally recognized animal feeds for the following purposes and subject to the following limitations:

- a. feed which is fed to poultry and livestock, including breeding stock and wool-bearing stock, for the purpose

of producing eggs, poultry, milk or meat for human consumption,

- b. feed purchased in Oklahoma for the purpose of being fed to and which is fed by the purchaser to horses, mules or other domestic or draft animals used directly in the producing and marketing of agricultural products, and
- c. any stock tonics, water purifying products, stock sprays, disinfectants or other such agricultural supplies. "Poultry" shall not be construed to include any fowl other than domestic fowl kept and raised for the market or production of eggs. "Livestock" shall not be construed to include any pet animals such as dogs, cats, birds or such other fur-bearing animals. This exemption shall only be granted and extended where the purchaser of feed that is to be used and in fact is used for a purpose that would bring about an exemption hereunder executes an invoice or sales ticket in duplicate on a form to be prescribed by the Oklahoma Tax Commission. The purchaser may demand and receive a copy of the invoice or sales ticket and the vendor shall retain a copy;

5. Sales of items to be and in fact used in the production of agricultural products. Sale of the following items shall be subject to the following limitations:

- a. sales of agricultural fertilizer to any person regularly engaged, for profit, in the business of farming or ranching,
- b. sales of agricultural fertilizer to any person engaged in the business of applying such materials on a contract or custom basis to land owned or leased and operated by persons regularly engaged, for profit, in the business of farming or ranching. In addition to providing the vendor proof of eligibility as provided in Section 1358.1 of this Title 68 of the Oklahoma Statutes, the purchaser shall provide the name or names of such owner or lessee and operator and the location of the lands on which said materials are to be applied to each such land,
- c. sales of agricultural fertilizer, pharmaceuticals and biologicals to persons engaged in the business of applying such materials on a contract or custom basis shall not be considered to be sales to contractors

under this article, and said sales shall not be considered to be taxable sales within the meaning of the Oklahoma Sales Tax Code. As used in this Section, "agricultural fertilizer", "pharmaceuticals" and "biologicals" mean any substance sold and used for soil enrichment or soil corrective purposes or for promoting the growth and productivity of plants or animals,

- d. sales of agricultural seed or plants to any person regularly engaged, for profit, in the business of farming or ranching. This Section shall not be construed as exempting from sales tax, seed which is packaged and sold for use in noncommercial flower and vegetable gardens, and
- e. sales of agricultural chemical pesticides to any person regularly engaged, for profit, in the business of farming or ranching. For the purposes of this subparagraph, "agricultural chemical pesticides" shall include any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any insect, snail, slug, rodent, bird, nematode, fungus, weed or any other form of terrestrial or aquatic plant or animal life or virus, bacteria or other microorganism, except viruses, bacteria or other microorganisms on or in living man, or any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant. The exemption provided in this paragraph shall only be granted and extended to the purchaser where the items are to be used and in fact are used in the production of agricultural products;

6. Sale of farm machinery, repair parts thereto or fuel, oil, lubricants and other substances used for operation and maintenance of the farm machinery to be used directly on a farm or ranch in the production, cultivation, planting, sowing, harvesting, processing, spraying, preservation or irrigation of any livestock, poultry, agricultural or dairy products produced from such lands. The exemption specified in this paragraph shall apply to such farm machinery, repair parts or fuel, oil, lubricants and other substances used by persons engaged in the business of custom production, cultivation, planting, sowing, harvesting, processing, spraying, preservation, or irrigation of any livestock, poultry, agricultural, or dairy products for farmers or ranchers. The exemption provided for herein shall not apply to motor vehicles;

7. Sales of supplies, machinery and equipment to persons regularly engaged in the business of raising evergreen trees for retail sale in which such trees are cut down on the premises by the consumer purchasing such tree. This exemption shall only be granted and extended when the items in fact are used in the raising of such evergreen trees; and

8. Sales of materials, supplies and equipment to an agricultural permit holder or to any person with whom the permit holder has contracted to construct facilities which are or which will be used directly in the production of any livestock, including, but not limited to, facilities used in the production and storage of feed for livestock owned by the permit holder. Any person making purchases on behalf of the agricultural permit holder shall certify, in writing, on the copy of the invoice or sales ticket to be retained by the vendor that the purchases are made for and on behalf of such permit holder and set out the name and permit number of such holder. Any person who wrongfully or erroneously certifies that purchases are for an agricultural permit holder or who otherwise violates this subsection shall be guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of an amount equal to double the amount of sales tax involved or imprisonment in the county jail for not more than sixty (60) days or by both such fine and imprisonment.

B. As used in this Section and Section 1358.1 of Title 68 of the Oklahoma Statutes:

1. "Agricultural products" shall include horses; and

2. "Ranching" or "ranch" shall include the business, or facilities for the business, of raising horses. Provided, sales of items at race meetings as defined in Section 200.1 of Title 3A of the Oklahoma Statutes shall not be exempt pursuant to the provisions of this Section and Section 1358.1 of Title 68 of the Oklahoma Statutes.

State Law Reference: Similar provision, 68 O.S. Section 1305a.

Section 7-216 RESERVED

Section 7-217 TAX CONSTITUTES DEBT; City SALES TAX SUBJECT TO OTHER TITLE 68 PROVISIONS

The taxes, penalty and interest due under this chapter 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. Moreover, Title 68 of the Oklahoma Statutes as it relates to all sales tax is hereby adopted by reference as if fully set out, as is hereby amended as such state laws are amended, and is applicable to all municipal sales tax issues.

Section 7-218 VENDOR'S DUTY TO COLLECT TAX; PENALTIES

A. The tax is levied hereunder shall be paid by the consumer or user to the vendor. It is 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 chapter, or an amount equal as nearly as possible or practicable to the average equivalent thereof.

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

C. A vendor, as defined hereunder, who wilfully or intentionally fails, neglects or refuses to collect the full amount of the tax levied by this chapter, or wilfully or intentionally fails, neglects or refuses to comply with the provisions or remits or rebates to a consumer or user, either directly or indirectly, by any whatsoever means, all or any part of the tax herein levied, or makes in any form of advertising, verbally or otherwise, any statement which infers that he is absorbing the tax, or paying the tax for the consumer or user by an adjustment of prices or at a price including the tax, or in any manner whatsoever, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in Section 1-108 of this code.

D. Any sum or sums collected or required to be collected in accordance with this chapter shall be deemed to be held in trust for the City. Any person, firm, corporation, joint venture or association that wilfully or intentionally fails, neglects or refuse to collect the sums required to be collected or paid shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in Section 1-108 of this code.

Section 7-219 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 of tax collected hereunder and shall be subject to the same discount as may be allowed by the Oklahoma Sales Tax Code for collection of state sales tax.

Section 7-220 INTEREST AND PENALTIES; DELINQUENCY

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

Section 7-221 WAIVER OF INTEREST AND PENALTY

The interest or penalty or any portion thereof accruing by reason of a taxpayer's failure to pay the City tax herein levied may be waived or remitted in the same manner as provided for the waiver or as applied in administration of the state sales tax provided in Section 220 of Title 68 of the Oklahoma Statutes. To accomplish the purposes of this Section, the applicable provisions of Section 220 of Title 68 are hereby adopted by reference and made a part of this chapter.

Section 7-222 ERRONEOUS PAYMENTS; CLAIM FOR REFUND

Refund of erroneous payment of the City sales tax herein levied may be made to any taxpayer making the erroneous payment in the same manner and procedure, and under the same limitations of time, as provided for administration of the state sales tax as set forth in Section 227 of Title 68 of the Oklahoma Statutes. To accomplish the purpose of this Section, the applicable provisions of Section 227 of Title 68 are hereby adopted by reference and made a part of this chapter.

Section 7-223 FRAUDULENT RETURNS

In addition to all civil penalties provided by this chapter, the wilful failure or refusal of any taxpayer to make reports and remittances herein required, or the making of any false and fraudulent report for the purpose of avoiding or escaping payment of any tax or portion thereof rightfully due under this chapter

shall be an offense, and upon conviction thereof the offending taxpayer shall be subject to a fine as provided in Section 1-108 of this code.

Section 7-224 RECORDS CONFIDENTIAL

The confidential and privileged nature of the records and files concerning the administration of the City sales tax is legislatively recognized and declared, and to protect the same the provisions of the State Sales Tax Code, and each subsection thereof, are hereby adopted by reference and made fully effective and applicable to administration of the City sales tax as if here set forth in full.

Section 7-225 AMENDMENTS

The people of the City, by their approval of the sales tax ordinance hereby authorize the Council, by ordinance duly enacted, to make such administrative and technical changes or additions in the method and manner of administering and enforcing this chapter as may be necessary or proper for efficiency and fairness. Neither the rate of the tax herein provided nor the use to which the revenue is put shall be changed without approval of the qualified electors of the City as provided by law.

Section 7-226 PROVISIONS CUMULATIVE

The provisions of this chapter shall be cumulative and in addition to any or all other taxing provisions of City ordinances.

ARTICLE 3

UTILITIES TAX

SECTION 7-301 FEE LEVIED; APPLICATION.

There is hereby levied and assessed an annual tax of two percent (2%) upon the gross receipts received from all persons, firms, associations or corporations engaged in the business of furnishing power, light, heat, gas, electricity, telephone exchange service or water within the City limits, except that it shall neither apply to City furnished services nor any person, firm, association or corporation operating under a valid franchise with the City nor apply to utilities furnished by the City.

State Law Reference: Authority of council to levy above tax, 68 O.S. § 2601; tax not applicable to franchise holders, 68 O.S. § 2602.

SECTION 7-302 TAX IS IN LIEU OF OTHER TAXES.

The tax levied by this Article shall be in lieu of any other franchise, license, occupation or excise tax levied by the City.

SECTION 7-303 PAYMENT OF TAX

The tax levied under this Article shall be payable monthly on or prior to the tenth (10th) day of the month for the preceding month's receipts and the proceeds thereof shall be placed in the general revenue fund of the City. Provided however, the tax levied on sales of natural gas shall be payable in quarters ending January 1, April 1, July 1 and October 1 of each year, and shall be placed in the general revenue fund of the city within forty-five days after the close of each quarter.

SECTION 7-304 FAILURE TO PAY; ACTION FOR COLLECTION.

Any person failing or refusing to pay the tax levied by this Article shall be regarded as a trespasser and may be ousted from the City. In addition thereto, an action may be maintained against such person for the amount of the tax and all expenses of collecting same, including reasonable attorneys' fees.

SECTION 7-305 TAX LIEN.

The tax imposed by this Article shall constitute a first and prior lien on all the assets located within the City of any person engaged in the business of selling power, light, heat, gas, electricity or water within the City and subject to such tax.

SECTION 7-306 RECORD OF SALES

It shall be the duty of any person, firm, association or corporation subject to the tax levied hereunder to keep and maintain records as to the amount of gross receipts of sales of power, light, heat, gas, electricity or water within the City, and such records shall be subject to review and audit by the City upon reasonable request. In addition, a summary of such sales for the preceding calendar month, including the number of customers served, the number of customers exempt from taxation under applicable Oklahoma sales tax law, the number of units of gas, electricity or water sold to exempt and non-exempt

customers, the gross receipts from sales to exempt and non-exempt customers, and the amount of the gross receipt tax levied herein based on such sales, shall be provided unto the City at the time of payment of the tax pursuant to Section 7-303 hereof.

Note: This section was adopted on October 3, 1995, by Ordinance No. 95-7.

ARTICLE 4

RESERVED

ARTICLE 5

CABLE TELEVISION FRANCHISE

SECTION 7-501 DEFINITIONS OF TERMS

For the purpose of this Article (the "Article"), the following terms, phrases, words and abbreviations shall have the meanings ascribed to them below. When not inconsistent with the context, words used in the present tense include the future tense; words in the plural number include the singular number, and words in the singular number include the plural number.

"Affiliate" means as entity which owns or controls, is owned or controlled by, or is under common ownership or control with Grantee.

"Basic Cable" means the tier of Cable Service regularly provided to all Subscribers that includes the retransmission of local broadcast television signals.

"Cable Service" means (i) the one-way transmission to Subscribers of Video Programming or other programming service, and (ii) Subscriber interaction, if any, which is required for the selection or use of such Video Programming or other programming service.

"Cable System" means a facility, consistent of a set of closed transmission paths and associated signal generation, reception, and control equipment or other equipment that is designed to provide Cable Service or other service to Subscriber.

"FCC" means Federal Communications, or successor government entity thereto.

"Franchise" means the initial authorization, or renewal thereof, issued by Franchising Authority, weather such authorization is designated as a franchise, permit, license, resolution, contract,

certificate, or otherwise, which authorizes construction and operation of the Cable system for the purpose of offering Cable Service or other service to Subscribers.

"Franchising Authority" means the City of Fairview, Oklahoma or the lawful successor, transferee, or assignee thereof.

"Grantee" means Classic Cable of Oklahoma, Inc., d/b/a Suddenlink Communications, or the lawful successor, transferee, or assignee thereof.

"Gross Revenues" means the monthly revenues for the provision of Cable Service received by Grantee from Subscribers located within the Service Area. "Gross Revenues" does not include" (i) any revenues received from any advertising carried on the Cable System; (ii) any taxes or fees on Cable Service which are imposed directly or indirectly on any Subscriber by any governmental unit or agency, and which are collected by Grantee on behalf of such governmental unit or agency; (iii) any revenues derived from services sold on a per channel or per view basis; or (iv) any revenues derived from installation or repair charges.

"Person" means an individual, partnership, association, joint stock company, trust corporation, or governmental entity.

"Public Way" means the surface of, and the space above and below, any public street, highway, freeway, bridge, land path, alley, court, boulevard, sidewalk, parkway, way, lane, public way, drive, circle, or other public right-of-way, including, but not limited public utility easements, dedicated utility strips, or rights-of-way dedicated for compatible uses and any temporary or permanent fixture or improvements located thereon now or hereafter held by Franchising Authority in the Service Area which shall entitle Franchise Authority and Grantee to the use thereof for the purpose of public travel, or for utility or public service use dedicated for compatible uses, and shall include other easements or rights-of-way as shall within their proper use thereof for the purposes of installing or transmitting Grantee's Cable Service or other service over poles, wires, cables, conductors, ducts, conduits, vaults, manholes, pedestals, amplifiers, appliances, attachments, and other related Property or equipment as may be necessary or appurtenant to the Cable System.

"Service Area" means the present municipal boundaries of Franchising Authority if Franchising Authority is a city, and shall include any additions thereto by annexation or other legal means; and means the county boundaries of Franchising Authority if Franchising Authority is a county.

"Subscriber" means a user of the Cable System who lawfully receives Cable Service or other there from with Grantee's express permission.

"Video Programming" means programming provided by, or generally considered comparable to programming provided by, a television broadcast station.

SECTION 7-502 GRANT OF FRANCHISE

A. Grant. Franchising Authority hereby grants to Grantee a nonexclusive Franchise which authorizes Grantee to construct and operate a Cable System and offer Cable Service and other service in, along, among, upon, across, above, over, under, or in any manner connected with Public Ways within the Service Area and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain, or retain in, on, over, under, upon, across, or along any Public Way and all extensions thereof and additions thereto, such poles, wires, cables, conductors, ducts, conditions, vaults, manholes, pedestals, amplifiers, appliances, attachments, and other related property of equipment as may be necessary or appurtenant to the Cable System.

B. Term. The Franchise granted pursuant to this Article shall be for an initial term of fifteen (15) years from the passed and adopted date of the Franchise unless otherwise lawfully terminated in accordance with the terms of this Article.

C. Acceptance. Grantee shall accept the Franchise granted pursuant hereto by signing this Article and filing same with the City Clerk or other appropriated official or agency of Franchising Authority within sixty (60) days after the passage and final adoption of this Article.

D. Favored Nations. In the event Franchising Authority enters into a franchise, permit, license, authorization, or other agreement of any kind with any Person other than Grantee to enter into Franchising Authority's streets and public ways for the purpose of constructing or operating a Cable system or providing Cable Service to any part of the Service Area, the material provisions thereof shall be reasonably comparable to those contained herein, in order that one operator not be granted an unfair competitive advantage over another, and to provide all parties equal protection under the law.

E. Renewal of Franchise. By mutual consent, the Grantee shall have the option to renew this Franchise for an additional period not to exceed ten (10) years. Should Grantee desire to exercise this option, it shall so notify the Franchising Authority in writing, not less than three (3) months prior to expiration of this Franchise.

SECTION 7-503 STANDARDS OF SERVICE

A. Conditions of Street. Occupancy. All transmission and distribution structures, pole, other lines, and equipment installed or erected by Grantee pursuant to the terms hereof shall be located so as to cause a minimum of interference with the proper use of Public Ways and with the rights and reasonable convenience of property owners who own property that adjoins any of such Public Ways.

B. Restoration of Public Ways. If during the course of Grantee's construction, operation, or maintenance of the Cable System there occurs a disturbance of any Public Way by Grantee, it shall, at its expense, replace and restore such Public Way to a condition reasonably comparable to the condition of the Public Way existing immediately prior to such disturbance.

C. Relocation at Request of Franchising Authority. Upon its receipt of reasonable advance notice, not to be less than 30 days, Grantee shall, at its own expense, protect, support, temporarily disconnect, relocate in the Public Way, or remove from the Public Way, any property of Grantee when lawfully required by Franchising Authority by reason of traffic conditions, public safety, street abandonment, freeway and street construction, change or establishment of street grade, installation of sewers, drains, or water pipes, or any other type of structures or improvement by Franchising Authority; but, Grantee shall in all cases have the right of abandonment of its property. If public funds are available to any company using such street, easement, or right of way for the purpose of defraying the cost of any of the foregoing, such funds shall also be made available to Grantee.

D. Relocation at Request of Third Party. Grantee shall, on the request of any Person holding a building moving permit issued by Franchising Authority, temporarily raise or lower its wires to permit the moving of such building, provided: (a) the expense of such temporary raising or lowering of wires is paid by such Person, including, if required by Grantee, making such payment in advance; and (b) Grantee is given not fewer than then (10) business days advance written notice. to arrange for such temporary wire changes.

E. Trimming of Trees. and Shrubbery. Grantee shall have the authority to trim trees or other natural overhanging any of its Cable System in the Service Area so as to prevent branches from coming in contact with Grantee's wires, cables, or other equipment. Grantee shall be permitted to charge Persons who own, or are responsible for, such trees or natural growth for the cost of such trimming, provided that similar charges are assessed by and paid to the utilities of Franchising Authority for tree trimming. Grantee shall reasonably compensate Franchising Authority of property owner for any

damages caused by such trimming, or shall, in its sole discretion and at its own cost and expenses, reasonably replace all trees or shrubs damaged as a result of any construction of the System undertaken by Grantee. Such replacement shall satisfy any and all obligations Grantee may have to Franchising Authority or property owner pursuant to the terms of this Section.

F. Safety Requirements. Construction, installation, and maintenance of the Cable System shall be performed in an orderly and workmanlike manner. All such work shall be performed in substantial accordance with applicable FCC or other federal, state, and local regulations. The Cable System shall not unreasonably endanger or interfere with the safety of Persons or property in the Service Area.

G. Aerial and Underground Construction. In those areas of the Service Area where all of the transmission or distribution facilities of the respective public utilities providing telephone communications and electric services are underground, Grantee likewise shall construct, operate, and maintain all of its transmission and distribution facilities underground; provided that such facilities are actually capable of receiving Grantee's cable and other equipment without technical degradation of the Cable System's signal quality. In those areas of the Service Area where the transmission or distribution facilities of the respective public utilities providing telephone communications and electric services are both aerial and underground, Grantee shall have the sole discretion to construct, operate, and maintain all of its transmissions and distribution facilities, or any part thereof, aerially or underground. Nothing contained in this Section 7-503.G shall require Grantee to construct, operate, and maintain underground any ground-mounted appurtenances such as subscriber taps, line extenders, system passive devices (splitters, directional couplers), amplifiers, power supplies, pedestals, or other related equipment. Notwithstanding to the contrary contained in this Section 7-503.G in the event that all of the transmission or distribution facilities of the respective public utilities providing telephone communications and electric services are placed underground after the effective date of this Article, Grantee shall only be required to construct, operate, and maintain all of its transmission and distribution facilities underground if it is given reasonable notice and access to the public utilities' facilities at the time that such are placed underground.

H. Required Extensions of Service. The Cable System, as constructed as of the date of the passage and final adoption of this Article, substantially complies with the material provisions hereof. Grantee is hereby authorized to extend the Cable System as necessary, as desirable, or as required pursuant to the terms hereof within the Service Area. Whenever Grantee shall receive a request for service from

at least fifteen (15) Subscribers within 1320 cable-bearing strand feet (one-quarter cable mile) of its trunk or distribution cable, it shall extend its Cable System to such Subscribers at no cost to such Subscriber for system extension, other than the usual connection fees for all Subscribers; provided that such extension is technically feasible, and if it will not adversely affect the operation, financial condition, or market development of the Cable System, or as provided for under Section 7-503I of this Article.

I. Subscriber Charges for Extension of Service. No Subscriber shall be refused service arbitrarily. However, for unusual circumstances, such as a Subscriber's request to locate his cable drop underground, existence of more than one hundred fifty (150) feet of distance from distribution cable to connection of service to Subscribers, or a density of fewer than fifteen (15) Subscribers per 1320 cable-bearing strand feet to trunk or distribution cable, Cable Service or other service may be made available on the basis of a capital contribution in aid of construction, including cost of material, labor, and easement. Potential subscribers shall bear the costs of the construction and other costs on a pro rata basis. Grantee may require payment in advance of the capital contribution in aid of construction borne by such potential subscribers.

J. Service to Public Buildings. Grantee shall provide without charge one (1) outlet of Basic Cable to Franchising Authority's office building(s) and public school building(s) that are passed by its' Cable System. The outlets of Basic Cable shall not be used to distribute or sell Cable Service in or throughout such buildings; nor shall such outlets be located in common or public areas open to the public. Users of such outlets shall hold Grantee harmless from any and all liability or claims arising out of their use of such outlets, including, but not limited to, those arising from copyright liability. Notwithstanding anything to the contrary set forth in this Section 7-503J, Grantee shall not be required to provide an outlet to such buildings where the drop line from the feeder cable to such building or premises exceeds one hundred fifty (150) cable feet, unless it is technically feasible and it will not adversely affect the operation, financial condition, or market development of the Cable System to do so, or unless the appropriate governmental entity agrees to pay the incremental cost of such drop line in excess of 150 cable feet. In the event that additional outlets of Basic Cable are provided to such buildings, the building owner shall pay the usual installation fees associated therewith, including, but not limited to, labor and materials. Upon request of Grantee, the building owner may also be required to pay the service fees associated with the provision of Basic Cable and the additional outlets relating thereto.

SECTION 7-504 REGULATION BY FRANCHISING AUTHORITY

1. Franchise Fee.

(A) Grantee shall pay the Franchising Authority a franchise fee equal to three and one-half percent (3.5%) of Gross Revenue from the provision of Cable Services within the Franchise Area received by Grantee on a quarterly basis; provided, however, that Grantee may credit against any such payments: (i) any tax, fee, or assessment of any kind imposed by Franchising Authority or other governmental entity on a cable operators, or Subscriber, or both, solely because of their status as such; (ii) any tax, fee or assessment of general applicability which is unduly discriminatory against cable operators or Subscribers (including any such tax, fee , or assessment imposed, both on utilities and cable operators and their services), and (iii) any other special tax, assessment, or fee such as a business, occupation, and entertainment tax. For the purpose of this Section, the 3-month period applicable under the Franchise for the computation of the franchise fee shall be a calendar quarter, unless otherwise agreed to in writing by the Franchising Authority and Grantee. The franchise fee payment shall be due and payable sixty (60) days after the close of the preceding calendar quarter. Each payment shall be accompanied by a letter from a representative of Grantee showing the basis for the computation.

(B) Limitation on Franchise Fee Actions. The period of limitation for recovery of any franchise fee payable hereunder shall be three (3) years from the date on which payment by Grantee is due. Unless within three (3) years from and after such payment due date Franchising Authority initiates a lawsuit for recovery of franchise fees in a court of competent jurisdiction, recovery shall be barred and Franchising Authority shall be stopped from asserting any claims whatsoever against Grantee relating to alleged franchise fee deficiencies.

2. Rates and Charges. Franchising Authority may not regulate the rates for the provision of Cable Service or other service, including, but not limited to, ancillary charges relating thereto, except as expressly provided herein and except as may be authorized pursuant to federal and state law. From time to time, and at any time, Grantee has the right to modify its rates and charges, at its discretion and without consent of Franchising Authority, including, but not limited to, the implementation of additional charges and rates; provided, however, that Grantee shall give notice to Franchising Authority of any such modifications or additional charges thirty (30) days prior to the effective date thereof.

3. Conditions of Sale. Except to the extent expressly required by federal or state law, if a renewal or extension of the franchise is denied or the Franchise is lawfully terminated, and Franchising Authority either lawfully acquires ownership of the Cable System or by its actions

lawfully effects a transfer of ownership of the Cable System to another party, any such acquisition or transfer shall be at a fair market value, determined on the basis of the Cable System valued as a going concern.

4. Grantee and Franchising Authority agree that in case of a lawful revocation of the Franchise, at Grantee's request, which shall be made in its sole discretion, Grantee shall be given a reasonable opportunity to effectuate a transfer of its Cable System to a qualified third party. Franchising Authority further agrees that during such a period of time, it shall authorize Grantee to continue to operate pursuant to the terms of its prior Franchise; however, in no event shall such authorization exceed a period of time greater than six (6) months from the effective date of such revocation. If, at the end of that time Grantee is unsuccessful in procuring a qualified transferee or assignee of its Cable System which is reasonably acceptable to Franchising Authority, Grantee and Franchising Authority may avail themselves of any rights they may have pursuant to federal or state law; it being further agreed that Grantee's continued operation of its Cable System during the six (6) month period shall not be deemed to be a waiver, nor an extinguishment of, any rights of either Franchising Authority or Grantee. Notwithstanding anything to the contrary set forth in this Section 7-504.4, neither Franchising Authority nor Grantee shall be required to violate federal or state law.

5. Transfer of Franchise. All of the rights and privileges and all of the obligations, duties and liabilities created by the Franchise shall pass to and be binding upon the successors of the Franchising Authority and the successors and assigns of Grantee; and the same shall not be assigned or transferred without the written approval of the City Council, which approval shall not be unreasonably withheld; provided, however, that this Section shall not prevent the assignment or hypothecation of the Franchise by Grantee as security for debt without such approval; and provided further that transfers or assignments of this Franchise between any parent and subsidiary corporation or between entities of which at least fifty percent (50%) of the beneficial ownership is held by the same person, persons, or entities which are controlled or managed by the same person, persons, or entities, shall be permitted without the prior approval of the Franchising Authority ("intra company transfer"). Grantee shall notify Franchising Authority in writing within 30 days of the closing of such intra company transfer.

SECTION 7-505 COMPLIANCE AND MONITORING

Books and Records. Grantee agrees that Franchising Authority may review such of Grantee's books and records, during normal business hours and on a nondisruptive basis, as are reasonably necessary to monitor compliance with the terms hereof. Such records include, but are not limited to, any public records required to be kept by Grantee pursuant

to the rules and regulations of the FCC. Notwithstanding anything to the contrary set forth herein, Grantee shall not be required to disclose information which it reasonably deems to be proprietary or confidential in nature. Franchising Authority agrees to treat any information disclosed to it by Grantee as confidential, and to disclose it only to employees, representatives, and agents of Franchising Authority that have a need to know, or in order to enforce the provisions hereof.

SECTION 7-506 INSURANCE, INDEMNIFICATION, AND BONDS OR OTHER SURETY

A. Insurance Requirements. Grantee shall maintain in full force and effect during the term of the Franchise, at its own cost and expense, Comprehensive General Liability Insurance in the amount of \$1,000,000. Such insurance shall designate Franchising Authority as an additional insured

B. Indemnification. Grantee agrees to indemnify, save and hold harmless, and defend Franchising Authority, its officers, boards, and employees, from and against any liability for damages and for any liability or claims resulting from property damage or bodily injury (including accidental death) which arise out of Grantee's construction, operation or maintenance of its Cable System, including, but not limited to, reasonable attorney's fees and costs.

C. Bonds and Other Surety. Except as expressly provided herein, Grantee shall not be required to obtain or maintain bonds or other surety as a condition of being awarded the Franchise or continuing its existence. Franchising authority acknowledges that the legal, financial, and technical qualifications of Grantee are sufficient to afford compliance with the terms of the Franchise and the enforcement thereof. Grantee and Franchising Authority recognize that the costs associated with bonds and other surety may ultimately be borne by the Subscribers in the form of increased rates for Cable Service or other service. In order to minimize such costs, Franchising Authority agrees to require bonds and other surety only in such amounts and during such times as there is a reasonably demonstrated need thereof. Franchising Authority agrees that in no event, however, shall it require a bond or other related surety in an aggregate amount greater than \$10,000, conditioned upon the substantial performance of the material terms, covenants, and conditions of the Franchise. Initially, no bond or other surety shall be required. In the event that one is required in the future, Franchising Authority agrees to give Grantee at least sixty (60) days prior written notice thereof stating the exact reason for the requirement. Such reason must demonstrate a change in Grantee's legal, financial, or technical qualifications which would materially prohibit or impair its ability to comply with the terms of the Franchise or afford compliance therewith.

SECTION 7-507 ENFORCEMENT AND TERMINATION OF FRANCHISE

A. Notice of Violation. In the event that Franchising Authority believes that Grantee has not complied with the terms of the Franchise, it shall notify Grantee in writing of the exact nature of the alleged default.

B. Grantee's Right to Cure or Respond. Grantee shall have sixty (60) days from receipt of the notice described in Section 7-507A: (a) to respond to Franchising Authority contesting the assertion of default; (b) to cure such default; or (c) in the event that, by the nature of the default, such default cannot be cured within sixty (60) day period, to initiate reasonable steps to remedy such default and to notify Franchising Authority of the steps being taken and the projected date that they will be completed.

C. Public Hearing. In the event that Grantee fails to respond to the notice described in Section 7-506A pursuant to the procedures set forth in Section 7-506B or in the event that the alleged default is not remedied within one hundred twenty (120) days after Grantee is notified of the alleged default pursuant to Section 7-507B, Franchising Authority shall schedule a public meeting to investigate the default. Such public meeting shall be held at the next regularly scheduled meeting of Franchising Authority which is scheduled at a time which is no fewer than five (5) business days therefrom. Franchising Authority shall notify Grantee of the time and place of such meeting and provide Grantee with an opportunity to be heard.

D. Enforcement. Subject to applicable federal and state law, in the event Franchising Authority determines, after such meeting, that Grantee is in default of any provision of the Franchise, Franchising Authority may:

(a) Foreclose on all or any part of any security provided under the Franchise, if any, including, without limitation, any bonds or other surety; provided, however, that the foreclosure shall only be in such a manner and in such amount as Franchising Authority reasonably determines is necessary to remedy the default;

(b) Commence an action at law for monetary damages or seek other equitable relief.

(c) In the case of a substantial default of a material provision of the Franchise, declare the Franchise Agreement to be revoked; or

(d) Seek specific performance of any provision which reasonably lends itself to such remedy, as an alternative to damages.

(e) Grantee shall not be relieved of any of its obligations to comply promptly with any provision of the Franchise by reason of any failure of Franchising Authority to enforce prompt compliance.

(f) Acts of God. Grantee shall not be held in default of the provisions of the Franchise, nor suffer any enforcement or penalty relating thereto, where such alleged default is caused by strikes, acts of God, power outages, or other events reasonably beyond its ability to control.

SECTION 7-508 UNAUTHORIZED RECEPTION

Misdemeanor. In addition to those criminal and remedies provided by state and federal law, it shall be a misdemeanor for any Person to create or make use inductively, or otherwise, with any part of the Cable System without the express consent of Grantee. Further, without the express consent of Grantee, it shall be a misdemeanor for any Person to tamper with, remove, or injure any property, equipment, or part of Cable System or any means of receiving Cable Service or other service. Subject to applicable federal and state law, Franchising Authority shall incorporate into its criminal code, if not presently a part thereof, criminal misdemeanor law which shall enforce the intent of Section 7-508.

SECTION 7-509 MISCELLANEOUS PROVISIONS

A. Preemption. If the FCC or any other federal or state body or agency shall now or hereafter exercise any paramount jurisdiction over the subject matter of the exercise of the like jurisdiction by Franchising Authority, the jurisdiction of Franchising Authority shall cease and no longer exist.

B. Employee Requirements. Grantee shall afford equal opportunity in employment to all qualified persons. No person shall be discriminated against in employment because of race, color, religion, national origin or sex. Grantee shall maintain and carry out a continuing program of specific practices designed to assure equal opportunity in every aspect of its employment policies and practices.

C. Actions of Franchising Authority. In any action by Franchising Authority or representative thereof mandated or permitted under the terms hereof, such party shall act in a reasonable, expeditious and timely manner. Furthermore, in any instance where approval or consent is required under the terms hereof, such approval or consent shall not be unreasonably withheld.

D. Notice. Unless expressly otherwise agreed between the parties, every notice or response to be served upon Franchising Authority or Grantee shall be in writing, and shall be deemed to have been duly given to the required party five (5) business days after having been posted in a properly sealed and correctly addressed envelope by certified or registered mail, postage prepaid,

at a Post Office or branch thereof regularly maintained by the U.S. Postal Service.

E. The notices or responses to Franchising Authority shall be addressed as follows:

City of Fairview, Oklahoma
123 S. 6th Ave. P.O. Box 386
Fairview, Oklahoma 73737

The notices or responses to Grantee shall be addressed as follows:

Suddenlink Communications
Attention: Michael Zarrilli
12444 Powerscourt Drive
Suite 450
Purcell, Oklahoma 73080

CC: Suddenlink Communications
Attention: Charles Hembree
2206 N. Green Ave
St. Louis, MO 63131

Franchising Authority and Grantee may designate such other address or addresses from time to time by giving written notice to the other party.

F. Descriptive Heading. The Captions to Sections contained herein are intended solely to facilitate the reading thereof. Such captions shall not affect the meaning or interpretation of the text herein.

G. Severability. If any Section, sentence, paragraph, term, or provision hereof is determined to be illegal, invalid, or unconstitutional, by any court of competent jurisdiction or by any state or federal regulatory authority having jurisdiction thereof, such determination shall have no effect on the validity of any other Section, sentence, paragraph, term or provision thereof, all of which shall remain in full force and effect for the term of the Franchise, or any renewal or renewals thereof.

Note: This article was added by Ordinance No. 2010-2 approved on October 19, 2010.

ARTICLE 6

HOTEL TAX

SECTION 7-601 SHORT TITLE

This Article shall be known and cited as the "Fairview Hotel Tax Ordinance."

SECTION 7-602 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:

Director shall mean the City Manager of the City.

Hotel shall mean any building or buildings, structures, trailer, or other facility in which the public may, for consideration, obtain sleeping accommodations, whether such rooms are in one or several structures. The term shall also include hotels, apartment hotels, motels, tourist homes, houses or courts, lodging houses, inns, rooming houses, trailer houses, trailer motels, dormitory space where bed space is rented to individuals or groups and all other facilities where rooms or sleeping facilities or space are furnished for a consideration. The term shall not include hospitals, apartments, wherein the apartments are always rented for more than thirty (30) days, sanitariums or nursing homes.

Occupancy shall mean the use or possession, or the right to the use or possession of any room or rooms in a hotel, or the right to the use or possession of the furnishings or to the services and accommodations accompanying the use and possessions of the room or rooms or leased or rented space.

Occupant shall mean a person, who for a consideration, uses, possesses, or has the right to the use or possession of any room or rooms in a hotel under any lease, concession, permit, right to access, license to use, or other agreement.

Operator shall mean any person operating a hotel in this city, included, but not limited to, the owner, proprietor, lessee, sub-lessee, mortgagee in possession, licensee, or any other person otherwise operating such hotel.

Rent shall mean the consideration received for occupancy valued in money, whether received in money or otherwise, including all receipts, cash credits, and property or services of any kind or nature, and also any amount for which credit is allowed by the operator to the occupant, without any deduction therefrom whatsoever.

Return shall mean any return filed or required to be filed as herein provided.

Room shall mean any room or rooms of any kind in any part or portion of a hotel which is available for or let out for use or possessed for any purpose other than a place of assembly. As used herein, "place of assembly" means a room or space which is capable of being occupied by seventy-five (75) or more persons and which is used for educational, recreational or amusement purposes and shall include: dance halls, cabarets; night clubs; restaurants; any room or space for public or private banquets, feasts, social, card parties or weddings; lodge and meeting halls or rooms; skating rinks; gymnasiums; swimming pools, billiard, bowling and table tennis; tennis rooms; halls or rooms used for public or private catering purposes, funeral parlors; markets; recreational rooms; concert halls; broadcasting studios, and all other places of similar type of occupancy.

Tax shall mean the tax levied pursuant to this Article.

SECTION 7-603 LEVIED; RATE

Beginning on May 1, 2015, and continuing thereafter until the lawful repeal of this ordinance (provided however, the tax levied pursuant hereto may not be repealed by the City Council of the City or by initiative or referendum procedures by the registered voters of the City in the event that the proceeds of the referenced tax are being used or have been pledged by the Fairview Utilities Authority for the purpose of paying debt service obligations issued by the Fairview Utilities Authority pursuant to the purpose of the tax), there is hereby levied an excise tax in the amount of eight percent (8%) upon the gross proceeds or gross receipts derived from all rent for every occupancy of a room or rooms in a hotel in this city.

SECTION 7-604 EXEMPTIONS

The following shall be exempt from the tax levied in this Article:

- (1) The United States government or any agency or division thereof;
- (2) The state or any political subdivision thereof.

SECTION 7-605 CERTIFICATE OF EXEMPTION

Anyone claiming to be exempt from the tax must furnish proof to the director of such exemption and obtain from the director a certificate of the exemption.

SECTION 7-606 TAX TO BE SEPARATELY DESIGNATED ON BILLS

The operator shall separately designate, charge and show the tax on all bills, statements, receipts or any other evidence of charges or payment of rent for occupancy issued or delivered by the operator.

SECTION 7-607 OPERATOR RESPONSIBLE FOR COLLECTION

The operator shall be responsible for the collection of the tax from the occupant and shall be liable to the city for the tax.

SECTION 7-608 RECORDS TO BE KEPT

Every operator shall keep records of every occupancy and of all rent paid, charged, or due thereon and of the tax payable therein in such form as the director may by regulations require. Such records shall be available for inspection and examination at any time upon demand by the director, or a duly authorized agent or employee of the city, and shall be preserved for a period of three (3) years except that the director may consent to their destruction within that period or may require that they be kept longer.

SECTION 7-609 RETURNS

(a) Every operator on or before the twentieth (20th) day of each month shall file with the director a return of occupancy and rents and of the taxes payable thereon for the preceding calendar month after the effective date of this Article.

(b) The director may permit or require returns to be made by shorter or longer periods and upon such dates as he may specify. The form of return shall be prescribed by the director and shall contain such information as he may deem necessary for the proper administration of this Article. The director may require amended returns to be filed within, twenty (20) days after notice and to contain the information specified in the notice.

SECTION 7-610 PAYMENT OF TAX

At the time of filing a return of occupancy and of rents, each operator shall pay to the director the taxes imposed by this Article upon the rents included in such return, as well as all other monies collected by the operator acting or purporting to act under the provisions of this Article. All the taxes for

the period for which a return is required to be filed shall be due from the operator and payable to the director on or before the date fixed for the filing of the return for such period without regard to whether a return is filed or whether the return which is filed correctly shows the amount of rents and the taxes due thereon.

SECTION 7-611 ASSESSMENT AND DETERMINATION OF TAX

If a return required by this Article is not filed, or if a return when filed is incorrect or insufficient, the amount of tax due shall be assessed by the director from such information as may be assessed by the director from such information as may be obtainable and, if necessary, the tax may be estimated on the basis of external indices, such as number of rooms, location, scale of rents, comparable rents, types of accommodations and services, number of employees, or other factors. Written notice of such assessments shall be given to the person liable for the collection and payment of the tax. Such assessment shall finally and irrevocably fix and determine the tax unless the person against whom it is assessed, within ninety (90) days after the giving of notice of such assessment, shall apply in writing to the governing body or its designee for a hearing or unless the director on his own motion shall reassess the same. After such hearing, the governing body or its designee shall give written notice of its determination to the person against whom the tax is assessed and such determination shall be final.

SECTION 7-612 REFUNDS

(a) The director shall refund or credit any tax erroneously, illegally or unconstitutionally collected if written application to the director for such refund shall be made within two (2) years from the date of payment thereof. For like causes, and in the same period, a refund may be so made upon the initiative and the order of the director. Whenever a refund is made, the reasons therefore shall be stated in writing. Such application may also be made by the person who has collected and paid such tax to the director providing that the application is made within two (2) years of the payment by the occupant to the operator but no refund of money shall be made to the operator until he has repaid to the occupant the amount for which the application for refund is made. The director in lieu of any refund required to be made, may allow credit therefor on payment due from the applicant.

(b) Upon application for a refund the director may receive evidence with respect thereto, and make such investigation as he

deems necessary. After making a determination as to the refund, the director shall give notice thereof to the applicant. Such determination shall be final unless the applicant within ninety (90) days after such notice shall apply in writing to the director or its designee for a hearing. After such hearing, the director or its designee shall give written notice of its decision to the applicant.

SECTION 7-613 NOTICES

Notices provided for under this Article shall be deemed to have been given when such notice has been delivered personally to the operator or deposited in the United States mail to the last known address of the operator.

SECTION 7-614 REMEDIES EXCLUSIVE

The remedies provided in this Article shall be exclusive remedies available to any person for the review of tax liability imposed by this Article.

SECTION 7-615 GENERAL POWERS OF DIRECTOR

In addition to all other powers granted to the director, he is hereby authorized and empowered:

(1) To make, adopt and amend rules and regulations appropriate to the carrying out of this Article for the purposes thereof; for a period not exceeding sixty (60) days; and for cause shown to waive, remit, or reduce penalties or interest;

(2) To delegate his functions hereunder to an assistant or other employee or employees of the city;

(3) To assess, reassess, determine, revise and readjust the taxes imposed by this Article;

(4) To prescribe methods for determining the taxable and nontaxable rents.

SECTION 7-616 ADMINISTRATION OF OATHS AND COMPELLING TESTIMONY

The director, or his designated representative, shall have the power to administer oaths and take affidavits in relation to any matter or proceeding in the exercise of their powers and duties under this Article. The director shall have the power to subpoena and require the attendance of witnesses and the production of books, papers and documents to secure information

pertinent to the performance of his duties hereunder and to the enforcement of this Article and to examine them in relation thereto.

SECTION 7-617 CERTIFICATES OF REGISTRATION

Every operator shall file with the director a certificate of registration in a form prescribed by said director within ten (10) days after the effective date hereof, or in the case of operators commencing business or opening new hotels after such effective date, within three (3) days after such commencement or opening. The director shall, within five (5) days after such registration, issue, without charge, to each operator a certificate of authority empowering such operator to collect the tax from the occupant and duplicates thereof for each additional hotel. Each certificate or duplicate shall state the hotel to which it is applicable. Such certificate of authority shall be permanently displayed by the operator in such manner that it may be seen and comes to the notice of all occupants and persons seeking occupancy. Such certificates shall be non-assignable and non-transferable and shall be surrendered immediately to the director upon the cessation of business at the hotel named, or upon its sale or transfer.

SECTION 7-618 INTEREST

If any tax levied by this Article becomes delinquent, the person responsible and liable for such tax shall pay interest on such unpaid tax at the rate of one and one-half (1 ½) percent per month on the unpaid balance from the date of delinquency.

SECTION 7-619 DELINQUENT TAXES

The tax levied by this Article shall be due and payable at the time filing of the returns provided for in this Article is required. All taxes not paid when they become due, shall be delinquent.

SECTION 7-620 DISCOUNT

In order to compensate an operator for keeping tax records, filing reports, and remitting the tax when due, a three (3) percent discount shall be allowed upon all taxes paid prior to the time they become delinquent.

SECTION 7-621 RECORDS CONFIDENTIAL

The confidential and privileged nature of the records and files concerning the administration of the hotel tax is legislatively recognized and declared, and to protect the same the provisions of section 206 of the Uniform Tax Procedure Code, and each subsection thereof is hereby adopted by reference and made fully effective and applicable to administration of the tax as if herein set forth.

SECTION 7-622 FRAUDULENT RETURNS

The willful failure or refusal of any taxpayer or operator to make any timely reports and remittances therein required, or the making of any false and fraudulent report for the purpose of avoiding or escaping payment of any tax or portion thereof rightfully due under this Article shall be an offense, and upon conviction thereof the offending taxpayer or operator shall be subject to a fine of not more than Two Hundred Dollars (\$200.00) plus costs; each day shall be considered a separate offense.

SECTION 7-623 AMENDMENTS

The registered voters of the City of Fairview by their approval of this Article at the election herein provided, hereby authorize the governing body by ordinance duly enacted to make such administrative and technical changes or additions in the method and manner of administration and enforcing this Article as may be necessary or proper for efficiency and fairness except that the rate of the tax herein provided shall not be changed without approval of the qualified electors of the city as provided by law.

SECTION 7-624 USE OF FUNDS

All taxes collected pursuant to the provisions of this Article shall be set aside and used exclusively for the purpose of encouraging, promoting and fostering the economic and tourism development of the city. All monies collected shall be put in the Economic/Tourism Development Fund ("Fund") and expended as herein provided. The Fund shall be a special, limited purpose fund, established within the general budget of the City of Fairview, and shall be used solely for the purpose of receiving the revenues derived from collection of the hotel tax imposed hereunder, receiving income from the investment of said monies contained in the Fund, and shall be accumulated, earmarked, used and expended, both principal and interest, to encourage, promote and foster economic and tourism development, and for any

necessary and related fees, costs and expenses to accomplish that purpose. The tax revenue collected may also be pledged and used for public capital improvements related to the purpose of the hotel tax and to pay the debt service and costs of issuance on any notes, bonds, obligations or evidences of indebtedness issued by the Fairview Utilities Authority to finance such public capital improvements.

SECTION 7-625 PROVISIONS CUMULATIVE

The provisions hereof shall be cumulative, and in addition to any and all other taxing provisions of city ordinances.

Note: Increase of tax to 8% approved by Ordinance No. 2015-01 on March 3, 2015 and by the voters on April 7, 2015.

ARTICLE 7

USE TAX

SECTION 7-701 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 bought into this municipality, an excise tax on the storage, use or other consuming within the municipality of such property at the rate of 4.00% of the purchase price of 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; 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 sales tax previously paid on such goods or services; provided, that the amount deducted shall not exceed the amount that would have been due if the taxes imposed by the municipality had been levied on the sale of such goods or services.

Note: This Article was adopted by the adoption of this 2005 re-codified code.

SECTION 7-702 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 Fairview Use Tax Ordinance, had 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 Fairview Use Tax Code, the provisions of this Section shall also apply to it by a rate measured by the difference only between the rate by both the Oklahoma Use Tax Code and the City of Fairview Use Tax Code, 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 Sales 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 intent to 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 or breeding purposes, and which is later resold.

SECTION 7-703 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 7-704 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 7-705 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 therefor in the manner and form prescribed by the Tax Commission, if the Tax Commission shall, by regulation, require such receipt. Each retailer or vendor shall list with the Tax Commission the name and address of all his agents operating in this municipality and location of any and all distribution or sales houses or offices or other places of business in this City.

SECTION 7-706 COLLECTION OF TAX BY RETAILER OR VENDOR NOT
MAINTAINING A PLACE OF BUSINESS WITHIN STATE OR BOTH WITHIN AND
WITHOUT STATE; PERMITS.

The Tax Commission may, in its discretion, upon application, authorize the collection of the tax herein levied by any retailer or vendor not 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 of any retailer or vendor maintaining places of business both within and without Oklahoma and making sales of tangible, personal property at such out-of-state 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 considers 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 municipal Sales Tax at the point of delivery and the tax shall be collected and reported under taxpayer's sales tax permit number accordingly.

SECTION 7-707 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, § 1408, by order revoke 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 order, rules or regulations of the Tax Commission.

SECTION 7-708 REMUNERATIVE DEDUCTIONS ALLOWED VENDORS OR RETAILERS OF OTHER STATES.

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

SECTION 7-709 INTEREST AND PENALTIES; DELINQUENCY.

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

SECTION 7-710 WAIVER OF INTEREST AND PENALTIES.

The interest or penalty of any portion thereof accruing by reason of a retailer's or vendor's failure to pay the municipal 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. § 227, and to accomplish the purposes of this section the applicable provisions of said Section 220 are hereby adopted by reference and made a part of this Article.

SECTION 7-711 ERRONEOUS PAYMENTS; CLAIM FOR REFUND.

Refund of erroneous payment of the municipal Use Tax herein levied may be made to any taxpayer making such erroneous payment in the same manner and procedure, and under the same limitations of time, as provided for administration of the State Use Tax as set forth in 68 O.S. § 227, 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 7-712 FRAUDULENT RETURNS.

In addition to all civil penalties provided by this Article, the willful failure or refusal of any taxpayer to make reports and remittances herein required, or the making of any false and fraudulent report for the purpose of avoiding or escaping payment of any tax or portion thereof rightfully due under this Article shall be an offense 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 7-713 RECORDS CONFIDENTIAL.

The confidential and privileged nature of the records and files concerning the administration of the municipal Use Tax is legislatively recognized and declared, and to protect the same the provisions of 68 O.S. § 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 municipal Use Tax as is herein set forth in full.

SECTION 7-714 PROVISIONS CUMULATIVE.

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

SECTION 7-715 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 thereof.

SECTION 7-716 DEFINITIONS.

The definitions of words, terms and phrases contained in the Oklahoma Use Tax Code, 68 O.S. § 1401 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 Fairview, Oklahoma.
2. Transaction shall mean sale.

SECTION 7-717 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 7-718 CLASSIFICATION OF TAXPAYERS.

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

SECTION 7-719 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 municipal permit for the same purpose.

SECTION 7-720 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 purpose for which funds may be lawfully expended as authorized.

ARTICLE 8

TELEPHONE EXCHANGE FEE

DIVISION 1

TELEPHONE EXCHANGE FEE

Section 7-801 FEE LEVIED ON TELEPHONE EXCHANGES

There is hereby levied an annual inspection fee and service charge upon each and every person, firm, or corporation operating a telephone exchange in the city in an amount equal to two percent (2%) of the gross revenues for each current year for exchange telephone transmission service rendered wholly within the limits of the city to compensate the city for the expenses incurred and services rendered incident to the exercise of its

police power, supervision, police regulations, and police control of the construction of lines and equipment of the telephone company in the city. The inspection fee and charge shall be on a calendar year basis and shall be due and payable to the city on or before the first day of May of each year, for the whole calendar year next preceding the date and shall be paid and appropriated and expended from the general revenue fund of the city.

State Law Reference: City powers to levy utility tax on gross receipts, 68 O.S. Section 2601 et seq.

Section 7-802 FEE TO BE IN LIEU OF OTHER FEES, TAXES

During continued substantial compliance with the terms of this Article by the owner of any telephone exchange, the charge levied hereby shall be and continue to be in lieu of all concessions, charges, excise, franchise, license, privilege, and permit fees or taxes or assessments, except ad valorem taxes. However, it is not intended hereby to extinguish or abrogate any existing arrangement whereby the city is permitted to use underground conduit, duct space, or pole contacts of the company for the fire alarm or police calls systems of the city.

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CHAPTER 8: HEALTH AND SANITATION

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CHAPTER 8: HEALTH AND SANITATION

ARTICLE 1

WEEDS AND TRASH

Section 8-101 ACCUMULATION OF TRASH OR WEEDS UNLAWFUL.

No person, entity or corporation owning or otherwise in possession or control of real property located within the corporate limits of the City shall allow trash to accumulate, or weeds to grow or stand upon such real property.

State Law Reference: Cleaning, mowing property, municipal powers, 11 O.S. Section 22-111C.

Section 8-102 DEFINITIONS.

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

1. "Cleaning" means the removal of trash from property;
2. "Owner" means the owner of record as shown by the most current tax rolls of the county treasurer;
3. "Trash" means any refuse, litter, ashes, leaves, debris, paper, combustible materials, rubbish, offal, waste, or matter of any kind or form which in uncared for, discarded or abandoned; and
4. "Weed" includes but is not limited to poison ivy, poison oak or poison sumac and all vegetation at any stage of maturity which:
 - a. Exceeds twelve (12) inches in height, except healthy trees, shrubs or produce for human consumption or grown in a tended and cultivated garden unless such trees and shrubbery by their density or location constitute a detriment to the health, benefit and welfare of the public and community of a hazard to traffic or create a fire hazard to the property or otherwise interfere with the mowing of the weeds;
 - b. Regardless of height, harbors, conceals or invites deposits or accumulation of refuse or trash;

- c. Harbors rodents or vermin;
- d. Gives off unpleasant or noxious odors;
- e. Constitutes a fire or traffic hazard; or
- f. Is dead or diseased, or
- g. Is located on real property owned, or otherwise in the possession and control of any person, entity or corporation, including any real property which adjoins a statutory, dedicated or accepted street right-of-way, easement or alleyway.

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

Section 8-103 REPORTS OF ACCUMULATIONS OF GRASS, WEEDS OR TRASH ON PROPERTY.

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

- 1. Detrimental to the health, benefit and welfare of the public and the community;
- 2. A hazard to traffic; or
- 3. A fire hazard to property.

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

Section 8-104 CLEANING AND MOWING, NOTICE, CONSENT, HEARING, RIGHT OF ENTRY.

The City may cause property within the corporate limits to be cleaned of trash and weeds or grass to be cut or mowed in accordance with the following procedure:

- 1. At least ten (10) days' notice shall be given to the owner of the property by mail at the address shown by the current year's tax rolls in the county treasurer's office before

the hearing provided for herein or before action may be taken. The notice shall order the property owner to clean the property of trash, or to cut or mow the weeds or grass on the property, as appropriate, and the notice shall further state that unless the work is performed within ten (10) days of the date of the notice the work shall be done by the City and a notice of lien shall be filed with the county clerk against the property for the costs due and owing the City. 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 of same, notice may be given by posting a copy of the notice on the property or by publication, as provided in Section 1-102 of Title 11 of the Oklahoma Statutes, one time not less than ten (10) days prior to any hearing or action by the City. If the City anticipates summary abatement of a nuisance in accordance with the provisions as herein provided, the notice, whether by certified mail or publication, shall state:

- a. That any accumulations of trash or excessive weed or grass growth on the owner's property occurring within six (6) months from and after the date of this notice may be summarily abated by the City;
- b. That the costs of such abatement shall be assessed against the owner; and
- c. That a lien shall be imposed on the property to secure such payment, all without further prior notice to the property owner.

At the time of each summary abatement the City Manager shall notify the property owner of the abatement and costs thereof. The notice shall state that the property owner may request a hearing within ten (10) days after the date of mailing the notice. Unless otherwise determined at the hearing the cost of such abatement shall be determined and collected as provided in Section 8-105. Provided however, these summary abatement procedures shall not apply if the records of the county clerk show that the property was transferred after the notice was given pursuant to this Section;

2. The owner of the property may give his written consent to the City authorizing the removal of the trash or the mowing of the weeds or grass. By giving the written consent, the owner waives his right to a hearing by the City;

3. The City Council hereby designates the City Manager or designee (hereinafter referred to as the "zoning officer") to carry out the duties of the City Council as provided by Sections 8-101 through 8-107 of this Article. A hearing may be held by the zoning officer of the City 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. The property owner shall have a right of appeal to the Council from any order of the zoning officer. 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; and

4. Upon a finding that the condition of the property constitutes a detriment or hazard, and that the property would be benefitted by the removal of such conditions, the agents of the City are granted the right of entry on the property for the removal of trash, mowing of weeds or grass, and performance of the necessary duties as a governmental function of the City. Immediately following the cleaning or mowing of the property, the City Clerk shall file a notice of lien with the county clerk describing the property and the work performed by the City, and stating that the City claims a lien on the property for the cleaning or mowing costs.

Section 8-105 DETERMINATION AND ASSESSMENT OF COSTS.

The zoning officer shall determine the actual cost of such cleaning and mowing and any other expenses that may be necessary in conjunction therewith, including the cost of notice and mailing. The City Clerk shall forward by mail to the property owner specified in Paragraph 1 of Section 8-104 a statement of the actual cost and demanding payment. In cleaning and mowing are performed by the City, the cost to the property owner for the cleaning and mowing shall not exceed the actual cost of the labor, maintenance and equipment required. If the cleaning and mowing are done on a private contract basis, the contract shall be awarded to the lowest and best bidder.

Section 8-106 LIEN ON THE PROPERTY, CIVIL REMEDY.

If the costs of the work performed under this chapter are not paid within thirty (30) days from the date of mailing 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 upon the property and collected by the county treasurer as other taxes authorized by law. Until fully paid, the cost and interest thereon shall be the personal obligation of the

property owner from and after the date the cost is certified to the country 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. At any time prior to collection as provided in this Section, 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.

Section 8-107 EXCEPTION

The provisions of this Article shall not apply to any property zoned and used for agricultural purposes or to railroad property under the jurisdiction of the Oklahoma Corporation Commission. However, a municipal governing body may cause the removal of weeds or trash from property zoned and used for agricultural purposes pursuant to the provisions of this Article but only if such weeds or trash pose a hazard to traffic and are located in, or within ten (10) yards of, the public right-of-way at intersections.

Section 8-108 UNLAWFUL TO DEPOSIT RUBBISH.

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

Section 8-109 BURNING REFUSE.

A. It is unlawful to burn any trash or refuse or any type of material within the City.

B. It is unlawful for any person to burn trash, waste paper, rubbish or refuse except under a permit issued by or in receptacles and conditions approved by the State Health Department or U.S. Environmental Protection Agency.

Section 8-110 REMOVAL OF DEAD ANIMALS.

The owner or any person having charge of any animal dying in this City, shall within twenty-four (24) hours after the death of such animal, remove its carcass, and failure to do so shall constitute a misdemeanor.

Section 8-111 UNLAWFUL TO LITTER.

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

B. It is unlawful for any person to litter.

Section 8-112 UNLAWFUL TO LITTER FROM AUTOMOBILES.

It is unlawful for any person to throw from any automobile or motor vehicle being operated and driven upon and over the streets, alleys and roadways of the City any litter, trash, waste paper, tin cans or any other substance or refuse whatever.

Section 8-113 LITTER NOT TO ACCUMULATE ON PROPERTY.

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

B. It is unlawful for any person, firm or corporation occupying real property, either as tenant or owner, to allow accumulated trash, waste paper, litter objects, bottles, tin cans or any other used or disposed of objects to be carried from the occupied premises, either by the wind, elements or otherwise to any adjoining or other real estate not so owned or occupied by the offender.

Section 8-114 ABANDONED REFRIGERATOR; APPLIANCES.

A. It is unlawful for any person to leave in a place accessible to children any abandoned or discarded ice box, refrigerator, or other container which has an airtight door with a lock or 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.

B. It is unlawful to utilize the premises of any property for the open storage of any stove or other appliance which has been abandoned, discarded or is in disrepair.

Section 8-115 DISCHARGING GRASS CLIPPINGS, VEGETATIVE MATERIAL, SAND, DIRT OR OTHER LITTER OR WASTE ONTO ANY STREET, ALLEY, GUTTER OR OTHER PUBLIC PLACE PROHIBITED.

No person shall discharge, or permit to be discharged, grass clippings, vegetative material, sand, dirt or other litter onto the public street, alley, gutter or other public place or permit the same to remain in the public street, alley, gutter or other public place. Persons owning or occupying property shall keep the sidewalk, street, alley, gutter or other public place abutting or adjacent to their property free of grass clippings, vegetative material, sand, dirt or other litter. A violation of this section, by act or omission, shall be an offense and each continued day that such condition remains shall be deemed a subsequent offense.

Note: This section was approved as Ordinance No. 2013-10 and approved by the City Council on November 5, 2013.

SECTION 8-116 OPEN STORAGE OF MATERIALS

The entire front yard of any residentially zoned lot located in the City, to include side yards not appropriate screened as provided in Section 8-402.5 hereinabove, shall be kept and maintained free and clear of all building and automotive materials, trash, junk, debris, household appliances, chairs, couches, all manner of other items constructed for use inside the building or residence, junk motor vehicles and camper shells not mounted on motor vehicles, and trash, and junk and debris filled boats and trailers, including utility trailers.

Note: This section was approved as Ordinance No. 2013-11 and approved by the City Council on November 5, 2013.

ARTICLE 2

FOOD AND RESTAURANTS

Section 8-201 FOOD SERVICE REGULATIONS ADOPTED

A. The latest edition of the "Oklahoma State Department of Health Rules and Regulations Pertaining to Food Establishments" is hereby adopted and incorporated by reference. At least one copy of the rules and regulations shall be on file in the office of the City Clerk.

B. Any person who violates any provision of such rules and regulations as provided hereinabove shall be guilty of an offense and if convicted shall be punished as provided by Section 1-108 of this code. In addition, any person convicted of violation may be enjoined from continuing the violation.

ARTICLE 3

NUISANCES

Section 8-301 DEFINITION.

A nuisance shall mean the doing of an act unlawfully or omitting to perform a duty, which act or omission:

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

2. Offends decency; or

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

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

5. Involves the maintenance of any building or structure within the City limits which by reason of age, dilapidation or decay is unsafe for occupancy; or constitutes a haven or refuge for vermin and rodents; or presents a fire hazard and endangers the security of other property; or

6. Permits the accumulation of rank vegetation, weeds, grass or other noxious matter or putrid substances; or in maintaining any trash, piles of rubbish, manure or other refuse which is dangerous to health or which in any manner constitutes a fire hazard.

State Law Reference: Similar provisions, 50 O.S. Section 1.

Section 8-302 UNLAWFUL TO MAINTAIN NUISANCE.

No person shall create or maintain a nuisance or permit it to be created or maintained upon property owned by him or under his control.

Section 8-303 ABATEMENT.

A. In addition to prosecution for violation of Section 8-302, whenever a nuisance is found to exist, the City Manager may cause notice thereof to be given to the person maintaining or creating the nuisance or to the person owning or having control of the property upon which said nuisance exists, to abate such nuisance within the period of time stated in the notice, which shall be not less than three (3) days from the receipt of said notice. The notice shall be served personally or by certified mail. In the event the address is unknown or the person cannot be located the notice shall be posted upon the property involved and published in the official paper of the City for a period of five (5) days. If notice is published the person in charge shall have ten (10) days from the last publication in order to abate such nuisance. In the event the nuisance is not abated after such notice as required, the City Manager shall have the authority to abate it and charge the cost thereof to the person creating, maintaining or owning or in control of the property upon which the nuisance is created or maintained, and the person so charged shall be afforded an opportunity to appear and present witnesses and be heard. Should the governing body find that a nuisance has been created or maintained the person responsible shall be given a reasonable length of time to abate it.

B. Any person who fails to abate any nuisance as required by this article shall be guilty of an offense.

State Law Reference: Authority to define, prevent, remove and abate nuisances, 11 O.S. Section 22-121.

Section 8-304 PERSON RESPONSIBLE FOR CONTINUING NUISANCE

Every successive owner of property who neglects to abate a continuing nuisance upon or in the use of such property created by a former owner, is liable therefor in the same manner as the person who first created it.

Section 8-305 TIME DOES NOT LEGALIZE NUISANCE

No lapse of time can legalize a public nuisance amounting to an actual obstruction of public right.

Section 8-306 REMEDIES AGAINST PUBLIC NUISANCES

The remedies against a public nuisance are:

1. Prosecution on complaint before the municipal court.

2. Prosecution on information or indictment before a district or federal court or forum.
3. Civil action; and
4. Abatement:
 - a. By the person injured as provided in 50 O.S. 12 or
 - b. By the City in accordance with law or ordinance.

Section 8-307 REMEDIES AGAINST PRIVATE NUISANCES

The remedies against a private nuisance are:

1. Civil action; or
2. Abatement:
 - a. By the person injured as provided in 50 O.S. 14, 15 or
 - b. By the City in accordance with law or ordinance.

Section 8-308 City HAS POWER TO DEFINE AND SUMMARILY ABATE NUISANCE

As provided in Section 16 of Title 50, the City is empowered to determine what is and what shall constitute a nuisance within its corporate limits and, for the protection of the public health, the public parks and public water supply, outside of its corporate limits. Whenever it is practical to do so, the City has the power summarily to abate any such nuisance after notice and an opportunity for him to be heard, if this can be done.

Section 8-309 SUMMARY ABATEMENT OF NUISANCES

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

B. An officer of the City may submit a statement as to the existence of a nuisance as defined by this ordinance and a request or recommendation that it be abated.

C. The City or its designee shall determine if a nuisance exists as defined by the ordinances of the City or law. If a nuisance does in fact exist, City personnel shall direct the owner or other person responsible for or causing the nuisance by:

1. Certified mail; or

2. By publication if the owner cannot be so served or found,

to abate the nuisance within a specified time if the peace, health, safety, morals or welfare of the person or person or public adversely affected would not be unduly jeopardized by the consequently delay, or if the owner or other person responsible for or causing the nuisance does not abate it within the specified time, or if the persons responsible authorize the City to abate the nuisance, the City shall direct the appropriate officer to abate the nuisance or have it abated, if summary abatement is practical, as authorized by 50 O.S. 16. The City shall send a statement of the cost of such summary abatement to the owner or other persons responsible for or causing the nuisance, as may be just under the circumstances, if their names and addresses are known. Until paid, such cost shall constitute a debt to the City collectible as other debts may be collected.

D. The determination of the existence of a nuisance and order to abate it, as made by the City, may be appealed by the occupant or owner or person causing the nuisance by filing a request for hearing in writing with the City within the period of time specified in the notice for abatement of nuisance. The City Clerk shall cause the matter to be placed on the agenda of the City Council for final determination with appropriate notice of the hearing provided to the person requesting the appeal.

Section 8-310 HEALTH NUISANCES; ABATEMENT

A. Pursuant to authority granted by Section 1-1011 of Title 63 of the Oklahoma Statutes, the City shall have the authority to order the owner or occupant of any private premises in the City to remove from such premises, at his own expenses, 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 conditions adversely affecting the public health, within twenty-four (24) hours, or

within such other time as may be reasonable. Such order shall be in writing and may be served personally on the owner or occupant of the premises, or authorized agent thereof, by the City or by a police officer, or a copy thereof may be left at the last usual place of abode of the owner, or if the occupant or agent is unknown or is outside the state, the order may be served by posting a copy thereof on the premises or by publication in at least one issue of a newspaper having a general circulation in the City.

B. If the order is not complied with, the City may cause the order to be executed and complied with, and the cost thereof shall be certified and the cost of removing or abating such nuisance shall be charged to the owner or occupant, enforceable as a lien or any other method allowed by law or ordinance.

Section 8-311 City ACTIONS NOT TO JEOPARDIZE PRIVATE ACTIONS

Nothing herein contained shall be construed to abridge the rights of citizens of the City to bring and maintain actions in the proper courts for the abatement of private nuisances or those specially injurious to them.

Section 8-312 UNAUTHORIZED DUMPING, DEPOSITING OR DISPOSAL OF TRASH ON PROPERTY OF ANOTHER

A. It is unlawful to place, deposit or leave any trash, debris, refuse or garbage on the property of another or on public property, including any public street, easement, sidewalk, or other public property, except where such disposal is expressly allowed by law.

B. It is unlawful to place, deposit or leave any trash, debris, refuse or garbage in any dumpster or trash receptacle that is located on the property of another without the express consent of the person on whose property the dumpster or trash receptacle is located.

Section 8-313 OPEN BURNING PROHIBITED

It is unlawful to burn any fire outside of any enclosed building in the City for the purpose of burning grass, trash, leaves, weeds, paper, refuse, garbage or any other substance except in an approved incinerator, or by obtaining a permit and payment of such fee as set out by the City, or by the approval of the Fire Chief or the City Manager.

Section 8-314 ABATEMENT BY SUIT IN DISTRICT COURT

In cases where it is deemed impractical summarily to abate a nuisance, the City may bring suit in the district court.

Section 8-315 PROCEDURE CUMULATIVE

The procedure for abating nuisances prescribed in this chapter and by other provisions of law or ordinance shall be cumulative to one another. The City may elect to follow any such procedure which is applicable in abating any particular nuisance.

Section 8-316 TOILET FACILITIES REQUIRED

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

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

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

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

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

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

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

E. All facilities for the disposal of human excrement in a manner different from that required by this section and all privies and closets so constructed, situated or maintained as to endanger the public health are hereby declared to be public nuisance is guilty of an offense and each day upon which any such nuisance continues is a separate offense.

F. No residence, business or commercial building, nor any other premises in the City, of located within three hundred (300) feet of any public sewer later or main shall be connected to or in any manner served by a septic tank; no such person shall allow the installation, maintenance, operation or use of any septic tank in violation of this section.

Section 8-317 OBSTRUCTING HEALTH OR ENFORCEMENT OFFICER

It is unlawful for any person to willfully obstruct or interfere with any health officer or other code enforcement officer charged with the enforcement of the health or nuisance laws of this City.

Section 8-318 LITTERING PROHIBITED GENERALLY

No person shall throw, place, leave, drop, put or otherwise abandon litter upon any public property, private property or roadway except as otherwise specifically permitted in this code. "Litter" means trash, refuse, rubbish and all like material.

Section 8-319 ABANDONED REFRIGERATORS

No person shall thrown, place, leave, drop, put or otherwise 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 8-320 ENFORCEMENT, CITATIONS, APPEALS

A. The City Manager is designated as the administrative officer to perform the duties of the city council with respect to public nuisance abatement. The City Manager may further delegate to the director of community development division or his staff the aforementioned duties of the City Manager, including the duty of administrative officer.

B. The City Manager or his designee are designated to issue citations for violations of Chapter 8, including nuisances, weeds and trash, abandoned vehicles and health laws.

C. Any administrative hearings for violations of the above-referenced sections shall be before an administrative officer designated by the City Manager. A hearing shall be scheduled on completion and filing with the City Clerk an application therefore, pursuant to the appropriate sections of this part, in accordance with the provisions contained therein.

D. Appeals from the decision of the administrative officer shall be to the municipal court, in accordance with the applicable code provisions.

ARTICLE 4

JUNKED, WRECKED MOTOR VEHICLES

Section 8-401 NUISANCE.

Motor vehicles which are abandoned, dismantled, partially dismantled, wrecked, junked, inoperative, or discarded, or left about the city in places other than authorized junk yard or other areas authorized by the city council and which tend to do any one or more of the followings:

1. Impeded traffic in the streets;
2. Reduce the value of private property;
3. Create fire hazards;
4. Extend and aggravate urban blight; or
5. Result in a serious hazard to the public health, safety, comfort, convenience and welfare of the residents of the city, are hereby declared to be a nuisance.

Section 8-402 DEFINITIONS.

For the purpose of this chapter, the following terms, phrases, words, and their derivatives shall have the meaning given herein.

1. "Junk Motor Vehicle" or "junk vehicle" or "abandoned motor vehicle" is any motor vehicle, which does not have lawfully affixed thereto an unexpired licence plate or plates, and/or the condition of which is in disrepair, wrecked, dismantled, partially dismantled, inoperative, abandoned or discarded, and is incapable of being moved under its own power and is not exempt from compliance by Section 8-402C. "Junk Motor Vehicle" or "junk vehicle" or "abandoned motor vehicle" shall also mean any motor vehicle located on any private or public property in the condition of which such motor vehicle is in disrepair, wrecked, dismantled, partially dismantled, inoperative, abandoned or discarded, and incapable of being moved under its own power, and is not exempt from compliance by Section 8-403B, and remains in such condition for a period of thirty (30) days, without regard to whether such motor vehicle has lawfully affixed thereto an unexpired licence plate or plates. "Junk Motor Vehicle" or "junk vehicle" or "abandoned motor vehicle" shall also mean motor vehicles used in demolition races or derbies or similar contests, tractors, trailers motorcycles, boats, lawn mowers and any other type of transportation device which is in disrepair, wrecked, dismantled, partially dismantled, inoperative, abandoned or discarded, and incapable of being moved under its own power, and is not exempt from compliance by Section 8-402B.

2. "Motor vehicle" is any vehicle which is self-propelled and designed to travel along the ground or the water and shall include, but not be limited to, automobiles, buses, boats, motor bikes, motorcycles, motor scooters, trucks, tractors, go-carts, golf carts, campers and trailers;

3. "Private property" means any real property within the city which is privately owned and which is not public property as defined in this Section; and

4. "Public property" means any street, alley, or highway which shall include the entire width between the boundary lines of every way publicly owned or maintained for the purposes of vehicular travel, and shall also mean any other publicly owned property or facility.

5. "Appropriate screen" shall mean an aesthetic barrier with a minimum opaque barrier not less than five (5) feet in height enclosing the junk motor vehicle. Such screen or barrier

shall be dense landscaping, or a solid lumbar or masonry fence, wall or combination thereof, and may include the use of the walls of the residence or other building or structure, similar existing fencing, similar existing dense landscaping, all of which shall be of at least an equivalent height and capacity, and located on such property to provide for such enclosure. If solid lumber fencing is used, it shall be treated or painted in earth tone colors.

Section 8-403 STORING, PARKING OR LEAVING JUNK MOTOR VEHICLE OR ABANDONED MOTOR VEHICLE ON PUBLIC OR PRIVATE PROPERTY PROHIBITED; AND DECLARED A NUISANCE; EXCEPTIONS.

A. No person shall park, store, leave, or permit the parking, storing, or leaving of any junk motor vehicle of any kind, whether attended or not, upon any public or private property within the city. The presence of a junk motor vehicle or parts thereof, on private or public property is hereby declared a nuisance and a public offense and may be abated as such in accordance with the provisions of this Chapter.

B. This Section shall not apply to any motor vehicle:

- a. Enclosed within a building on private property;
- b. Completely within an appropriate screen in the side or back yard on private property;
- c. Held, stored or parked in connection with a lawfully operated business enterprise and on property operated in the appropriate zone, pursuant to the zoning laws of the city;
- d. Motor vehicles parked on private property or at a lawfully operated business enterprise located in an appropriate zoning district, which display an unexpired licence plate or plates, but which motor vehicles are temporarily out of service due to mechanical breakdown or damage, but only so long as the owner or the owner of the lawfully operated business enterprise thereof makes diligent efforts to place such vehicle back into operable condition, but shall not remain on such private property or at a lawfully operated business enterprise in such condition for longer than thirty (30) days, unless thereafter screened or enclosed in a building.

SECTION 8-404 PROCEDURES FOR ABATEMENT.

The provisions for abatement of "public nuisance" contained in section 8-101 et seq. of this code shall not apply to junk

vehicles or to those which are in abandoned, wrecked, dismantled, inoperative, rusted, junked, or partially dismantled condition, whether attended or not, upon any public property within the city for a period of time in excess of twenty-four (24) hours. The notice, hearing and abatement shall be pursuant to the procedures described herein for public nuisance on public property.

SECTION 8-405 PRESUMPTION OF ABANDONMENT.

A rebuttable presumption shall exist that vehicles have been abandoned when:

1. Weed or grass undergrowth would indicate to a reasonable person that the vehicle has not been moved, thereby permitting such growth to occur;

2. One or more wheels are flat or missing and the vehicle or boat displays an expired license or inspection tag;

3. Portions of the vehicle which are needed for its operation or control are missing.

4. The city has received reports from others as to the length of time such vehicle has been standing in one place without being moved, or that parts are being taken from or added to such vehicle, indicating a salvage or garage operation; or

5. Evidence exists that provisions of this code pertaining to zoning or to junk and salvage yards are being violated.

SECTION 8-406 NOTICE TO REMOVE FROM PUBLIC PROPERTY.

Whenever it comes to the attention of the administrative officer that any junk vehicle, as defined herein, exists as a public nuisance in the city, a notice in writing shall be served upon the occupant of the land where the nuisance exists, or in the event that there is no such occupant, then upon the owner of the property or his agent, notifying them of the existence of the nuisance and requesting its removal in the time specified in this chapter. A written, public nuisance "Notification to Remove" shall be placed on the vehicle advising the owner of the violation of city code and of the twenty-four (24) hours to remove the nuisance from the public property. Concurrent with the abatement notice placed on the vehicle or motor vehicle, the owner of the vehicle or motor vehicle shall be issued a citation. Failure to remove the vehicle or motor vehicle shall be an offense, and shall be punishable as provided in Section 8-108 of this code.

SECTION 8-407 RESPONSIBILITY FOR REMOVAL FROM PUBLIC PROPERTY.

Upon proper notice and opportunity to be heard, the owner of the junk vehicle or other abandoned, wrecked, dismantled, or inoperative vehicle or boat, on public property shall be liable for all expenses reasonably incurred by the removal and disposition.

SECTION 8-408 NOTICE TO REMOVE FROM PRIVATE PROPERTY.

A. The administrative officer or his designee shall give notice of removal to the owner or occupant of the private property where any junk vehicle or any abandoned, wrecked, dismantled or inoperative vehicle or boat is located at least ten (10) days before the time set for compliance. It shall constitute sufficient notice when a copy of a Notice to Remove is posted in a conspicuous place upon the private property upon which the vehicle or boat is located.

B. The Notice of Removal shall contain the demand for removal within ten (10) days, and the Notice to Remove shall state that upon failure to comply with the Notice to Remove, the city shall prosecute a criminal complaint for failure to abate the nuisance or undertake such removal with the cost to be levied against the owner of the junk vehicle or the occupant of the property.

SECTION 8-409 HEARING.

A. Any person to whom any Notice to Remove is directed pursuant to the provisions of this chapter or any other interested party, or any duly authorized agent thereof, may file a written request for hearing before the administrative officer within the ten-day compliance period, for the purpose of contesting the city's demand for removal. The administrative officer, chief of police or his designee and the city attorney or his designee shall constitute a hearing board to hear the request.

B. The hearing shall be held as soon as practicable, but not earlier than five (5) days after receipt of the request, and not later than fifteen (15) days after such receipt. Notice of the time and place of hearing shall be directed to the person making the request. At any such hearing the city and the person to whom notice has been directed may introduce witnesses and evidence.

C. Persons to whom the Notice to Remove is directed pursuant to the provisions of this chapter, or their duly

authorized agent, may appear in municipal court pursuant to the citation and summons. Those convicted of failing to abate a public nuisance pursuant to this chapter shall be assessed court costs in addition to any other penalty assessed by the municipal court. If the public nuisance is abated prior to the hearing date stated on the summons, and the person issued the summons to appear in municipal court signs an affidavit before the court clerk attesting to the abatement, the city attorney may recommend to the municipal court that charges be dropped.

SECTION 8-410 REMOVAL OF MOTOR VEHICLES FROM PROPERTY.

If the violation described in the Notice to Remove has not been remedied within the ten-day period of compliance, or in the event that a notice requesting hearing is timely filed, a hearing had, and the existence of the violation is affirmed by administrative officer or his designee, the city attorney shall institute and prosecute additional charges on a daily basis, for failure to abate the nuisance, and the city shall in the discretion of the administrative officer take possession of the junk vehicle and remove it from the premises. It shall be unlawful for any person to interfere with or hinder anyone whom the city or the administrative officer authorizes to enter upon private property for the purpose of removing a vehicle under the provisions of this chapter.

SECTION 8-411 NOTICE OF REMOVAL.

Within forty-eight (48) hours of the removal of such junk vehicle, the administrative officer or his designee shall give notice to the registered owner of the junk vehicle, if known, that the vehicle or motor vehicle was removed, that the vehicle or motor vehicle, has been impounded and stored for violation of this chapter. The notice shall give the location where the vehicle is stored and the proper procedure for redeeming the vehicle, including cost of redemption.

SECTION 8-412 DUTY OF PRIVATE CONTRACTOR.

Any private contractor who causes the vehicle to be removed pursuant to the order of any authorized city employee, shall satisfy all state laws with respect to notice and sale, prior to satisfying its towing and storage lien.

SECTION 8-413 REDEMPTION OF IMPOUNDED VEHICLES OR MOTOR VEHICLES.

The owner of any vehicle or motor vehicle impounded under the provisions of this chapter may redeem such vehicle or motor vehicle at any time after its removal, but prior to the sale or

destruction thereof, upon proof of ownership and payment to the private contractor of such sum as may be determined to be the actual and reasonable expense of removal plus storage.

SECTION 8-414 PENALTY; CONTINUING VIOLATIONS.

In addition to the procedures for removal of vehicles, any person who shall violate any of the provisions hereof shall upon conviction be deemed guilty of an offense against the city. Each act in violation of any of the provisions hereof shall constitute a separate offense and may be chargeable as such. Each day's continued violation of any of the provisions hereof shall constitute a separate offense and may be punishable as such as provided in Section 1-108 of this code.

ARTICLE 5

DILAPIDATED AND UNSECURED BUILDINGS; GRAFFITI

Section 8-501 DEFINITIONS.

- A. As used in this Article:
 - 1. "Dilapidated building" means:
 - a. a structure which through neglect or injury lacks necessary repairs or otherwise is in a state of decay or partial ruin to such an extent that the structure is a hazard to the health, safety, or welfare of the general public,
 - b. a structure which is unfit for human occupancy due to the lack of necessary repairs and is considered uninhabitable or is a hazard to the health, safety, and welfare of the general public,
 - c. a structure which is determined by the municipal governing body or administrative officer of the municipal governing body to be an unsecured building, as defined by Section 8-504 of this Article, more than three times within any twelve-month period,
 - d. a structure which has been boarded and secured, as defined by Section 8-504 of this Article, for more than thirty-six (36) consecutive months, or
 - e. a structure declared by the municipal governing body to constitute a public nuisance.

2. "Owner" means the owner of record as shown by the most current tax rolls of the county treasurer.

Section 8-502 CONDEMNATION OF DILAPIDATED BUILDINGS; NOTICE REMOVAL.

The City may cause dilapidated buildings within the municipal limits to be torn down and removed in accordance with the provisions of this Article:

1. At least ten (10) days' notice that a building is to be torn down or removed shall be given to the owner of the property before the hearing provided for herein may be held. 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 mailer. However, if neither the property owner nor mortgage holder can be located, notice may be given by posting a copy of the notice on the property, or by publication, as defined in Section 1-102 of Title 11 of the Oklahoma Statutes. Such notice may be published once not less than ten (10) days prior to any hearing or action to be taken pursuant to the provisions of this Section; or

2. The City Manager or his designee ("zoning officer") is hereby designated by the City Council to carry out the duties of the City Council specified in this Article. A hearing shall be held by the zoning officer of the City 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. Pursuant to a finding that the condition of the property constitutes a detriment or a hazard and that the property would be benefitted by the removal of such conditions, the zoning officer may cause the dilapidated building to be torn down and removed. The zoning officer 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 zoning officer at the hearing, and stating that the City claims a lien in the property for the destruction and removal costs and that such costs are the personal obligation of the property owner from and after the

date of filing of the notice. The agents of the City are granted the right of entry on the property for the performance of the necessary duties as a governmental function of the municipality if the work is not performed by the property owner within the dates fixed by the zoning officer. The property owner shall have the right of appeal to the City Council from any order of the zoning officer. 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 8-503 DETERMINATION OF COSTS, LIEN; MISCELLANEOUS

A. The zoning officer shall determine the actual cost of the dismantling and removal of dilapidated buildings and any other expenses that may be necessary in conjunction with the dismantling and removal of the buildings, including the cost of notice and mailing. The City Clerk shall forward a statement of the actual cost attributable to the dismantling and removal of the buildings and a demand for payment of such costs, by mail to the property owner. In addition, a copy of the statement shall be mailed to the mortgage holder at the address provided in Section 8-502. 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 mailer. 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.

B. When payment is made to the City for costs incurred, the City Clerk shall file a release of lien, but if payment attributable to the actual cost of the dismantling and removal of the buildings is not made within six (6) months from the date of the mailing of the statement to the owner of such property, the City Clerk shall forward a certified statement of the amount of the cost to the county treasurer 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 the time of collection, the county treasurer shall collect a fee of Five Dollars (\$5.00) for each parcel of property. At any time prior to collection as 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.

C. Nothing in the provisions of this Article shall prevent the municipality from abating a dilapidated building as a nuisance or otherwise exercising its police power to protect the health, safety, or welfare of the general public.

D. The officers, employees or agents of the City shall not be liable for any damages or loss of property due to the removal of dilapidated buildings performed pursuant to the provisions of this Article or as otherwise prescribed by law.

E. The provisions of this Article shall not apply to any property zoned and used for agricultural purposes.

Section 8-504 BOARDING AND SECURING DILAPIDATED BUILDINGS, PROCEDURE, NOTICE.

A. After a building has been declared dilapidated, as provided in this Article, and before the commencement of the tearing and removal of a dilapidated building, the City Council may authorize such a building to be boarded and secured. However, if the dilapidated building is vacant and unfit for human occupancy, the City may authorize the structure to be demolished pursuant to this Article.

B. The City may cause the premises on which an unsecured building is located to be cleaned of trash and weeds in accordance with Article 1.

C. The zoning officer is hereby designated by the City Council to carry out the following duties of the City Council. The zoning officer may cause an unsecured building to be boarded and secured in accordance with the following procedures:

1. Before the City orders such action, at least ten (10) days's notice that such unsecured building is to be boarded and

secured shall be given by mail to any property owners and mortgage holders as provided in Section 8-502. At the time of mailing of notice to any property owner or mortgage holder, the City Clerk shall obtain a receipt of mailing from the postal service, which receipt shall indicate the date of mailing and the name and address of the mailee. A copy of the notice shall also be posted on the property to be affected. However, if neither the property owner nor mortgage holder can be located, notice may be given by posting a copy of the notice on the property or by publication as defined in 11 O.S. Section 1-102. Such notice shall be published one time, not less than ten (10) days prior to any hearing or action by the City or zoning officer pursuant to the provisions of this Section. If a municipal governing body anticipates summary abatement of a nuisance in accordance with subsection C.9. 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 municipal governing body; that the costs of such boarding and securing shall be assessed against the owner; and that a lien may be imposed on the property to secure such payment, all without further prior notice to the property owner or mortgage holder.

2. The owner of the property may give his written consent to the City authorizing the boarding and securing of such unsecured building and to the payment of costs incurred thereby. By giving the written consent, the owner waives any right the owner has to a hearing by the City Council;

3. If the property owner does not give his written consent to such actions, a hearing may be held by the City Council to determine whether the boarding and securing of the 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 Article 1. In making such determination, the City Council shall apply the following standard: the City Council may order the boarding and securing of the unsecured building when the boarding and securing thereof would make such building less available for transient occupation, decrease a fire hazard created by such building, or decrease the hazard that such building would constitute an attractive nuisance to children. Upon making the required determination, the municipal governing body may order the boarding and securing of the unsecured building.

4. After the City Council orders the boarding and securing of the unsecured building, the City Clerk shall immediately file

a notice of lien with the county clerk describing the property, stating the findings of the City at the hearing at which such building was determined to be unsecured, and stating that the City claims a lien on the property for the costs of boarding and securing the building and that such costs are the personal obligation of the property owner from and after the date of filing the notice;

5. Pursuant to the order of the City Council, the agents of the City are granted the right of entry on the property for the performance of the boarding and securing of the building and for the performance of all necessary duties as a governmental function of the City;

6. After an unsecured building has been boarded and secured, the City Council 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 the 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 to any property owners and mortgage holders as provided in Section 8-503. At the time of mailing of the statement of costs to any property owner or mortgage holder, the City Clerk shall obtain a receipt of mailing from the postal service, which receipt shall indicate the date of mailing and the name and address of the mailee. If the City boards and secures any dilapidated building, the cost to the property owner shall not exceed the actual cost of the labor, materials and equipment required for the performance of such actions. If such actions are done on a private contract basis, the contract shall be awarded to the lowest and best bidder.

7. When payment is made to the 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 dilapidated building is not made within thirty (30) days from the date of the mailing of the statement to the owner of such property, the City Clerk shall forward a certified statement of the amount of the costs to the county treasurer of the county in which the property is located. The costs shall be levied on the property and collected by the county treasurer as are other taxes authorized by law. The costs and the interest thereon shall be the personal obligation of the property owner from and after the date the notice of unsecured building and lien is filed with the county clerk. In addition the costs and the interest thereon shall be a lien against the property from the date the notice of the lien is filed with the county clerk. The lien shall be coequal with the lien of ad valorem taxes and all other taxes and special assessments and shall be prior and

superior to all other titles and liens against the property. The lien shall continue until the costs and interest are fully paid. At any time prior to collection as provided for in this paragraph, the municipality 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 municipal clerk shall forward to the county treasurer a notice of such payment and shall direct discharge of the lien.

8. The property owner or mortgage holder shall have a right of appeal to the City Council from any order of the zoning officer. 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.

9. If the City 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 Clerk 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 subsection 1 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 subsection 7.

10. The City Council may determine that a building is unsecured and order that such building be boarded and secured in the manner provided for in this Section even though such building has not been declared, by the governing body, to be dilapidated.

11. For the purposes of this subsection:

- a. "Boarding and securing" or "Boarded and secured" means the closing, boarding or locking of any or all exterior openings so as to prevent entry into the structure,
- b. "unsecured building" shall mean any structure which is not occupied by a legal or equitable owner thereof, or by a lessee of a legal or

equitable owner, and into which there are one or more unsecured openings such as broken windows, unlocked windows, broken doors, unlocked doors, holes in exterior walls, holes in the roof, broken basement or cellar hatchways, unlocked basement or cellar hatchways or other similar unsecured openings which would facilitate an unauthorized entry into the structure, and

- c. "unfit for human occupancy" means a structure that due to lack of necessary repairs is considered uninhabitable and is a hazard to the health, safety, and welfare of the general public.

Section 8-505 OTHER POWERS.

Nothing in the provisions of this Article shall prevent the City from abating an unsecured dilapidated building as a nuisance or otherwise exercising its police power to protect the health, safety, or welfare of the general public.

Section 8-506 EXCEPTION.

The provisions of this Article shall not apply to any property zoned and used for agricultural purposes.

Section 8-507 REMOVAL OF GRAFFITI.

A. The City may cause graffiti to be removed from property within the City limits in accordance with the following procedures:

1. The property owner and the tenant, if any, may give their written consent to the City authorizing removal of the graffiti. By giving such written consent, the owner and the tenant each waives the right to notice and a hearing by the City as otherwise required by this Section;

2. If the consent of the property owner and the tenant, if any, to remove graffiti from the property cannot be obtained, the City may remove the graffiti without such consent pursuant to the procedures set forth in this Section;

3. To remove graffiti from property without the consent of the property owner and the tenant, if any, at least ten (10) days' notice shall be given by mail directed to the address shown by the current year's tax rolls in the county treasurer's office. Notice to the tenant, if any, shall be given by mail directed to the property address. The notice shall order the

property owner and the tenant, if any, to remove graffiti from the property and shall further state that unless such work is performed within twenty (20) days of the date of the notice the work shall be done by the City. At the time of mailing of notice to the property owner and the tenant, if any, 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(s). In addition, notice shall be given by posting a copy of the notice on the property at least one time not less than ten (10) days prior to any hearing or action by the City. If the City Council anticipates summary abatement of graffiti in accordance with the provisions of this Section, the notice shall state that any accumulations of graffiti on the property occurring within one (1) year from and after the date of the notice may be summarily abated by the City without a hearing and further prior notice to the property owner or the tenant, if any, except by posting of notice at least one time on the property once not less than two (2) business days prior to such summary abatement.

4. A hearing may be held by the City Council to determine whether the accumulation of graffiti on the property has caused the property to become detrimental or a hazard to the health, safety, or general welfare of the public and the community;

5. Upon finding that the condition of the property constitutes a detriment or hazard, and that the property, the public, and the community would be benefitted by removal of such conditions, the agents of the City are granted the right of entry onto the property for the removal of the graffiti thereon and for performance of the necessary duties as a governmental function of the City.

6. The City hereby designates the zoning officer to perform the functions set forth in this Section. The property owner and the tenant, if any, shall have a right of appeal to the City Council from the decision of the zoning officer. Such appeal shall be taken by filing written notice of appeal with the City Clerk within ten (10) business days after the administrative order is rendered.

B. If a notice is given by the City to a property owner and tenant, if any, ordering graffiti to be removed from property within the municipal limits in accordance with the procedures provided for in subsection A of this Section, any subsequent accumulations of graffiti on the property occurring within a one (1) year period may be summarily abated without further prior notice to the property owner or the tenant, if any. However, prior to the summary abatement by the City, notice thereof shall be posted at least one time on the property not

less than two (2) business days prior to such summary abatement. This subsection shall not apply if the records of the county clerk show that the ownership and/or tenancy of the property was transferred after notice was given pursuant to subsection A of this Section.

C. Removal of graffiti by a City pursuant to the provisions of this Section shall be performed at the sole expense of the City. In removing the graffiti, the City shall restore the property as nearly as possible to the condition as it existed immediately prior to the graffiti being placed on the property.

D. Nothing in the provisions of this Section shall prevent the City from abating graffiti as a nuisance or otherwise exercising its police power to protect the health, safety, or general welfare of the public.

E. The City and its officers, employees or agents shall not be liable for any damages or loss of property due to the removal of graffiti performed pursuant to the provisions of this Section.

F. For the purposes of this Section:

1. "Advertising" means any letter, word, name, number, symbol, slogan, message, drawing, picture, writing, or other mark of any kind lawfully placed on property by an owner or tenant of the property, or an agent of such owner or tenant, for the purpose of promoting products or services or conveying information to the public;

2. "Graffiti" means, without limitation, any letter, word, name, number, symbol, slogan, message, drawing, picture, writing, or other mark of any kind visible to the public that is drawn, painted, chiseled, scratched or etched on a rock, tree, wall, bridge, fence, gate, building or other structure; provided, this definition shall not include advertising or any other letter, word, name, number, symbol, slogan, message, drawing, picture, writing, or other mark of any kind lawfully placed on property by an owner of the property, a tenant of the property, or by an authorized agent for such owner or tenant;

3. "Owner" means the owner of record as shown by the most current tax rolls of the county treasurer;

4. "Removal," "remove," or "removed," when used in relation to the eradication of graffiti means the act of taking graffiti off of, or masking the presence of graffiti on, a rock,

tree, wall, bridge, fence, gate, building or other structure; and

5. "Tenant" means any person shown by the records of the county clerk's office as a lessee of property, or any person lawfully in actual physical possession of property.

ARTICLE 6

ENFORCEMENT

Section 8-601 COUNTY HEALTH DEPARTMENT DESIGNATED TO ENFORCE HEALTH ORDINANCES.

Anywhere in this chapter where the word or words "health officer" are used it may be construed to mean the director of the county health department or his duly designated representative unless another person is designated by the City Council. It is the intent and purpose of the City Council to delegate the enforcement of the health ordinances of this City as set out in this Section and any such decisions rendered under this Section shall be subject to review by the governing Council upon an appeal from an offender.

Section 8-602 OBSTRUCTING HEALTH OFFICER.

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

Section 8-603 QUARANTINE; VIOLATIONS.

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

Note: Article 7 entitled "Hospital Department and Board" was repealed in its entirety by Ordinance No. 2014-05 which was approved on May 20, 2014.

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CHAPTER 9: LICENSING AND BUSINESS REGULATIONS

ARTICLE 1

OCCUPATIONAL LICENSE FEES

Section 9-101 LICENSE REQUIRED, FEE LEVIED ON CERTAIN OCCUPATIONS.

A. It is unlawful for any person to engage in, exercise or pursue any business, profession, trade, occupation, privilege or other activity for which a license is required or a license fee or tax is levied by any provision of this code or other ordinance of the City, without paying the license fee or tax and securing and possessing a valid license therefor.

B. A license fee is levied on every person engaging in, exercising, or pursuing any of the businesses, professions, trades, occupations, or privileges in this City, as may be provided by the City Council.

C. In order to receive a license under this code, every person, firm or corporation regulated pursuant to this Section is required to possess a valid and current state sales tax permit if such person, firm or corporation is a vendor subject collection of sales taxes under the sales tax code of the City and state. A copy of this permit shall be provided by the applicant for a license to the City Clerk prior to issuance of the City license.

Cross Reference: See also 3-101 et seq. on alcohol and beer licenses, 5-201 et seq. on plumbers, electricians.

State Law Reference: Municipal authority to tax and regulate occupations, 11 O.S. Section 22-106, 22-107.

Section 9-102 SEPARATE LICENSES REQUIRED.

Every person who engages in, exercises, or pursues a business, profession, trade, occupation, or privilege for which a license is required, at or from more than one place in the City, or who engages in, exercises, or pursues more than one such business, profession, trade, occupation, or privilege, shall pay the fee, and secure a separate license, for each such place or for each such business, profession, trade, occupation, or privilege.

Section 9-103 LICENSE TO BE DISPLAYED.

Every holder of a license to engage in, exercise, or pursue a business, profession, trade, occupation, or privilege, shall conspicuously display the license at all times in some part of his place of business or activity where a person who has entered the

place may readily see it; or, if he has no particular place of business or activity, shall carry the license and shall display it to any person who request to see it. In lieu of the manner of displaying such licenses provided above, when licenses are required for coin-operated music or amusement device, vending machines, and similar devices and equipment, the license may be placed on or attached to such device or equipment in such position and manner that it will be clearly visible, and shall be so placed or attached if the license so states on its face. It is unlawful to fail or refuse to display the license as required in this Section.

Section 9-104 LICENSE MAY BE REVOKED.

Any license issued by the City to any person to engage in, exercise, or pursue any business, profession, trade, occupation, or privilege, may be revoked by the City Council after adequate opportunity for a hearing.

Section 9-105 TRANSFER OF LICENSE PROHIBITED.

The assignment or transfer of licenses shall not be permitted in this City.

State Law Reference: License may not be transferred, 11 O.S. Section 22-107.

Section 9-106 DUPLICATE LICENSE.

Whenever any license to engage in, exercise, or pursue a business, profession, trade, occupation, or privilege, has been lost or destroyed without any wrongful act or connivance by the holder, the City Clerk, on application, shall issue a duplicate license for the unexpired time. Before the duplicate is issued, the holder shall make, and file with the City Clerk an affidavit that the licensee has in fact lost or destroyed the license without any wrongful act of connivance by the licensee.

Section 9-107 ISSUANCE AND EXECUTION.

The City Clerk shall issue a license required by this code or other ordinance, when the applicant has filed a proper application, therefor, paid the required tax or fee and complied with all other requirements prescribed for obtaining such license. Each such license so issued shall be signed by the Mayor and City Clerk and the corporate seal of the City shall be affixed thereto. Such license shall be in suitable form and express the purpose for which it is issued.

Section 9-108 SUBJECT TO STATE LAW AND City ORDINANCES.

All licenses shall be issued subject to the ordinances of the City and the laws of the state. No license shall be construed as authority to do or omit to do any act in violation of law or ordinance.

Section 9-109 APPEALS.

In the event any applicant shall be denied a license by the City Clerk, said applicant shall have the right to appeal to the City Council at the next regularly scheduled meeting, and said City Council shall have the right and power to overrule said denial and to issue a license.

Section 9-110 RECORDS REQUIRED FOR PAWNBROKERS

A. Every pawnbroker shall keep at his place of business a register, in which he shall record in ink an adequate description of all property purchased, taken or received by him, including any number that may be on such property, the date the transaction was made, the name, address and telephone number of the person leaving or pledging the property. He shall record the amount loaned, the interest charged and the time the loan is to come due. All entries shall be made within one hour of the transaction. The register shall be clean and legible.

B. The pawnbroker shall give without charge the person leaving or pledging the property a legible ticket containing a true copy of all entries made in the register concerning the property left or pledged.

C. The register required to be kept shall be subject to inspection at any time by any police officer of the city or sheriff or deputy sheriff of the county. Upon request, the pawnbroker shall show to such officer for inspection any article or articles taken, pledged or received unless such articles have already been disposed.

D. No pawnbroker may purchase, take or receive any property or operate a place of business on Sundays or between the hours of 9:00 p.m. and 6:00 a.m. on any day.

Section 9-113 RESERVED

ARTICLE 2

SOLICITORS AND CANVASSERS

Section 9-201 DEFINITIONS.

A. As used in this Article the terms "solicitor" or "canvasser," shall mean any individual, traveling by foot or any means whatsoever, from place to place, from building to building, from house to house, or from street to street, or contacting persons by telephone, taking or attempting to take orders for sale of goods, wares, and merchandise, personal property of every nature whatsoever for future delivery, or for services to be furnished or performed in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such sale or whether he is collecting advance payments on such sales or not.

B. As used in this Article the term "peddler" shall include the words "hawker" and "huckster" and shall mean any person who travels by foot or by any type of conveyance from place to place, or from street to street, carrying, conveying or transporting goods, wares or merchandise of whatsoever nature, offering and exposing the same for sale, or who without traveling from place to place, shall sell or offer the same for sale from any vehicle or conveyance.

C. As used in this Article, the term "itinerant merchant/transient street vendor" shall mean any person engaged in the business or occupation of selling any merchandise, products or services from a temporary indoor or outdoor location obtained from an owner or lease holder or obtained by occupying the location without permission, or by occupying a location on a street right-of-way. Itinerant merchant/transient street vendors will not include:

1. Participants in wholesale trade shows or conventions, trade fairs, or flea markets;

2. Sellers of Bibles, agricultural goods, including Christmas trees and firewood, or crafts or items made by hand;

3. Participants in fairs and convention center activities conducted primarily for amusement or entertainment;

4. Participants in residential garage sales; or

5. Individuals who maintain a permanent place of business in this state and has a registered agent therein upon whom process, notice or demand permitted by law may be made.

D. As used in this Article, the term "coupon book seller" shall mean any individual, traveling by foot or any means

whatsoever, from place to place, from building to building, from house to house, or from street to street, or contacting persons by telephone, taking or attempting to take orders for sales of coupon books which are to be used for discounts or free goods, wares, merchandise, personal property of every nature whatsoever, for future delivery, whether or not such individual has, carries or exposes for sale a sample of the coupon book for sale or whether he is collecting advance payments on such sales or not.

Section 9-202 FRAUD, ETC.

It shall be unlawful and an offense for any solicitor, peddler, itinerant merchant/transient street vendor, or coupon book seller:

1. To harass, threaten, coerce, or otherwise unreasonably apply duress to any citizen or otherwise breach the peace while attempting to perform the services of a solicitor or coupon book seller;

2. To fail to provide any goods or services which have been paid for, in full or in part;

3. To defraud, trick, cheat or otherwise mislead any person into subscribing for or purchasing any good or service when the solicitor, peddler, itinerant merchant/transient street vendor or coupon book seller knows or should know that the good or service will not be provided or delivered.

Any person denied a license may appeal to the City Council by filing notice thereof with the City Clerk within five (5) days of the denial. The City Council shall render a decision at its next regular meeting.

Section 9-203 REQUIRED.

A. No person shall engage in the business of solicitor without first having obtained a solicitor's license, except persons soliciting on behalf of public schools or educational, religious or eleemosynary institutions.

B. No person shall engage in the business of peddler without first having obtained a peddlers license, except persons peddling on behalf of public schools or educational, religious or eleemosynary institutions.

C. No person shall engage in the business of itinerant merchant/transient street vendor without first having obtained an itinerant merchant/transient street vendor's license, except persons selling on behalf of public schools or educational, religious or eleemosynary institutions.

D. No person shall engage in the business of coupon book seller without first having obtained a coupon book seller's license, except persons selling on behalf of public schools or educational, religious or eleemosynary institutions.

E. No person shall employ any person covered by subsection A or D hereof without having obtained a solicitor's business license or a coupon book seller's business license.

State Law Reference: Authority to license solicitors, 11 O.S. Section 22-106.

Section 9-204 APPLICATION.

An application for a solicitor's, peddler's, itinerant merchant/transient street vendor's or coupon book seller's license shall be sworn to and filed with the City Clerk. It shall contain the following:

1. Full name, description, birth date, and social security number of each individual applicant.

2. Address, both permanent and local.

3. Nature of business and kinds of goods to be sold, and if applicant is a farmer or truck gardener, whether said goods are produced by him on land he owns, cultivates and controls.

4. If employed by another, the name and address of applicant's employer together with a brief description of credentials showing the exact relationship.

5. Description and license number or other identification of any vehicle to be used.

6. A statement as to whether or not the applicant has been convicted of a felony, the nature of the offense and the punishment or penalty assessed therefor.

7. Verification of payment of sales tax to the Oklahoma Tax Commission.

8. Whether merchandise or goods are tax exempt and exemption from Oklahoma Sales Tax claimed.

9. The names of at least two (2) reliable property owners in the City, provided, however, for itinerant merchant/transient street vendors, two (2) reliable property owners from within the state will suffice, who will certify as to the applicant's good character and

business responsibility, or other available evidence as to good character and business responsibility of the applicant.

10. Documents from the county court clerk's office that establish that the business has complied with state law, in particular the requirements of posting bond pursuant to Title 19 of Oklahoma Statutes Section 1608. This provision is to apply only to itinerant merchant/transient street vendors.

Section 9-205 SOLICITOR'S BUSINESS LICENSE AND COUPON BOOK
SELLER'S LICENSE; APPLICATION.

An application for a solicitor's business license or a coupon book seller's business license shall be sworn to and filed with the City Clerk. It shall contain the following:

1. Name and description of applicant, and, if applicable, corporation, business or firm represented.
2. Address of applicant, both permanent and local, and, if applicable, address of corporation, business or firm represented.
3. A description of the nature and type of business to be carried on, including kinds of goods to be sold. For coupon book sellers, a copy of all contracts with merchants for delivery of goods and services. For solicitors and coupon book sellers, a copy of the sales pitch shall be furnished the City if one is to be made over the telephone.
4. Description and license number or other means of identification of automobiles or means of transportation to be used, if any.
5. The names of at least two (2) reliable property owners in the City who will certify as to the applicant's good character and business responsibility, or other available evidence as to good character and business responsibility of the applicant.
6. A statement as to whether or not the applicant or any employees of applicant have been convicted of a crime or misdemeanor or violation of any municipal ordinance and if so, the nature of the same and the punishment assessed therefor.
7. Verification of payment of sales tax to the Oklahoma Tax Commission.
8. Whether merchandise or goods are tax exempt and exemption from Oklahoma and local sales tax claimed.

9. The names, addresses and description of all solicitors and peddlers employed by applicant.

Section 9-206 INVESTIGATION AND ISSUANCE.

A. Upon receipt of the application for a solicitor's license, solicitor's business license, coupon book seller's license, or coupon book seller's business license, the chief of police shall cause such investigation of the applicant's business and moral character to be made as he deems necessary for the protection of the public.

B. If, as a result of such investigation, the applicant's character and business responsibility are found to be unsatisfactory, the chief of police shall so endorse on the application and return it to the City Clerk, and no license shall be issued.

C. If, as a result of such investigation, the character and business responsibility of the applicant are found to be satisfactory, the chief of police shall so endorse on the application and return it to the City Clerk who shall then issue the license upon payment of the required fee.

Section 9-207 FEE.

No person shall be issued a solicitor's, peddler's, itinerant merchant/transient street vendor's, coupon book seller's license, solicitor's business license or coupon book seller's business license until he pays a license fee as set forth in the City's fee schedule.

Section 9-208 EMPLOYER OF SOLICITOR OR COUPON BOOK SELLER VICARIOUSLY LIABLE FOR ACTS OF SOLICITOR OR COUPON BOOK SELLER.

For purposes of the suspension or revocation of a solicitor's business license or a coupon book seller's license, it shall be sufficient to show that any solicitor or seller in the employ of such license holder has violated any provisions of this article.

Section 9-209 TERM.

Any license issued pursuant to the terms of this article shall expire one year from the date of its issuance.

Section 9-210 DISPLAY.

Solicitors, peddler, itinerant merchant/transient street vendors and coupon book sellers employing solicitors, peddlers,

itinerant merchant/transient street vendors and coupon booksellers shall exhibit their licenses at the request of any person.

Section 9-211 TRANSFER.

No license issued under the provisions of this article shall be transferable.

Section 9-212 EXCEPTION FOR INTERSTATE COMMERCE.

If any individual, whether a solicitor, peddler, itinerant merchant/transient street vendor or coupon book seller is engaged in interstate commerce, the individual must bring in proof of the interstate commerce nature of his business to the City Clerk. The City Clerk will make a determination of whether or not the business does involve interstate commerce. If it does, a license will be issued and the fee will be waived. If not, the individual can be licensed pursuant to the licensing requirements in this chapter. A denial of the interstate commerce exception of the fee process may be appealed to the City Council.

Section 9-213 HOURS OF SOLICITATION

No solicitation shall be conducted except between the hours of 9:00 a.m. and ending at 7:00 p.m.; providing solicitation is prohibited on Sunday. Solicitations may be made where the person solicited has agreed by previous appointment for a time other than the prescribed hours.

ARTICLE 3

GARAGE SALES

Section 9-301 DEFINITIONS.

For the purpose of this chapter "garage sale," "yard sale," or "porch sale" means any collection of items of merchandise offered for sale at, inside or in the yard adjacent to a residence.

Section 9-302 NUMBER, DAYS AND SIGNS.

A garage or similar sale shall not exceed one in number for any quarter. No individual sale may exceed three (3) days in length. Advertising signs for such sales shall be limited to one sign posted on the premises and no other signs.

Section 9-303 PERMIT REQUIRED, FEE.

A. Prior to conducting a garage or similar sale within the city, the person conducting same shall be required to obtain a

permit therefore from the City Clerk. Application to conduct the garage sale shall be made to the City Clerk upon a form to be furnished by the clerk showing the individual or organization holding the sale and the address.

B. The fee for such permits shall be set by the city by motion or resolution, which shall be deemed to be in lieu of any occupation tax requiring by existing ordinance.

C. In the event that the City Clerk determines that more than one (1) garage sales, yard sales or porch sales have already been held at the proposed location within the current quarter, then no such permit shall be issued.

ARTICLE 4

TAXICABS

Section 9-401 DEFINITIONS.

For the purpose of this article, "taxicab" means any vehicle carrying passengers for hire.

Section 9-402 LICENSE REQUIRED.

No person shall operate a taxicab in the city in intra-city business without first having obtained from the City Manager a license therefore, and without having complied with all other provisions of this chapter.

Section 9-403 LICENSE FEE.

The fee for the license shall be as set by the council by motion or resolution for the first taxicab license and for each additional license. Licenses shall extend from the first day of May until the last day of April following, and full license fee must be paid for any part of the year.

Section 9-404 INSPECTION.

No vehicle shall be licensed as a taxicab until it has been thoroughly inspected by the police chief, or such other official as the City Manager shall direct, and found to be in safe, satisfactory, and sanitary condition for the transportation of passengers. All such licensed cabs shall thereafter be inspected in the same manner quarterly between the first and fifth of January, April, July and October of each year. If any vehicle licensed as a taxicab is involved in a collision or accident, notice thereof shall be given to the City Manager or to such other official as the City

Manager may direct, and an inspection shall be made of the cab before it can be again used in service. The report of all such examinations shall be filed with the City Manager.

Section 9-405 LIABILITY INSURANCE.

Upon application being granted, the applicant shall, before the license is issued, take out liability insurance, in a reliable company to be approved by the City Manager, in a sum not less than Fifty Thousand Dollars (\$50,000.00) for each taxicab licensed. The applicant must also file competent evidence with the City Manager that the policy covers the period for which a license is to be granted.

Section 9-406 NAME OF OWNER.

Every taxicab licensed under this chapter shall have the name of the owner thereof plainly painted in a conspicuous place on the taxicab in letters at least one and one-half (1 ½) inches in height.

Section 9-407 APPLICATION FOR LICENSE.

Any person desiring a license for a taxicab shall make written application therefor to the City Manager upon blanks furnished by the City Manager. The application shall contain the full name and address of the owner, the make, model and year of manufacture of the car, the engine and factory number of the same.

Section 9-408 CARD TO BE ISSUED.

Upon a license being granted, there shall be delivered to the licensee a card of such size and form as may be determined by the City Manager. Such card shall contain the official city license number of the taxicab and shall be signed by the City Manager. Licenses shall not be transferable, with the exception that a license may be transferred from one car to another of the same ownership, with the approval of the City Manager.

Section 9-409 CARD TO BE VISIBLE.

The license card above referred to shall be affixed in a place in the taxicab so that same is visible to any passenger.

Section 9-410 TAXI STANDS.

Any person obtaining a taxicab license shall be entitled to have set off two (2) parking stands or spaces where the taxicabs may stand while waiting calls or passengers. Such parking spaces shall be assigned by the City Manager, subject, however, to the person first obtaining written permission from the primary tenant of the

land immediately adjacent to the space so desired. The permission so obtained shall be renewed and refilled with the City Manager at the time of renewal of any taxicab license.

Section 9-411 CHAUFFEUR'S LICENSE REQUIRED.

No person shall drive or operate a taxicab unless the person shall have first obtained a chauffeur's license from the state.

Section 9-412 REVOCACTION OF LICENSE.

The city council, after opportunity for public hearing, may revoke any taxicab license whenever a violation of any provision of this chapter is shown.

Section 9-413 LICENSE FEE IN LIEU OF OCCUPATION TAX.

The license fee herein provided for shall be in lieu of occupation license taxes required by the city.

Section 9-414 REGULAR PLACE OF BUSINESS, TELEPHONE.

Any person obtaining a taxicab license as herein provided and doing intra-city business within the city shall be required to have a regular place of business and to maintain a telephone at that place of business.

ARTICLE 5

OIL AND GAS CODE

Section 9-501 SHORT TITLE.

This Article shall be known as the OIL AND GAS CODE and may be cited as such.

Section 9-502 INTENT AND PURPOSE.

A. Imprudent operation of an oil and gas facility, whether that facility is involved in drilling or production, can and has constituted a menace to the public health, safety and welfare of the citizens of the City, and includes:

1. The potential for serious contamination of water wells within the City;

2. A threat to the health and physical safety of children and other residents of the City who may live, work or play in the area

of operation; a disturbance of the City's peace and serenity through noxious odors, dust, and loud noises;

3. A general threat to the well being in the community through potential fire dangers, fluid spills and other damages to the surface; and

4. A threat of physical destruction of municipal facilities caused by heavy equipment.

B. It is therefore the intent and purpose of this Article to recognize the legitimate interests of oil and gas operations but to reasonably and uniformly regulate those operations in harmony with the activities and land uses within the City for the general benefit of the public good.

Section 9-503 DEFINITIONS.

A. All technical or oil and gas industry words or phrases used herein and not specifically defined in this Article shall have that meaning customarily attributable thereto by prudent operators of the oil and gas industry.

As used in this Article, the following words and terms shall have the scope and meanings hereafter defined and set out in connection with each, and this scope and meanings shall apply wherever and whenever used:

ABANDONED WELL: Any natural production well in which production casing has been run but which has not been operated for six (6) months; the term shall also mean any well in which no production casing has been run, and for which drilling operations have ceased for thirty (30) consecutive days, or which has otherwise not been developed or operated with due diligence.

COMPLETION PROCESS: Any operations conducted after the setting and cementing of the casing and after notification thereof in writing given to the City building official or his designee.

CORPORATION COMMISSION: The Oklahoma Corporation Commission.

DELETERIOUS SUBSTANCE: Any chemical, saltwater, oil field brine, waste oil, waste emulsified oil, basic sediment, fresh water drilling fluids, or injurious substances produced or used in the drilling, development, production, transportation, refining, or processing of oil, gas or condensate, and all substances used in the completion process.

DEVELOPED AREA: Any area within the corporate limits of the City and designated with a zoning classification other than

Agricultural Districts, I-1 Light Industrial District and I-2 Heavy Industrial District.

DRILLING PROCESS: Any operations from the beginning of operations until the beginning of the completion process.

ENHANCED PRODUCTION: Any secondary or tertiary operation by which potable or treated water is introduced into a source of supply for the purpose of stimulating recovery therefrom.

INSPECTOR: Any person designated by the City Manager to make inspections provided for in this Article, whether or not other duties are additionally assigned.

LEASE: Any tract of land subject to an oil, gas or mineral lease or other oil and gas development contract, or any unit composed of several tracts and leases but operated as a single lease; and any tract of land in which the minerals are owned by an operator or someone holding under him, which, due to the royalty ownership, is developed as a separate tract.

MUD PROGRAM: The planned usage of drilling fluid lubricants (also known in the industry as "mud"), specifying with particularity the type, names, physical and chemical composition, and the characteristics of all ingredients thereof, together with such laboratory and other technical data as may be necessary or required by the City to evaluate the same as a potential source of pollution.

NATURAL PRODUCTION: The raising of petroleum and/or natural gas to the surface of the earth by natural flow.

NONDELETERIOUS SUBSTANCE: Only nontoxic and nonpolluting water based drilling fluids and solids.

PERMITTEE: The person to whom is issued a permit under the terms of this Article.

PERSON: Shall include both the singular and plural; and shall also mean and include any individual, firm, partnership, association, corporation, club, society, cooperative, trust, municipal corporation, or political subdivision regardless of form. When and after activity or omission is forbidden to a person, that activity or omission is forbidden whether the person is acting for himself or for another, and whether the activity or omission is performed directly or through an agent, servant, employee, subcontractor, or independent contractor.

POLLUTION: The contamination or other alteration of the physical, chemical, or biological properties of any natural waters

of the City or lands within the City; or such discharge of any liquid, gaseous, or solid substance into any water of the City or upon any lands within the City as will or is likely to create a nuisance or render such waters or such lands harmful or detrimental to public health, safety or welfare; or which will render such waters or such lands harmful or detrimental to domestic, commercial, industrial, agricultural, recreational, or other beneficial uses; or which will render such waters or such lands harmful or detrimental to livestock, animals, or aquatic life.

WATER OR WATER OF THE CITY: All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, irrigation systems, and all other bodies or accumulations of water whether on the surface or underground, whether natural or artificial, whether publicly or privately owned or maintained, and which are either contained within, flow through, or border upon the City or any portion thereof.

WELL: Shall include and mean any hole or holes, bore or bores, to any sand, formation, strata, or depth for the purpose of producing and recovering any petroleum, oil, gaseous liquid hydrocarbon, or any other liquefied matter or gaseous matter.

Section 9-504 APPLICABILITY TO EXISTING CONDITIONS.

This Article and all amendments hereto shall apply to any person drilling an original well, reentering an abandoned well, or maintaining a well within the City on or after October 15, 2008. Every person whose activity preexists October 15, 2008, shall be exempt from all of the requirements of this Article.

Section 9-505 ENFORCEMENT.

A. Enforcement Officials: The City Manager and his duly authorized representatives, including the chief of the fire department, the fire marshal, the City engineer, and the building official, shall enforce the provisions of this Article, and shall have all of the power and authority granted by law to peace and health officers.

B. Right Of Entry: Enforcement personnel may enter the leased premises for any purpose pursuant to this Article at all reasonable times to inspect same or to perform any duty imposed by this Article. No person having an ownership interest in, or control of, the leased premises shall fail or neglect to permit prompt entry, after proper demand, to the site of the oil and gas operations.

Section 9-506 PERMIT REQUIREMENTS.

A. Permit Required; Transfer Of Permit:

1. No person shall engage in or authorize any work or erect any structures, tanks, machinery, pipelines, or other appurtenances incident to the drilling of a well or drilling for or production of petroleum, natural gas, or their products; nor operate, maintain, or permit any equipment, structures or appurtenances incident to such production to exist or be maintained; nor allow any flow therefrom, without a permit having first been issued by the City in accordance with this Article.

2. A permit is transferable to the person who acquires the legal right to produce oil or gas from the well in question, but notices served upon the record permittee shall be binding upon the transferee until such time as the transferee designates a new service agent. The transferee shall notify the City in writing of the name and address of transferee and his service agent within ten (10) days of the effective date of the transfer.

B. Application and Filing Fee:

1. Every application for a permit to drill and operate a well, including a reentry to an abandoned well, shall be verified under oath and in writing, and signed by the applicant or some duly authorized person who may sign on the applicant's behalf.

2. The application shall be filed with the building official and be accompanied with a filing fee in the amount of \$1500.00 in cash, money order, or certified check.

3. A separate application shall be required for each well.

4. The application shall include the following:

a. Name and address of applicant.

b. Name and address of operator.

c. Date of application.

d. Legal description of the land.

e. Block map of the forty (40) acres surrounding the drill site, showing thereon the location of the proposed well in the center of the forty (40) acres and the location of all abandoned wells, all structures designed for the occupancy of human beings or animals, all easements of record, property boundaries, private roads to the well, all publicly owned fresh water wells within the forty (40) acres, and all facilities and equipment proposed to be used with the well. The map shall show the distances between the drill site and these items, and show a north arrow.

f. Name and address of the surface owners as shown by the tax rolls maintained in the county where the land is located, and of the mineral owners if different from the applicant.

g. Copy of the approved drilling permit from the state corporation commission and a copy of the staking plat.

h. Drilling prognosis, to specify in detail the amount, weight, and size of conductor pipe and surface pipe, and the procedures to be used for cementing such. Plugging procedures to be used in the event the production is not established shall also be specified.

i. Statement of provisions for water for the drilling rig and the mud program to be utilized.

j. Name and address of the service agent within the state upon who service of process on behalf of the applicant may be made. In the case of a nonresident person, there shall be attached to the application a designation of a service agent who is a resident of the county, and a consent that service of summons may be made upon such person in any action to enforce any of the obligations hereunder.

k. A site plan with a specified scale showing the location of all structures, equipment, and appurtenances on the drilling site.

l. The proposed depth of the well.

m. Location of mud pits, pollution prevention equipment, and fire equipment, together with a list of this equipment.

n. A written plan for disposal of deleterious substances produced during the drilling operations and any deleterious substances produced as a result of production from the well. This plan shall include the method of transportation for the deleterious substances and the name and location of the permitted disposal site, including a copy of the permit for the disposal site and a contract with the owner of the permitted site for the disposal of said deleterious substances; or in the alternative, provide proof of ownership of the permitted disposal site. The permittee shall provide monthly reports to the City of the amount of saltwater and other deleterious substances produced along with receipts for disposal of same.

C. Issuance; Conditions: The building official, within thirty (30) days after the filing of application for a permit to drill and operate a well, shall determine whether or not said application complies in all respects with the provisions of this Article. Each permit issued under this Article shall:

1. Comply with all provisions of this Article.

2. Specify that the term of such permit shall be for a period of one year from the date of the permit, and for as long thereafter as the permittee is engaged in drilling operations with no ceasing of such drilling operations for more than thirty (30) days, or oil and gas is produced in commercial quantities from the well drilled pursuant to such permit; provided, that if at any time after discovery of oil or gas and the production thereof in commercial quantities, such production shall cease, the term shall not terminate if the permittee commences additional reworking operations within ninety (90) days thereafter. If the reworking operations result in the production of oil and gas, the permit shall continue so long thereafter as oil and gas is produced in commercial quantities from said well. In any event, continuation beyond one year from the date of issuance is contingent on renewal of the permit as set forth hereafter.

D. Termination: When a permit has been issued pursuant to this Article, the same shall terminate and become inoperative without any action on the part of the City, unless, within ninety (90) days of the date of issuance, actual drilling of the well commences. If drilling operations or production cease for a period sufficient to make the well an "abandoned well", this abandonment shall operate to terminate and cancel the permit without any action on the part of the City, and it shall be unlawful thereafter to continue the operation of, or drilling of, such a well without the issuance of a new permit.

E. Renewal; Filing Of Application:

1. At least thirty (30) days prior to the anniversary of the issuance of the permit pursuant to this Article, the City clerk shall mail by certified mail a ratification to permittee that such permit must be renewed in accordance with the provisions of this subsection.

2. On or before the anniversary of the issuance of the permit each year, the permittee shall file an application for renewal of the base permit previously granted. Such application shall include the following:

a. Cash, money order or certified check as a renewal fee in the amount of \$750.00.

b. A statement of amendments as to any factual issues which have changed from the facts set forth in the initial application.

c. As to wells which were drilled during the previous year, a statement as to whether or not the well has been converted to production, and if so, identifying the strata of production.

d. Evidence that all bonds and insurance remain in force, or have been replaced with equivalent new bonds and insurance.

3. The application for renewal may be submitted through the mail or in person. Failure to make the required application for renewal shall suspend all rights to drill, produce, or inject, but shall not be construed to terminate the base permit until after the time required to make the well an abandoned well, and all such operations are offenses and forbidden until the renewal is issued.

4. The City shall notify the permittee by letter within thirty (30) days thereafter that the base permit has been extended, or that the base permit has not been extended, for a period of one year. This notice of extension shall be maintained by the permittee with the permit and used as a supplement thereto for all purposes. In the event the permit is not renewed, the permittee shall immediately cease all drilling and production operations and diligently proceed to plug the well.

Section 9-507 INSURANCE AND BOND.

A. Bond Requirements; Amounts; Conditions:

1. In the event a permit is authorized by the City under the terms of this Article for the drilling and operation of a well, no actual drilling operations shall be commenced until the permittee files with the City clerk a bond or standby letter of credit by a federally insured bank in the principal amount of at least fifty thousand dollars (\$50,000.00) per well or a two hundred thousand dollar (\$200,000.00) blanket bond or standby letter of credit by a federally insured bank on all wells operated by a single operator.

2. Said bond or letter of credit shall be executed by a reliable insurance company authorized to do business in the state as surety with the permittee as principal, said bond or letter of credit running in favor of 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 Article in the operation of the well for either natural or artificial production, injection or disposal.

3. Said bond or letter of credit shall become effective on or before the same is filed with the City and remain in force and effect for a period of at least one year after the expiration of the term of the permit issued.

4. In addition, the bond or letter of credit will be conditioned that the permittee:

a. Will promptly pay all fines, penalties and other assessments imposed upon the permittee by reason of the breach of any other terms, provisions and conditions of this Article;

b. Will promptly restore to their former condition the streets, sidewalks and other public property of the City, which may be disturbed or damaged by the operations;

c. Will promptly clear the premises of all litter, trash, waste, and the substances used, allowed or occurring in the drilling or production operations;

d. Will (after drilling operations are complete) grade, level, and restore said property to the same surface condition as nearly as possible, as existed when operations for the drilling of the well was first commenced;

e. Will comply with every applicable federal and state law, municipal ordinance, rule, regulation, standard or directive relating to the maintenance of the safe and beneficial physical, chemical, and biological properties of any waters of the City or lands within the City;

f. Will bear all the costs necessary and incidental to the correction of any pollution to the waters of the City or lands within the City caused by the permittee or his agents, servants, employees, subcontractors, or independent contractors; and

g. Shall indemnify and hold the City harmless from any and all liability attributable to granting the permit.

B. Public Liability Insurance; Conditions: In addition to the bond or letter of credit required above, the permittee shall carry a policy or policies of standard comprehensive public liability insurance, and such policies shall:

1. Contain coverage for contamination or pollution of surface or subterranean streams, watercourses, lakes, or public or private water supplies.

2. Be conditioned for payment of all damages due to injury to persons or damage to property resulting from the drilling, operation, or maintenance of the proposed well or any structure, machinery, equipment, pipelines, or appurtenances used in connection therewith.

3. Name the permittee and the City as coinsured.

4. Be issued by an insurance company authorized to do business within the state, and said policy or policies shall in the aggregate provide for minimum coverage of one million dollars (\$1,000,000.00) combined single limit.

C. Certificates Filed With City; Notice Of Cancellation:

1. The permittee shall file with the City clerk, certificates of said insurance, bond or letter of credit.

2. Said insurance policy or policies, bonds or letters of credit shall not be canceled without actual written notice received by the City clerk at least ten (10) days prior to the effective date of said cancellation. In the event said insurance policy or policies are canceled, the permit granted shall terminate immediately, and permittee's rights to operate under said permit shall cease immediately until permittee files additional insurance as provided herein. Further, if said insurance policy or policies are canceled or allowed to expire, the building official shall notify the electric company of the violation, and service to all wells not conforming shall be discontinued immediately. For other wells (not electric) an injunction will be filed immediately.

D. Cash Bond And Agreement: The permittee may satisfy the bond or letter of credit requirement as set out in subsection A of this section by furnishing the City with a two hundred thousand dollar (\$200,000.00) cash bond which shall be governed by an agreement between the permittee and the City. Said agreement and cash bond shall be conditioned by all the terms of this section.

Section 9-508 ENHANCED PRODUCTION WELLS; DISPOSAL WELLS PROHIBITED.

A. Disposal Wells Prohibited: No person shall drill any well for disposal, nor shall any person convert any well to a disposal well.

B. Enhanced Production Wells; Permit Requirements:

1. No person shall drill any well for enhanced production, or convert any well to a use for enhanced production without first applying for a permit in the same form as that required by Section 9-506 of this Article in applying for a permit to drill an original well.

2. If a permit for an enhanced production well is granted, all domestic and public water supply wells located within a radius of one-fourth (1/4) mile of any enhanced recovery well shall be tested prior to beginning injection, and thereafter annually, for the presence of deleterious substances such as chlorides, sulphates and dissolved solids.

3. Such testing is the responsibility of the permittee and, at permittee's expense, to be conducted by a person approved by the building official. Said building official shall be notified within five (5) days in advance of such testing and may be present therefor. Test results shall be filed with the City upon completion. If the permittee is unable to comply with the required tests, the permittee shall submit a written statement specifying the reasons for noncompliance.

Section 9-509 COMMENCEMENT OF DRILLING OPERATIONS.

Prior to the commencement of drilling operations upon a well site, written notice must be given to the building official and his approval must be obtained.

Section 9-510 DERRICKS AND RIGS.

A. General Requirements:

1. It shall be unlawful for any person to use or operate in connection with the drilling or reworking of any well within the City, any wooden derrick or any steam powered rig; or to permit any drilling rig or derrick to remain on the premises or drilling site for a period longer than sixty (60) days after completion or abandonment of the well.

2. All engines required for operations after the well has been completed as a producing well shall be electrically powered by electricity produced by a regulated public utility.

3. All rigs must be of a type using mud as a drilling fluid.

4. The permittee shall keep a watchman on duty on the premises at all times during drilling and/or completion operations from the start of the erection of the derrick, or a mast, or gin pole, until the well is abandoned and plugged, or completed as a producing well and enclosed within a fence as required hereafter; provided, that it shall not be necessary to keep an extra watchman on duty on the premises when other workmen of the permittee are on the premises.

B. Height: Derrick heights shall not exceed the maximum allowable limit within the airport restriction zones of Fairview Municipal Airport.

Section 9-511 MUD AND RESERVE PITS.

All mud pits used to circulate fluids in and out of the hole during drilling, reworking or completion procedures shall be made of steel. Pits used only as reserve shall be permitted to be earthen

pits, fully lined with plastic, at least six (6) mils thick, into which only nondeleterious substances may be disposed. Deleterious substances may only be disposed of in a steel reserve pit. Both deleterious and nondeleterious substances shall be removed to a proper disposal facility within fifteen (15) days after completion of the well. Said disposal facility shall be one which is approved for disposal by the state corporation commission. No earthen or steel reserve pit shall be located within six hundred sixty feet (660') of any developed area, park, school, church, public building, or place of public assembly.

Section 9-512 DISPOSAL OF DELETERIOUS SUBSTANCES.

A. Pollution; Environmental Hazards: Disposal of deleterious substances shall not result in pollution of the waters or of the lands within the City, shall not result in any other environmental hazard, and shall incorporate the best available techniques and equipment.

B. Hazardous Substance Spill; Notice; Remedial Action: In the event of any leakage or spillage of any pollutant or any deleterious substance, whatever the cause thereof, the permittee shall promptly notify the county health department and the code enforcement department of the City. If, in the judgment of the health department, such leakage or spillage represents a potential environmental hazard, said department may issue whatever corrective orders it deems appropriate, and, in addition, may require appropriate testing of the surface and subsurface for pollution, the costs of such test or tests to be borne by permittee.

C. State Rules And Regulations Adopted: Unless modified herein, the general rules and regulations of the oil and gas conservation division of the state corporation commission are hereby adopted by reference and have the same force and effect as if set forth at length herein. Not less than three (3) copies are now filed in the office of the City Clerk.

Section 9-513 CASING.

A. Notice; City Approval: Written notice must be given to the building official and his approval obtained prior to the installation of any surface casing.

B. Installation Requirements:

1. Surface casing shall be installed to a depth at least four hundred feet (400') below the surface or a depth of two hundred feet (200') below treatable water strata found within a one mile radius of the well site, whichever is deeper.

2. Surface pipe shall have a centralizer on the shoe joint, a centralizer within fifty feet (50') of the shoe joint, and centralizers no more than one hundred feet (100') apart above the second centralizer.

3. Such surface casing must be set as soon as the proper depth for the casing has been drilled and said operation shall not cease until the casing is set.

4. No drilling to production strata shall be done until after the casing operation is complete.

C. Cementing of Surface Casing: Surface pipe shall be cemented by attempting to circulate good cement to the surface by normal displacement practices with sufficient cement to completely fill all the annular space behind such casing, to the surface of the ground. If cement cannot be circulated to the surface, the existing cement shall not be over-displaced and a plug shall be left in the bottom of the casing string to be drilled out once the surface is set. The remaining open hole behind the surface pipe shall be cemented by running a tubing string between the conductor string and the service pipe until the top of the cement is tagged. The remaining uncemented annular space shall then be cemented until good cement is circulated to the surface. Cementing of this surface casing shall be performed as soon as the depth described in subsection B of this section is reached, and prior to drilling the well to deeper foundation.

D. Pressure Testing: After completion of the cementing of surface casing, such cement shall be allowed to set for at least twelve (12) hours. After such twelve (12) hours, blowout preventer shall be installed. The casing shall be tested to one thousand (1,000) pounds per square inch for a period of thirty (30) minutes. Drilling out operations shall not commence until after completion of pressure test.

E. Cold Water Test: All casing, including surface protection and production strings, shall be either seamless steel or equivalent quality oil well casing. Each production string or casing must comply with the API standards as to internal pressure yield strength. Each joint and length of each particular casing string shall have unconditionally passed a complete cold water test prior to setting.

Section 9-514 VALVES AND BLOWOUT PREVENTERS.

No well shall be drilled within the City limits without properly equipping the surface casing when set with at least one master valve, and without properly equipping the production casing when set with at least one master valve and one fluid operated ram-

type blowout preventer; and without properly equipping the production casing during completion operations and work over operations with at least one master valve and one fluid operated ram-type blowout preventer. On each well drilled, a valve cock or kelly cock shall be installed on the kelly used. Each blowout preventer shall test one thousand (1,000) pounds, and its mechanical operation shall be tested to ensure proper and safe operation. All control equipment shall be in good working condition and order at all times.

Section 9-515 DRILL STEM TESTS.

All drill stem tests in connection with the drilling or reworking operations of any well within the City limits shall be conducted during daylight hours. During the test, the well effluent which is produced must not be allowed to spill upon, flow across, or otherwise be allowed to cause pollution to the waters of the City on the land within the City. Adequate advance notice to the City shall be required to enable a City representative to be present and observe.

Section 9-516 BRADENHEAD.

Each well drilled within the City limits shall be equipped with a bradenhead with the working pressure of not less than the pressure which a prudent operator would expect under the conditions known. The bradenhead shall not be welded except to surface pipe. Bradenheads installed on the surface casing shall be equipped with fittings having a working pressure rating of not less than the pressures which a prudent operator would expect under the conditions known. The bradenhead pressure shall be checked at least once each calendar month, and if pressure is found to exist, proper remedial measures shall be immediately taken to eliminate the source and the existence of the pressure.

Section 9-517 CHRISTMAS TREE AND WELL HEAD CONNECTIONS.

A. Pressure Standards: The Christmas tree and well head connections on each well drilled within the City limits shall have at least a minimum working pressure and a minimum test pressure which meets or exceeds the highest of the following three (3) standards:

1. State corporation commission regulations for wells of the applicable depth;

2. Environmental protection agency regulations for wells of the applicable depth;

3. The standards which would be used by a prudent operator for a well of the applicable depth.

B. Safety Valve: In the event the surface shut-in pressure of any well within the City limits exceeds two thousand (2,000) pounds per square inch, the flow wing of the Christmas tree shall be equipped with an automatic closing and safety valve in addition to the regular valves.

Section 9-518 GASEOUS DISCHARGES TO ATMOSPHERE.

No gaseous discharges to the atmosphere will be permitted from any producing well. The permittee shall use well maintained and adequate equipment on site to gather any such gaseous discharge and prevent its being vented to the atmosphere during the collection process, storage process, or transportation within the City limits. Flaring will be permitted for testing purposes and as needed to complete the well; however, commencing ninety (90) days after drilling operations on the well cease, no flaring of gas will be permitted. All such gas must be captured, and reinjected or collected in a low pressure system.

Section 9-519 PREMISES KEPT CLEAN AND SANITARY.

A. Removal Of Rubbish: The premises shall be kept in a clean and sanitary condition, free from rubbish of every character, to the satisfaction of the health officers of any public body, at all times drilling operations or reworking operations are being conducted, and as long thereafter as oil or gas is being produced therefrom.

B. Storage Of Pipe, Equipment: The well site shall not be used for the storage of pipe, equipment (except for that equipment required for safety purposes), or materials, except during the drilling or servicing of the well or of the production facilities.

C. Closing Of Open Holes: All open holes excavated during drilling or completion operations shall be closed when operations are completed or the well is abandoned.

Section 9-520 MOTIVE POWER AND MUFFLERS.

The motive power for all operations after completion of drilling operations shall be electricity produced off site.

Section 9-521 STORAGE TANKS.

A. Use Restricted: No person shall use, construct, or operate in connection with any producing well within the City limits any crude oil storage tanks, except to the extent of three (3) steel or fiberglass tanks for oil or water storage, not exceeding five

hundred (500) barrels' capacity each, and so constructed and maintained as to be vapor tight or otherwise properly vented. Any steel or fiberglass tanks used shall be painted an earth-tone color and shall show no visible rust, corrosion or deterioration.

B. Fire Wall: Each tank shall be surrounded by an earthen fire wall at such distance from the tanks as will, under any foreseeable circumstances, hold and retain at least one hundred fifty percent (150%) of the maximum capacity of such tank.

C. Steel Conventional Separator: The permittee may use, construct, and operate a steel conventional separator, and such other steel tanks and appurtenances as are necessary for treating oil, with each of such facilities to be so constructed and maintained as to be vapor tight. Each oil/gas separator shall be equipped with both a regulation pressure release safety valve and a bursting head and shall be vented into a vessel of sufficient capacity to contain any discharge.

D. Location: No such tanks may be located within One Thousand Feet (1000') of a residence on a platted lot or parcel of land; or within three hundred feet (300') of any building or structure not owned by the permittee, or permittee's employees and contractors; or within One Thousand Feet (1000') of a fresh water well, unless said well is owned by the permittee or leaseholder of the drilling site and/or was drilled by the permittee for utilization in the drilling or production process.

Section 9-522 FENCING, LANDSCAPING.

A. Fencing Requirements:

1. Any person who completes any well for production shall enclose said well, together with all surface facilities and storage tanks and any other facilities and appurtenances thereto, by a substantial fence properly built so as to ordinarily keep persons and animals out of the enclosure.

2. All gates thereto shall be kept locked when the permittee or his employees are not within the enclosure.

3. Nothing herein mandates all such facilities be within the same fenced area and the City Manager or his designate shall be authorized to approve any plan which he believes ordinarily protects persons and animals from danger.

4. Said fence must be erected within ten (10) days after the completion of the well.

B. Screening Requirements: Screening shall be required in areas of operation which are in any developed area or within one thousand feet (1,000') of any developed area, park, school, church, public building or place of public assembly. Landscaping shall include screening by a fenced enclosure of at least eight feet (8') in height and constructed of one of the following materials:

1. A solid masonry wall.

2. A chainlink fabric with three and one-half inch (3 1/2") mesh interwoven with redwood slats or other opaque materials for use with chainlink fabric when such materials are compatible with surrounding uses and effectively screen the oil operation.

3. Any other material, including trees and shrubs, compatible with surrounding uses, which effectively screen the oil operation site.

4. All fencing, masonry walls, redwood slatting, or other comparable materials for use with chainlink fabric, shall be of a solid neutral color, compatible with surrounding uses, and maintained in a neat, orderly, secure condition. Neutral colors shall include sand, grey, and unobtrusive shades of green, blue and brown.

C. Setbacks: Minimum setbacks for all screening shall in no case be less than twenty five feet (25') from the ultimate right of way of any public street as defined in the transportation plan of the City.

D. Screening Plan Submittal; Approval:

1. Prior to the issuance of any permit, a screening plan which meets the requirements of this Article shall be submitted for review and approval by the City Manager or his designate.

2. Within sixty (60) days after completion of drilling or redrilling, or within sixty (60) days after conversion of an abandoned well, any oil operation site in an area as described in subsection A of this section shall be landscaped in conformance with the plan, as approved, and the specification contained in this Article.

Section 9-523 MOVEMENT OF HEAVY EQUIPMENT.

A. Written Permission Required: No person shall move or cause to be moved over or across any paving or paved street or alley within the City, any piece of machinery of extreme weight which exceeds the design limits of such pavement without first having obtained express written permission from the City engineer.

B. Movement Regulated: Heavy equipment or vehicles used in the actual transportation of oil, gas, or deleterious substances shall only be moved or caused to be moved upon "arterial streets" as defined in the adopted transportation plan of the City, or upon private roads, or upon written approval from the City engineer.

C. Surfacing Of Private Roads; Exception: Prior to the commencement of any drilling operations, all private roads used for access to the drill site and the drill site itself shall be surfaced at least with crushed rock, gravel, or oiled and maintained to prevent dust and mud, except that such provisions shall not apply if such access road intersects with any unpaved road.

D. Cleaning Trucks, City Roads: All trucks, equipment, or other vehicles used in connection with any operations on the drill site shall be cleaned prior to moving on any roads in the City. Furthermore, operators of such trucks, equipment or other vehicles and the operator of any drill site shall clean any road in the City upon which such trucks, equipment or vehicles travel, of any dirt deposited thereby upon such road. Failure by either the operator of any such truck, equipment or other vehicle or of the operator of any drill site to comply with the provisions of this subsection shall be an offense.

Section 9-524 WELL LOCATION SETBACKS.

No permit shall be issued for the drilling of an original well, or the reentry of an abandoned well, at any location which is within One Thousand Feet (1000') of any residence, residential or commercial platted lot, commercial or office building, producing fresh water well unless said well is owned by the permittee or lease holder of the drilling site and/or was drilled by the permittee for utilization in the drilling or production process or boundary line of any property adjacent to the well site. No well shall be drilled or operated within fifty feet (50') of any recovery heater, oil storage tank, or source of ignition nor within One Thousand Feet (1000') of any building used as a place of public assembly, institution, church, or school. For the purposes of this section, the respective One Thousand Feet (1000') shall be measured from any equipment, facilities, or appurtenances required for the oil and gas operations.

Section 9-525 NOISE, DUST, ODORS AND OTHER NUISANCES.

A. Reducing Nuisance and Annoyance:

1. All oil or gas drilling and production operations shall be conducted in such a manner as to eliminate, as far as practical, dust, noise, vibration, or noxious odors and shall be in accordance

with the best accepted practices incident to the drilling for, and production of, oil, gas, and other hydrocarbon substances.

2. Proven technological improvements in exploration, drilling and production methods shall be adopted as they become, from time to time, capable of reducing factors of nuisance and annoyance in accordance with prudent practices in the industry.

B. Noise Reduction; Hours Of Operation: At the time of authorizing the permit or when renewal is granted, or at any time during the drilling operation, the City may specify hours of operation to reduce or eliminate noise when drilling takes place within one thousand feet (1,000') of a hospital, rest home, school (including preschools and nurseries), church, or place of public assembly. These limits do not apply to emergency repairs necessary to meet safety requirements.

Section 9-526 FACILITIES; SIGN AND INFORMATION REQUIRED.

1. All lease equipment shall be painted and maintained in a good state of appearance. The facilities shall have posted in a prominent place a metal sign no less than two (2) square feet in area upon which the following information shall be conspicuous:

A. Permittee's name;

B. Lease name;

C. Location of the drill site by reference to the United States survey; and

D. Identifying number of the permit issued by the City.

Section 9-527 FIRE PREVENTION.

The permittee shall provide adequate firefighting apparatus and supplies approved by the City fire department on the drilling site at all times during drilling and production 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 fire department.

Section 9-528 FRACTURE AND ACIDIZING.

On the completion of an oil or gas production 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 on any land.

Section 9-529 PLUGGING AND RESTORATION.

A. Responsibility For Plugging: The permittee and operator of any oil, gas, injection or other service well, or any seismic core or other exploratory hole, whether cased or uncased, shall be jointly and severally liable and responsible for the plugging thereof, in accordance with the rules and regulations of the corporation commission of the state of Oklahoma and the environmental protection agency. No surface casing nor conductor string may be pulled or removed from the well.

B. Intention To Plug, Copy Filed With City; Notice:

1. A copy of "intention to plug" for each well shall be filed with the building official at least forty eight (48) hours prior to the commencement of plugging operations.

2. The plugging operator shall notify the building official of the exact time or times during which all plugging operations will take place to enable the building official to be present if he so chooses.

3. The building official may waive or reduce the forty eight (48) hour notice requirement whenever a qualified representative of the conservation division of the corporation commission of the state of Oklahoma is available to supervise the plugging operation.

C. Record Sent To Building Official: A copy of the plugging record will be sent to the building official no later than thirty (30) days after a well has been plugged.

D. Restoration Of Lands Upon Ceasing Of Operation: Within thirty (30) days of ceasing operations voluntarily or of abandonment, all lands upon which a drilling or production operation was conducted shall be restored as nearly as practicable to the previous topography by the permittee and the operator.

E. Failure To Comply; Plugging And Restoration By City: Upon the failure to comply with this section, the City (directly or under contract with others) may proceed to plug the well, restore the surface and recover its costs under the bonds.

Section 9-530 RUPTURE OF SURFACE CASING.

In the event a rupture, break, or opening occurs on the surface or production casing, the permittee, the operator, and the drilling contractor shall each take action to repair it, and shall each report the incident to the City promptly. Actual repairs and actual reporting to the City by one shall be considered adequate; however, a mistaken belief held in good faith that others have performed as

required does not relieve the permittee, the operator, or the drilling contractor of their independent obligations, nor does it provide a defense to a prosecution for violation of this section.

Section 9-531 DEPOSITING HAZARDOUS MATERIALS.

A. Deposits Prohibited: No person shall deposit, drain, or divert intentionally, negligently or accidentally into or upon any public highway, street, alley, paving, drainage ditch, storm drain, sewer, gutter, creek, stream, river, lake, pond, or lagoon, any hazardous materials, deleterious substances, or pollutants, 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; nor shall any person allow such substances to flow or be carried onto or upon any public highway, street, alley, paving, drainage ditch, storm drain, sewer, gutter, creek, stream, river, lake, pond, or lagoon within the City.

B. Violation; Liability For Cleanup And Costs: Any person or property owner who commits a violation of this section shall be liable for the proper mitigation, cleanup, disposing, and transportation of the materials to a regulated hazardous materials dump site at a maximum rate of two hundred fifty dollars (\$250.00) per hour per City vehicle used in the cleanup, disposing or transporting of such materials, plus the actual cost of any supplies, equipment and/or materials used by the City. If it is necessary for the City to hire independent contractors to assist in the cleanup, the person or property owner who commits such a violation shall remit to the City the cost of any necessary supplies, equipment, materials and/or services.

Section 9-532 SAFETY PRECAUTIONS.

A. Precautions For Protection Of Public: Persons drilling, operating, or maintaining a well shall use all necessary care and take all precautions which are reasonably necessary under the circumstances to protect the public.

B. Compliance With Article; Minimum Requirements: Provisions of this Article shall be deemed to be the minimum requirements for the preservation of the public peace, health, safety, and welfare; compliance with the terms hereof shall not be deemed to relieve any person of any additional duty imposed by law.

C. Sign Required: A sign measuring twenty four inches by thirty inches (24" x 30"), containing the name, address, and emergency phone number of the oil producing company and operator shall be posted prominently on the gate to the well site.

Section 9-533 APPEALS.

A. Right To Appeal; Variance:

1. Whenever the building official shall reject or refuse to approve a permit, the operator, or his duly authorized agent, may appeal from the decision of the building official to the zoning board of adjustment.

2. A variance granted under this section authorizes the building official to issue an oil and gas drilling and production permit.

3. When the appellant files a request for appeal on the basis of written certification as herein provided and has not otherwise met the permit application requirements of this Article, a variance granted under this section authorizes the building official to issue a permit only at such time as all other requirements for permitting have been met.

B. Notice of Appeal:

The procedures set out in Section 12-123 shall apply herein.

Section 9-534 ZONING AND USE OF THE CITY'S BULK WATER.

A. Permits shall be issued only on unplatted land zoned Agricultural Districts, I-1 Light Industrial District and I-2 Heavy Industrial District, or as provided by subsection 9-506A of this Article.

B. Any person governed by the terms of this Article, shall purchase bulk water from the City at its applicable rate for all operations governed by the terms of this Article.

Section 9-535 VIOLATIONS.

It shall be unlawful and an offense for any person to violate, or fail to comply with, any provisions hereof irrespective of whether or not the verbiage of each such section contains specific language that such violation or failure is unlawful or is an offense. Any person who shall violate any of the provisions of this Article, or any of the provisions of the drilling and operating permit issued pursuant hereto, or any condition of the bond filed by the permittee pursuant to this Article, or who shall neglect to comply with the terms thereof, shall be deemed guilty of an offense. Violation of each separate provision of this Article, and each separate provision of the permit, and each separate provision of the bond, shall be considered a separate offense; and each day's

violation of each separate provision hereof shall be considered a separate offense.

Note: Oil and Gas Code added by Ordinance No. 2008-03 approved on October 7, 2008.

ARTICLE 6

MEDICAL MARIJUANA DISPENSARIES, MEDICAL MARIJUANA GROWER FACILITIES, AND MEDICAL MARIJUANA PROCESSOR FACILITIES

Section 9-801 DEFINITIONS.

1. "Application" means an Application for a Permit under this Article and includes all supplemental documentation attached or required to be attached thereto; the Person filing the Application shall be known as the "Applicant".
2. "Clerk" means the Fairview City Clerk or his/her designee.
3. "Code Enforcement Officer" means the Fairview Code Enforcement Officer or his/her designee.
4. "License" means a current and valid License for a Medical Marijuana Dispensary facility issued by the State of Oklahoma.
5. "Licensee" means a person holding a current and valid Oklahoma license for a Medical Marijuana Dispensary facility.
6. "Permit" means a current and valid permit for a Medical Marijuana Dispensary facility issued under this Article, which shall be granted to a permit holder only for and limited to a specific Permitted Premises and specific Permitted Property.
7. "Permit Holder" means the person that holds a current and valid permit issued under this Article.
8. "Permitted Premises" means the particular building or buildings within which the permit holder will be authorized to conduct the facility's activities pursuant to the permit.
9. "Permitted Property" means the real property comprised of a lot, parcel or other designated unit of real property upon which the permitted premises are situated.
10. "Person" means a natural person, company, partnership, profit or non-profit corporation, limited liability company or any joint venture for a common purpose.

11. "Medical Marijuana Grower Facility" means an establishment licensed under Title 63, Section 422 of the Oklahoma Statutes whereby the growing of medical Marijuana is conducted on the premises and then sold to a licensed retailer or processor.
12. "Medical Marijuana Dispensary" means an establishment licensed under Title 63, Section 421 of the Oklahoma Statutes whereby the retail sale of medical Marijuana is conducted on the premises.
13. "Medical Marijuana Processor Facility" means an establishment licensed under Title 63, Section 423 of the Oklahoma Statutes, whereby Marijuana plants are processed (packaged) into the concentrates, edible, and other forms for consumption and then sold to a licensed retailer.

Section 9-802 Medical Marijuana Dispensary

1. No person shall operate a Medical Marijuana Dispensary at any time or any location within the City of Fairview unless a currently-effective permit for that business at that location has been issued under this Article.
2. Medical Marijuana Dispensary shall operate only as allowed under this Article.
3. The requirements set forth in this Article shall be in addition to, and not in lieu of, any other licensing or permitting requirements imposed by applicable federal, state or local laws, regulations, codes or ordinances.
4. All operators of Medical Marijuana Dispensaries are required to obtain a Medical Marijuana Dispensary Permit from the Municipal Clerk.
5. The Medical Marijuana Dispensaries Permit Fee shall be Six Hundred Dollars (\$600.00) per year. The fee shall be used to offset municipal expenses covering costs related to licensing, inspection, administration, and enforcement of retail marijuana establishments.
6. A Medical Marijuana Dispensary Permit shall only be located within a C-2 General Commercial District, which shall hereinafter be deemed a permitted use.
7. It is the sole and exclusive responsibility of each Permit Holder or Person applying to be a Permit Holder at all times during the Application period and during its operation to immediately provide the City of Fairview with all material changes in any information submitted on an Application and

any other changes that may materially affect any state license or its City Permit.

8. No Permit issued under this Article may be assigned or transferred to any person unless the assignee or transferee has submitted an Application and all required fees under this Article and has been granted a Permit by the City of Fairview. No Permit issued under this Article is transferrable to any other location except for the Permitted Premises on the Permitted Property.
9. The original Permit issued under this Article shall be prominently displayed at the Permitted Premises in a location where it can be easily viewed by the public, law enforcement and administrative authorities.
10. Acceptance by the Permit Holder of a Permit constitutes consent by the Permit Holder and its owners, officers, manager, agents and employees for any state, federal or local law enforcement to conduct lawful examinations of the facility and all articles of property in that facility during business hours to ensure compliance with this Article, and other local regulations, and with the Permit.
11. No Permit shall be granted or renewed for a Medical Marijuana Dispensary in a residence.
12. In addition to the terms of this Article, any Medical Marijuana Dispensary shall comply in all respect with the C-2 General Commercial District, and with all other applicable federal, state and local ordinance, laws, codes and regulations. To the extent that the terms of this Article are in conflict with the terms of any other applicable federal, state, or local ordinances, laws, codes or regulations, the terms of the most restrictive ordinance, law, code or regulation shall control.
13. No Medical Marijuana Dispensary shall be located within 1,000 feet from a public or private school. This distance is measured by a straight line (shortest distance) from the property line of the dispensary to any entrance of the school.
14. Application. An application for a Permit for a Retail Marijuana Establishment shall be submitted to the City Clerk, and shall contain the following information:
 - A. The name, address, phone number and email address of the proposed Permit Holder and the proposed Medical Marijuana Dispensary location.

- B. The names, home addresses and personal phone numbers for all owners, directors, officers and managers of the Permit Holder and the Medical Marijuana Dispensary facility.
- C. One (1) copy of all the following:
- (1) All documentation showing the proposed Permit Holder's valid tenancy, ownership or other legal interest in the proposed Permitted Property and Permitted Premises. If the applicant is not the owner of the proposed Permitted Property and Permitted Premises, a notarized statement from the owner of such property authorizing the use of the property for a Medical Marijuana Dispensary.
 - (2) If the proposed Permit Holder is a corporation, non-profit organization, limited liability company or any other entity other than a natural person, indicate its legal status, attach a copy of all company formation documents (including amendments), proof registration with State of Oklahoma, and a certificate of good standing.
 - (3) A valid, unexpired driver's license or state issued ID for all owners, directors, officers and managers of the proposed Establishment.
 - (4) Evidence of a valid sales tax license for the business if such a license is required by state law or local regulations.
 - (5) Non-refundable Application fee.
 - (6) Submit a Business and Operations Plan, showing in detail the Medical Marijuana Establishment's proposed plan of operation, including the anticipated number of employees, a security plan, a description by category of all products to be sold, a description and plan of all equipment and methods that will be employed to stop any impact to adjacent uses, including enforceable assurances that no odor will be detectable from the outside of the Permitted Premises, and a plan for the disposal of Marijuana and related by-products that will be used at the establishment.
 - (7) Whether the applicant has ever applied for or has been granted any commercial license or certificate issued by a licensing authority in the State of

Oklahoma or any other jurisdiction that has been denied, restricted, suspended, revoked, or not renewed and a statement describing the facts and circumstances concerning the application, denial, restriction, suspension, revocation, or non-renewal, including the licensing authority, the date each action was taken, and the reason for each action.

- (8) Information regarding any other Medical Marijuana Dispensary that the Licensee is authorized to operate in any other jurisdiction within the State of Oklahoma, or any other State, and the Applicant's involvement in each facility.
- (9) Any other information reasonably requested by the City of Fairview to be relevant to the processing or consideration of the Application.

Section 9-803 Conditions of Operation

- A. Buildings where marijuana is stored or dispensed must be equipped with ventilation/air filtration systems so that no odors are detectable off premises.
- B. The Medical Marijuana Dispensary shall collect the applicable sales tax on any sales subject to municipal sales taxes.
- C. The hours of operation for a Medical Marijuana Dispensary shall be between the hours of 9:00 AM to 9:00 PM Monday through Saturday. Operations shall be closed on Sundays as well as Christmas, Thanksgiving, July 4th, New Year's Day, and Memorial Day.
- D. Any violations of this Article will result in the revocation of the Medical Marijuana Dispensary permit.
- E. It is the intent of the City of Fairview 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 9-804 Medical Marijuana Grower Facilities:

- A. Medical Marijuana Grower Facilities are hereby allowed within the municipal boundaries of Fairview, Oklahoma under the following conditions:
1. The facility must acquire a permit for the facility from the Municipal Clerk. The permit for a commercial/industrial growing facility shall be one thousand five hundred dollars (\$1,500.00) per year, or other amount as set periodically by Council resolution.
 2. Marijuana Grower Facilities Permit will not be granted to any applicants where the proposed location would be located within 1,000 feet from a public or private school. This is measured by a straight line (shortest distance) from the property line of the Medical Marijuana Grower Facility to any entrance of the school.
 3. The Medical Marijuana Grower Facility shall only be located within an I-1 Light Industrial District, I-2 Heavy Industrial District, or A-1 General Agricultural District and which shall hereinafter be deemed a permitted use and with all grow operations contained within an enclosed structure; provided however, a Medical Marijuana Grower Facility may be located within an A-2 Suburban District, with all grow operations within an enclosed structure, but only after approval of a Use by Review process as provided by pursuant to Section 12-334A of this municipal code.
 4. The Medical Marijuana Grower Facility must be constructed in such a manner that the growing of the marijuana plants cannot be seen by the public from a public right of way.
 5. The growing area including any lighting, plumbing or electrical components used shall comply with municipal building and fire codes. The growing area must be properly ventilated so as not to create humidity, mold or other related problems.
 6. Growing marijuana shall not be conducted in a manner that constitutes a public nuisance. A public nuisance may be deemed to exist if growing marijuana produces light, glare, heat, noise, odor, or vibration that is detrimental to public health, safety, or welfare or interferes with the reasonable enjoyment of life and property.

7. The Medical Marijuana Grower Facility shall collect the applicable sales tax on any sales subject to municipal sales taxes.

Section 9-805 Medical Marijuana Processor Facilities.

Medical Marijuana Processor Facilities are hereby allowed within the municipal boundaries of Fairview, Oklahoma under the following conditions:

1. The facility must acquire a permit for the facility from the Municipal Clerk. The permit for a commercial/industrial growing facility shall be one thousand five hundred dollars (\$1,500.00) per year, or other amount as set periodically by Council resolution.
2. Medical Marijuana Processor Facilities Permit will not be granted to any applicants where the proposed location would be located within 1,000 feet from a public or private school. This is measured by a straight line (shortest distance) from the property line of the Facility to any entrance of the school.
3. A Medical Marijuana Processor Facility shall only be located in an I-1 Light Industrial District (except no Medical Marijuana Processor Facility shall be located on I-1 Light Industrial District between State Road on the North and Sand Creek Road on the South), and a I-2 Heavy Industrial District, with all operations located within an enclosed structure, and which shall hereinafter be deemed a permitted use.
4. A Medical Marijuana Processor Facility shall have a security fence at least 10 foot in height and with limited access. The gates to the secure area must be locked at all times.
5. The Medical Marijuana Processor Facilities must be constructed in such a manner that the growing or processing of the marijuana plants cannot be seen by the public from a public right of way.
6. The growing area including any lighting, plumbing or electrical components used shall comply with municipal building and fire codes. The growing and processing area must be properly ventilated so as not to create humidity, mold or other related problems.
7. Growing marijuana shall not be conducted in a manner that constitutes a public nuisance. A public nuisance may be

deemed to exist if growing marijuana produces light, glare, heat, noise, odor, or vibration that is detrimental to public health, safety, or welfare or interferes with the reasonable enjoyment of life and property.

8. The Medical Marijuana Processor Facilities shall collect the applicable sales tax on any sales subject to municipal sales taxes.
9. Buildings where marijuana is stored or dispensed must be equipped with ventilation/air filtration systems so that no odors are detectable off premises.
10. Any violations of this section will result in the revocation of the Medical Marijuana Processor Facilities permit.

Section 9-806 Permit inspections and other requirements.

- A. All permits outlined in this Article will be subject to inspection of the facilities by an authorized municipal inspector prior to issuance.
- B. The inspection prior to a permit decision will occur at a time scheduled and approved by both the applicant and the municipal inspector.
- C. The applicant will be required to be present during the inspection.
- D. The smell of 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.
- E. Other regulations: Smoking or using marijuana shall be prohibited on all city property including vehicles, buildings, parks or other facilities.

Note: Article 6 approved by Ordinance No. 2019-6.2 approved on June 4, 2019.

CHAPTER 10: MISCELLANEOUS PROVISIONS & OFFENSES

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CHAPTER 10: MISCELLANEOUS PROVISIONS & OFFENSES

ARTICLE 1

IN GENERAL

Section 10-101 ATTEMPT TO COMMIT AN OFFENSE.

Any person who attempts to commit a violation of any City ordinance and does any act toward the commission thereof, but fails or is prevented or interrupted from committing such violation, is guilty of an offense.

State Law Reference: Attempts, 21 O.S. Section 41 et seq.

Section 10-102 AIDING AND ABETTING.

No person shall knowingly aid, abet or assist, directly or indirectly, any other person in the commission of a violation of a City ordinance.

State Law Reference: Aiding in a misdemeanor, 21 O.S. Section 28.

Section 10-103 - 10-109 RESERVED.

ARTICLE 2

OFFENSES INVOLVING INJURY TO PERSONS

Section 10-201 ASSAULT.

A. No person shall commit an assault.

B. As used in subsection A the term "assault" shall mean any willful and unlawful attempt or offer with force or violence to do a corporal hurt to another.

State Law Reference: Assault defined, 21 O.S. Section 641; punishment for assault, 21 O.S. Section 644.

Section 10-202 BATTERY.

A. No person shall commit a battery.

B. As used in subsection A the term "battery" shall mean any willful and unlawful use of force or violence upon the person of another.

State Law Reference: Battery defined, 21 O.S. Section 642; punishment for battery, 21 O.S. Section 644.

Section 10-103 FIGHTS OR QUARRELS.

No person shall wrangle, quarrel, fight or challenge another to fight within the City.

State Law Reference: Disturbing the peace by fighting, quarreling, etc. 21 O.S. Section 1362; duels and challenges, 21 O.S. Section 661 et seq.

Section 10-104 - 10-106 RESERVED.

ARTICLE 3

OFFENSES INVOLVING PROPERTY

Section 10-301 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:

"Petit larceny" shall mean the taking of personal property not exceeding Five Hundred Dollars (\$500.00) in value, accomplished by fraud or stealth, with the intent to deprive another thereof.

"Private property" shall mean any property other than public property.

"Public property" shall mean that property which is dedicated to the public use and over which the federal, state or municipal governments or any political subdivision thereof exercises control and dominion.

State Law Reference: Larceny defined, 21 O.S. Section 1701; petit larceny defined, 21 O.S. Section 1704.

Section 10-302 TRESPASS ON PUBLIC PROPERTY.

A. No person shall trespass on public property.

B. As used in this Section:

1. "Trespass" shall mean each and every actual entry upon the premises of an owner or other person in lawful possession of the premises or government in violation and contrary to the provisions of any official sign posted to regulate and govern such entry or use.

2. "Official sign" shall mean any permanently fixed notice posted by the federal, state or municipal government owning or maintaining any said public property.

C. No person, who has the possession of any weapon, other than those persons exempted in this subsection, shall enter or remain on any public property, on which signs have been posted prohibiting the possession of any such weapons on said public property; provided however, the provisions of this subsection shall not apply to commissioned peace officers or duly CLEET licensed armed security personnel who are under contract with the posting entity which owns, controls, leases or operates the posted premises.

State Law Reference: Trespass, 21 O.S. Section 1835.

Section 10-303 TRESPASS ON PRIVATE PROPERTY.

A. No person shall trespass on private property.

B. As used in subsection A, the term "trespass" shall mean each and every actual entry upon the premises of an owner or other person in lawful possession of the premises without the express or the implied consent of the owner or other person in lawful possession. "Trespass" shall also mean remaining upon the premises of an owner or other person in lawful possession after having been told to leave the premises by the owner, or the agent, or employee of the owner, or other person in lawful possession of the premises. "Trespass" shall also be defined as the act of remaining on private property at any time other than during posted hours of business operation after having been directed to vacate such premises by a police officer; provided that the provisions of this sentence shall not apply to persons, including employees, whose presence upon such premises is authorized by the owner or by a person in lawful possession of such premises; nor shall the provisions of this sentence apply unless hours of business operation are posted upon such premises. "Trespass" shall also be defined as the act of returning to private property before the posted time of opening for business operation on the next business day after having been directed to vacate such premises under the terms of this subsection.

C. It is illegal 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 when the property, area or structure is enclosed, except when such entrance is in the line of duty, or with the expressed or tacit consent of the owner or person in charge, or otherwise by authority of law or ordinance.

State Law Reference: Trespass, 21 O.S. Section 1835.

Section 10-304 TAMPERING WITH PRIVATE OR PUBLIC PROPERTY.

No person shall maliciously injure, deface or destroy any real or personal property, either public or private, which is not his own.

State Law Reference: Tampering, destroying, etc., property, 21 O.S. Section 349, 372, 1751, 1753-1755, 1757, 1758, 1759, 1762, 1765, 1767.1, 1768, 1770-1779, 1784-1787, 1789, 1831.

Section 10-305 LARCENY.

No person shall commit the offense of petit larceny.

State Law Reference: Larceny, 21 O.S. Section 1704, 1706, 1709, 1710, 1723, 1722, 1731.

Section 10-306 FRAUDULENT SCHEMES, BAD CHECKS, ETC.

A. Every person who, with intent to cheat and defraud, shall obtain or attempt to obtain from any person any money, property or valuable thing, of the value of Five Hundred Dollars (\$500.00), or less, by means or by use of any trick or deception, or false or fraudulent representation or statement or pretense, or by any other means or instruments or device commonly called the "confidence game," or by means or use of any false or bogus checks, or by any other written or printed or engraved instrument or spurious coin, shall be guilty of an offense.

B. As used in this Section:

1. The term "false or bogus check or checks" shall include checks or orders given for money or property or in any case where the maker receives a benefit or thing of value which are not honored on account of insufficient funds of the maker to pay same, as against the maker or drawer thereof, the making, drawing, uttering 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 thereof 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.

2. The word "credit" shall be construed to mean an arrangement or understanding with the bank or depository for the payment of such check, draft or order.

State Law Reference: Similar provisions, 21 O.S. Section 1541.1, 1541.4, 1541.5.

Section 10-307 OBTAINING SERVICE FROM PUBLIC UTILITY WITHOUT AUTHORIZATION.

No person shall obtain any water, gas, electricity, cable or other type of service from any public utility except by express authorization and in the manner directed by such public utility.

Section 10-308 DEFRAUDING PUBLIC ACCOMMODATIONS, PROOF; EXCEPTIONS

A. No person shall obtain food, lodging or other accommodations in any hotel, motel, inn, boarding, eating or rooming house or place, or any other lodging place, with the intent to defraud the owner or keeper.

B. Proof that lodging, food and other accommodations were obtained by false pretenses or fictitious show of any package or other property or that the person gave a check or negotiable paper on which payment was refused or that the person left the hotel, motel, inn, boarding, eating or rooming house or place, or any other lodging place, without paying or offering to pay for the food, lodging or other accommodations or that the person surreptitiously removed or attempted to remove the package or property, or that the person registered under a fictitious name shall be prima facie proof of the attempt to defraud.

C. No person shall refuse to pay the legal fare of any vehicle after having hired the same, and no person shall hire any vehicle with intent to defraud the person from whom it is hired of the value of such service.

D. This section shall not apply where there has been an agreement in writing for delay in payment.

Section 10-309 CONCEALING UNPURCHASED MERCHANDISE; MERCHANT' AUTHORITY TO DETAIN

Any person concealing unpurchased merchandise of any establishment on the on premises or outside the premises of the establishment, shall be presumed to have so concealed the merchandise with the intention of committing a wrongful taking of such merchandise. Such concealment or the finding of such merchandise concealed upon the person or among the belonging of such person shall be conclusive evidence of reasonable grounds and probable cause for the detention in a reasonable manner and for a reasonable length of time of such person by a merchant, his agent or employee; any such reasonable detention shall not be deemed to be unlawful nor render any such merchant, his agent or employee, criminally or civilly liable.

Section 10-310 CONGREGATING, PARKING ON PREMISES AFTER HOURS

A. No person shall stand, walk, sit, lie, congregate or otherwise occupy or remain upon the premises of any place or business within the City after business hours without the consent of the lawful owner, occupant, lessee or employee thereof.

B. No person shall stop, stand, park, leave, or place any motor vehicle, whether occupied or not, upon any public or private property, without the consent of the lawful owner, occupant, lessee or employee thereof, except where such property is provided for public parking and the use for such parking lot is not restricted by proper notice. In addition to fine or other punishment for a violation of this subsection, the vehicle so parked, left or placed shall be subject to impoundment upon complaint of the property owner or lawful occupant; the person violating this subsection shall be wholly responsible for the payment of towage and storage charges.

C. No person may be charged under this section unless the premises in question is posted with a conspicuous sign which states, substantially, that the premises are posted, and that any person congregating, occupying or remaining upon the premises or parking or leaving a motor vehicle thereon, is subject to prosecution pursuant to the City code.

D. When used in this section, the term "after business hours" shall mean that the doors of the business which are open to the public during business hours are closed and locked and that the business is no longer admitting customers. The term applies to places of business which are vacant or permanently or temporarily closed or otherwise unoccupied. The term "place of business" means any private property upon which a building, house or other structure is used for commercial or public purposes, e.g., without limitation, restaurants, gas stations, shopping malls or centers, theaters, convenience stores, grocery stores, drug stores, or pharmacies, recreational facilities, wholesale or retail shopping activities, offices, banks or other financial institutions, manufacturing, or professional services.

E. There is a rebuttable presumption that any person or motor vehicle upon the premises of a place of business that is properly posted pursuant to this section after such time as the front door or other such door that admits members of the public is closed and locked is on the premises of such business unlawfully under this section; however, this presumption shall not be applied within thirty (30) minutes of any opening or closing times posted by such place of business. This presumption may only be rebutted by proof beyond a reasonable doubt that any person held by the municipal judge to be subject to this rebuttable presumption was on the premises in question with permission of the lawful owner, occupant, lessee or employee thereof.

F. If a motor vehicle is alleged to be unlawfully parked or left under this section, it shall be rebuttably presumed that the person whose name the motor vehicle was last registered was the person who parked or left the motor vehicle.

G. The parking or leaving of a motor vehicle as set forth herein shall constitute the unlawful parking or leaving of a motor vehicle after business hours, punishable as provided in Section 1-108 of this code.

H. If a person violates Subsection A of this section, it shall constitute the offense of unlawful presence on property after business hours or congregating after business hours, punishable as provided in Section 1-108 of this code.

I. The provisions of this section are cumulative of other applicable offenses enacted in this code or state law.

Section 10-311 POSTING ADVERTISING ON PUBLIC OR PRIVATE BUILDING

A. No person shall place upon any public or private building or utility pole or other public property any advertising matter of any kind, nor print or exhibit printing, in words, signs or characters, except with the express consent of the owner, lessee or authorized agent of the owner of the building.

B. No person shall place, post, paint, mark, write, print or put any sign, poster, picture, announcement, writing, device, advertisement or other marking upon any public or private building or utility pole or other public property, fence, sidewalk, bridge, post, automobile, or vehicle or property of another without the express consent of the owner, lessee or authorized agent of the owner of the building.

Section 10-312 ELECTRIC FENCES PROHIBITED

It is unlawful for any person to erect, install or maintain any electrically charged fence within the City, except the building official may issue a permit for an electrically-charged fence to retain animals upon proof that the fence will not be hazardous to life, and upon proof that the electric charge is regulated by a controlling device.

ARTICLE 4

OFFENSES AGAINST DECENCY AND MORALITY

DIVISION 1

GENERALLY

Section 10-401 NUDITY; INDECENT EXPOSURE OR LEWD ACTS IN PUBLIC.

No person shall appear in a state of nudity or make any indecent exposure of his genitals or perform any lewd act in any public place not designed for same.

State Law Reference: Indecent exposure, public lewdness, etc., 21 O.S. Section 1021.

Section 10-402 PROSTITUTION.

A. It shall be unlawful for any person to commit an act of prostitution.

B. No person shall knowingly or intentionally pay, or offer or agree to pay, money or other property to another person for having engaged in, or on the understanding that the other person will engage in, sexual intercourse or deviate sexual conduct with the person or with any other person.

C. As used in subsection A the term "prostitution" shall mean any sexual intercourse or deviate sexual conduct, which is performed for money or other property.

State Law Reference: Prostitution, 21 O.S. Section 1028 et seq.

Section 10-403 GAMBLING, DEFINITION.

As used in the division the term "gambling game" shall mean any game of faro, monte, poker, roulette, craps, wheel of fortune, or any banking or percentage game, or any other gambling game of chance played with dice, cards or any other device whatsoever for property, money, checks, credit or any other representation of value.

Section 10-404 GAMBLING GAMES PROHIBITED.

No person shall deal, play or carry on, or open or cause to be opened, or to conduct, either as principal or agent, whether for hire or otherwise, any gambling game.

Section 10-405 SLOT MACHINES.

No person shall set up, operate or conduct, or permit to be set up, operated or conducted in or about his place of business whether as owner, employee or agent, any slot machine or other mechanical or electrical device for the purpose of having or allowing it to be played for money, property, checks, credits, or for any other representation of value.

State Law Reference: Similar provisions, 21 O.S. Section 941.

Section 10-406 GAMBLING ROOMS AND PARAPHERNALIA.

Any person who keeps or maintains a gaming room, gaming table, or any policy or pool tickets used for gaming, or knowingly permits a gaming room, gaming table or any policy or pool tickets to be kept, maintained, played or sold on any premises occupied or controlled by him or any person having any gaming paraphernalia in his possession, shall be guilty of an offense.

State Law Reference: Gambling, generally, 21 O.S. Section 941-995.18.

Section 10-407 DISORDERLY PLACES, DEFINITIONS.

As used in this chapter the term "disorderly house" shall mean any structure or vehicle by which the peace, comfort, health, welfare or decency of the public is disturbed by reason of the people therein committing or resorting to any of the following acts:

1. The sale, distribution, possession or use of any controlled dangerous substance, the sale, distribution, possession or use of which is declared unlawful by state statute or City ordinance; or

2. The violation of any ordinance or state statute regulating the sale, distribution, possession or use of alcoholic beverages including beer containing more than one-half of one per cent alcohol by volume; or

3. The performance of any sexual act declared unlawful by ordinance or state statute including, but not limited to, soliciting for the purposes of prostitution, or

4. The violation of any ordinance or state statute prohibiting gambling.

Section 10-408 MAINTAINING A DISORDERLY HOUSE.

No person shall keep or maintain, or aid, abet or assist in keeping and maintaining a disorderly house.

State Law Reference: Keeping a disorderly house, 21 O.S. Section 1026.

Section 10-409 LEASING PROPERTY FOR DISORDERLY HOUSE.

A. No owner, lessee, lessor, or other person, partnership or corporation having control over any house, building, structure, tent, vehicle, mobile home, or recreational vehicle shall knowingly use, lease, sublease or otherwise permit the use of same for the purpose of keeping therein any disorderly house, and knowing or ascertaining that such house, building, structure, tent, vehicle, mobile home, or recreational vehicle is so occupied as a disorderly house, no persons, partnership or corporation shall continue to grant permission to so use such premises as a disorderly house.

B. The occurrence of any act in any house, building, structure, tent, vehicle, mobile home, or recreational vehicle which results in the conviction of any person in the municipal court for a violation of this Article, or of Section 10-408, shall, after the lapse of thirty (30) days from such conviction, constitute notice to all owners, lessors, and other persons having control thereof that such premises are being occupied as a disorderly house. However, no such notice as contemplated by this subsection shall be effective unless written notice of such conviction shall have been delivered in person to such owner, lessee, or other person having control over such premises by a duly authorized officer of the police department.

C. Any person required to discontinue any lease or permitted use of property by subsections A and/or B herein shall not accept any rents, fees, profits or consideration of any type from the lessees or other persons or corporations occupying or in control or possession of the premises at the time the disorderly house requiring such discontinuance of lease or permitted use occurred. Each day for which such rent, fee, profit or consideration is accepted shall constitute a separate offense.

State Law Reference: Leasing property for a disorderly house, 21 O.S. Section 1027.

Section 10-410 RESIDENTS AND VISITORS TO DISORDERLY HOUSES.

No person shall knowingly reside in, enter into, or remain in a disorderly house, provided however, that in any prosecution for violation of this Section, the City shall have the burden to prove such knowledge by direct evidence only and not by circumstantial evidence. This Section shall not apply to physicians or officers in the discharge of their professional or official duties.

ARTICLE 5

OFFENSES AGAINST PUBLIC PEACE AND ORDER

Section 10-501 RIOTOUS CONDUCT; DISTURBING PEACE.

No person shall conduct himself in a riotous or disorderly manner, or make or cause to be made any loud, or unnecessary, or offensive noise, or wantonly disturb the quiet of the City or any lawful assembly of persons, or any church or religious meeting or any house, family or neighborhood, or any person.

State Law References: Riot generally, 21 O.S. Section 1311 et seq.; grossly disturbing the peace, 21 O.S. Section 22; disturbing the peace, 21 O.S. Section 1362.

Section 10-502 UNLAWFUL ASSEMBLY.

A. Any person who collects or assembles in crowds and bodies for unlawful or mischievous purposes in any place in the City to the annoyance or inconvenience of other persons, or who shall be involved in, or incite or attempt to incite a riot, or who shall fail to disperse upon the command of a police officer or other lawful authority shall be guilty of an offense.

B. No three (3) or more persons shall assemble together or act in concert to do any act with force and violence against the property of the City, the person or property of another, or against the peace, or to the terror of others or make any movement or preparation therefor. No person shall remain present at the place of such assembly after being warned by a police officer to disperse.

State Law Reference: Riots and unlawful assembly, 21 O.S. Section 1311 et seq.

Section 10-503 OBSTRUCTING STREETS, SIDEWALKS, ETC.

Any person who collects or assembles and stands or sits in crowds or loiters about or hinders, obstructs, impedes or blocks the free and uninterrupted passage on any sidewalk, street, alley or driveway or in front of any place of business, or in any hall, stairway, office building or any other public place and who fails to disperse upon the command of a police officer or other lawful authority shall be guilty of an offense.

Section 10-504 FIGHTING WORDS OR GESTURES.

Any person who utters any indecent, lewd or filthy words, or uses any threatening language toward any other person, or makes any obscene gesture to or about any other person in any public place

which is likely to provoke the average person to retaliation and thereby cause a breach of the peace shall be guilty of an offense.

State Law Reference: Similar provisions, 21 O.S. Section 1362.

Section 10-505 FALSE ALARMS.

It is unlawful for any person to turn in a false alarm of any nature or in any manner to deceive or attempt to deceive the fire department or police department or any officer or employee thereof with reference to any fire alarm or reported fire, accident or other emergency or knowingly to cause the fire department or police department or its officers or employees to make a useless run.

Section 10-506 REMOVAL OF BARRICADES.

It is unlawful for any person except by proper authority to remove any barricade or obstruction placed by authority of the City to keep traffic off any pavement, street, curb, sidewalk or other area.

Section 10-507 ELUDING POLICE OFFICERS.

Any operator of a motor vehicle who has received a visual and audible signal, a red light and a siren or a siren only from a police officer driving a motor vehicle showing the same to be an official police vehicle, directing the operator to bring his vehicle to a stop, and who willfully increases his speed or extinguishes his lights in an attempt to elude such police officer, or who does willfully attempt in any other manner to elude such police officer, or who does elude such peace officer, is guilty of an offense.

Section 10-508 LOUD NOISE OR MUSIC PROHIBITED; AMPLIFIED SOUND.

It is unlawful for any person to disturb the peace and quietude of any part of the City by operating, having operated, or permitting to be operated, any contrivance, whether electric or not, any motor vehicle, or any other device, with or without a loud speaker, in such a manner as to emit loud music, noise or words. However, this Section shall not prohibit religious bodies from playing chimes, bells, carillons or other religious music.

ARTICLE 6

OFFENSES AGAINST GOVERNMENT

Section 10-601 OBSTRUCTING OR INTERFERING WITH OFFICIAL PROCESS.

No person shall oppose, obstruct or otherwise interfere with a police officer or other peace official in the discharge of his official duties.

State Law Reference: Obstructing police officers, 21 O.S. Section 540.

Section 10-602 RESISTING ARREST.

A. Resisting arrest is the intentional opposition or resistance to, or obstruction of, an individual acting in his official capacity and authorized by law to make a lawful arrest or seizure of property, or to serve any lawful process or court order, when the offender knows or has reason to know that the person arresting, seizing property, or serving process is acting in his official capacity.

B. The phrase "obstruction of" as used herein shall, in addition to its common meaning, signification and connotation mean:

1. Flight by one sought to be arrested before the arresting officer can restrain him and after notice is given that he is under arrest.

2. Any violence toward or any resistance or opposition to the arresting officer after the arrested party is actually placed under arrest and before he is incarcerated in jail.

3. Refusal by the arrested party to give his name and make his identity known to the arresting officer.

4. Resisting arrest is an offense.

Section 10-603 AIDING IN ESCAPE.

No person shall set at liberty or rescue or attempt by force or in any other manner to set at liberty any person who is under the legal custody and charge of an officer.

Section 10-604 ESCAPES FROM CUSTODY.

No person held in custody by any peace officer shall escape or attempt to escape from such officer or to attempt to break jail.

State Law Reference: Attempts to escape from jail, 21 O.S. Section 436.

Section 10-605 IMPERSONATING AN OFFICER OR EMPLOYEE.

No person shall impersonate any officer or employee of the City or falsely represent himself to be such an officer or employee or exercise any duties, functions and powers of any such officer or employee.

State Law Reference: Impersonation of public officer, 21 O.S. Section 263, 264, 1533.

ARTICLE 7

WEAPONS AND RELATED OFFENSES

Section 10-701 CARRYING DANGEROUS WEAPONS.

A. It shall be unlawful for any person to carry upon or about his person, or in his portfolio or purse, any dagger, Bowie knife, dirk knife, switchblade knife, spring-type knife, sword cane, knife having a blade which automatically by hand pressure applied to a button, spring, or other device in the handle of the knife, prohibited knife, blackjack, loaded can, billy, hand chain, metal knuckles or any other offensive or dangerous weapon.

B. The provisions of subsection A shall not prohibit the proper use of knives for hunting, fishing or recreational purposes, nor shall subsection A be construed to prohibit any use of weapons in a manner otherwise permitted by City ordinance or state statute.

C. As used in subsection A the term "prohibited knife" shall mean any knife which is not being carried while engaged in the performance of a lawful occupation or business, when such knife is:

1. Over six (6) inches in length; or
2. Has a blade over four (4) inches in length.

D. The police department shall seize the weapon upon the arrest of, or issuance of a citation to, any person for violating subsection A. Upon conviction of such a person of a violation of subsection A such weapon shall be forfeited to the City.

State Law Reference: Carrying dangerous weapons, 21 O.S. Section 1272.

Section 10-702 RECKLESS CONDUCT.

It is unlawful for any person to engage in reckless conduct while having in his possession any shotgun, rifle or pistol, such actions consisting of creating a situation of unreasonable risk and probability of death or great bodily harm to another, and demonstrating a conscious disregard for the safety of another person.

Section 10-703 DISCHARGING FIREARMS; EXCEPTIONS.

A. No person shall discharge any species of firearms, in the City except when doing so in the line of duty, when lawfully doing

so in defense of oneself, of another person, or of property or when otherwise authorized by law or ordinance.

B. It is unlawful to discharge a rifle, firearm, BB gun, dart gun, or pellet gun within the City limits.

C. Subsection A & B shall not apply when the discharge occurs on agriculturally zoned district for the exclusive purpose of euthanizing livestock. Prior to such discharge, the owner or his designee shall contact the police department, and a time shall be set for such act. The police department shall have the right to be present during the discharge.

Section 10-704 FIREWORKS REGULATED.

A. For the purpose of this Section "fireworks" shall have the meaning prescribed by state law, Section 1622 of Title 68 of the Oklahoma Statutes.

B. The manufacture, sale, furnishing, storage, discharge, firing or use of fireworks within the corporate limits of the City is hereby prohibited. Providing however, the transportation of fireworks in their unopened original packaging in a motor vehicle within the corporate limits of the City is not prohibited.

C. The city manager, in conjunction with chief of the fire department, shall have the power to adopt reasonable rules and regulations for the granting of permits for supervised public displays of fireworks by the City, fair associations, amusement parks and other organizations, in accordance with the City's fire code.

D. The chief of the fire department or any police officer shall seize, take, remove or cause to be removed, at the expense of the owner, all stocks of fireworks offered or exposed for sale, stored or held in violation of this Section.

State Law Reference: Bottlerockets prohibited by state law, 68 O.S. Section 1624; state fireworks licenses required, 68 O.S. Section 1621 et seq.

Cross Reference: Fire Prevention Code, Section 13-101; license and occupation taxes, Section 9-101.

Note: Subsection B was amended by Ordinance 2006-11.

ARTICLE 8

ALCOHOL, DRUGS AND RELATED SUBSTANCES

Section 10-801 RESERVED

Section 10-802

RESERVED

Section 10-803

DEFINITIONS.

As used in this article the following words and phrases shall have the meanings respectively ascribed to them in this Section:

"Administer" shall be defined in Section 2-101 of Title 63 of the Oklahoma Statutes.

"Controlled dangerous substance" shall be as defined in Section 2-101 of Title 63 of the Oklahoma Statutes.

"Deliver" or "delivery" shall be as defined in Section 2-101 of Title 63 of the Oklahoma Statutes.

"Drug paraphernalia" shall mean all equipment, products and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled dangerous substance in violation of state law. It includes, but is not limited to:

1. Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled dangerous substance can be derived;

2. Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled dangerous substances;

3. Isomerization devices used intended for use, or designed for use in increasing the potency of any species of plant which is a controlled dangerous substance;

4. Testing equipment used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled dangerous substances;

5. Scales and balances used, intended for use, or designed for use in weighing or measuring controlled dangerous substances;

6. Dilutants and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled dangerous substances;

7. Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marihuana;

8. Blenders, bowls, containers, spoons and mixing devices used, intended for use in compounding controlled dangerous substances;

9. Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in packaging small quantities of controlled dangerous substances;

10. Containers and other objects used, intended for use, or designed for use in storing or concealing controlled dangerous substances;

11. Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injecting controlled dangerous substances into the human body;

12. Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as:

a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

b. Water pipes;

c. Carburetion tubes and devices;

d. Smoking and carburetion masks;

e. Roach clips meaning objects used to hold burning materials, such as a marijuana cigarette, that has become too small or too short to be held in the hand;

f. Miniature cocaine spoons, and cocaine vials;

g. Chamber pipes;

h. Carburetor pipes;

i. Electric pipes;

j. Air-driven pipes;

k. Chillums;

l. Bonges;

m. Ice pipes or chillers;

In determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:

a. Statements by an owner or by anyone in control of the object concerning its use;

b. Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled dangerous substance;

c. The proximity of the object, in time and space, to a direct violation of this article or of the State Uniform Controlled Dangerous Substance Act;

c. The proximity of the object to controlled dangerous substance;

d. The existence of any residue of controlled dangerous substances on the object;

e. Direct or circumstantial evidence of the intent of any owner, or of anyone in control of the object, to deliver it to persons whom he knows, or should reasonably know, intended to use the object to facilitate a violation of this article or the State Uniform Controlled Dangerous Substance Act; the innocence of the owner, or of anyone in control of the object, as to a direct violation of this article shall not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia;

f. Instructions, oral or written, provided with the object concerning its use;

g. Descriptive materials accompanying the object which explain or depict its use;

h. National and local advertising concerning its use;

i. The manner in which the object is displayed for sale;

j. Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;

k. Direct or circumstantial evidence of the ratio of sales of the object to the total sales of the business enterprise;

1. The existence and scope of legitimate uses for the object in the community;

m. Expert testimony concerning its use.

"Marijuana" shall be as defined in Section 2-101 of Title 63 of the Oklahoma Statutes.

"Sale" includes barter, exchange or gift, or offer therefor, and each such transaction made by any person, principal, proprietor, agent, servant or employee.

State Law Reference: Uniform Controlled Dangerous Substance Act, 63 O.S. Section 2-101 et seq.

Section 10-804 POSSESSION.

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

1. Any substance listed in Sections 2-208, 2-209 or 2-210 of Title 63 of the Oklahoma Statutes; or

2. Any marijuana; or

3. Any substance included in subsection D of Section 2-206 of Title 63 of the Oklahoma Statutes.

State Law Reference: Similar provisions, 63 O.S. Section 2-402.

Section 10-805 IMPLEMENTS FOR CONTROLLED DANGEROUS SUBSTANCES.

A. It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled dangerous substance in violation of this article or state law.

B. It is unlawful for any person to deliver, possess with intent to deliver or manufacture with intent to deliver, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal,

inject, ingest, inhale, or otherwise introduce into the human body a controlled dangerous substance in violation of this article or state law.

C. It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication any advertisement, knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia.

Section 10-806 SMELLING, INHALING, ETC., OF GLUE, ETC.

A. It shall be unlawful for any person deliberately to smell, inhale, breathe, drink, or otherwise consume any compound, liquid, chemical, narcotic, drug or any other substance containing any ketones, aldehydes, organic acetones, ether, chlorinated hydrocarbons, such as gasoline, glue, fingernail polish, adhesive cement, mucilage, dope or any other substance or combination.

B. The provisions of subsection A 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; or

State Law Reference: Similar provisions, 63 O.S. Section 465.20.

Section 10-807 RESERVED

ARTICLE 9

CURFEW FOR MINORS

Section 10-901. CURFEW FOR MINORS

A. Definition. For the purpose of this Section:

“Minor” shall mean any person under the age of eighteen (18) years, but shall not include any person who is legally emancipated or certified as an adult.

B. Curfew Generally. No minor shall loiter, idle, wander, stroll or play in or upon the public streets, highways, roads, alleys, parks, playgrounds or other public grounds, public places and public buildings, places of amusement and entertainment, vacant lots or other unsupervised places, to include, but not be limited to, driving, riding or parking any motorized or non-motorized vehicle in or upon the public streets, highways, roads, alleys, parks, playgrounds or other public grounds, public places and public buildings, places of amusement and entertainment, vacant lots or

other unsupervised places, during the period ending at 6:00 a.m. and beginning:

1. At 11:00 p.m. Sunday through Thursday, and
2. At 12:00 midnight on Friday and Saturday.

C. Exceptions. The following shall constitute valid exceptions to the operation of Subsection B:

1. At any time, if the minor is accompanied by his or her parent, legal guardian or adult person having care and custody of the minor, or other person who has reached the age of 21 years old and who is specifically approved by the minor's parent, legal guardian, or adult person having care and custody of the minor, which person shall be responsible for the acts of the minor;

2. Until the hour of 12:00 A.M. on any day of the week, if the minor is on an errand as directed by his or her parent, legal guardian or adult person having care and custody of the minor;

3. If the minor is legally employed, for the period from one-half hour before to one-half hour after work, while going directly between his or her home and place of employment. This exception shall also apply if the minor is in a public place during curfew hours in the course of his or her employment. To come under this exception, the minor must be carrying a written statement from the employer attesting to the place and hours of employment;

4. Until the hour of 12:00 A.M. on any day of the week, if the minor is on the property of or the sidewalk directly adjacent to the building in which he or she resides or the buildings immediately adjacent thereto if the owner of the adjacent building does not object;

5. If the minor is coming directly home from a school activity or an activity of a religious or other voluntary association, or a place of public entertainment such as a movie, play, or sporting event. This exception will apply for one-half hour after the completion of such event. If the event is not commercial in nature or does not have a fixed, publicly known time at which it will end, the sponsoring organization must register the event with the police department at least 24 hours in advance, informing it of the time such event is scheduled to begin, the place at which it shall be held, the time at which it shall end, and the name of the sponsoring organization;

6. If the minor is exercising first amendment rights protected by the Constitution, such as the free exercise of religion, speech or assembly, provided the minor first has given notice to the chief of police by delivering a written communication

signed by the minor and countersigned by a parent of the minor which specifies when, where, in what manner, and for what first amendment purpose the minor will be on the streets at night during the curfew period.

D. Violations.

1. In the absence of convincing evidence, a police officer shall use his best judgment in determining age. A police officer who has probable cause to believe that a minor is in violation of this Section shall take such minor to the police station, or other place designed by the police chief or an appropriate place of detention or to the minor's home. The minor shall be interviewed. This interview is intended to permit ascertainment, under constitutional safeguards, of relevant facts, to centralize responsibility, and to provide for accurate, fair and impartial reporting of the incident. Police procedures shall be constantly refined in the light of experience and proper police action, in appropriate incidences, may be to deliver the minor to the home, especially for minors of tender age and when the identity may be readily ascertainable. In any event the police office shall file a written report of the incident within twenty-four (24) hours of the incident. If the minor is taken to an appropriate place of detention, the minor's parents, legal guardian or other adult person having the care and custody of the minor at the time the violation of this Section shall be immediately contacted. When the parent, legal guardian or adult person having care and custody of such minor arrives at the appropriate place of detention, or when the minor is taken to the residence of such parent, legal guardian or adult person having care and custody of the minor, the parent, legal guardian or adult person having care and custody of the minor shall be given a copy of this section and the notice as provided in subsection (D)(2). If no such parent, legal guardian or adult person having care and custody of the minor takes custody of the minor, the minor may be referred to an appropriate state agency, released to a responsible adult or relatives, or such other necessary action may be taken as the police officer deems appropriate.

2. In the case of a violation of this section by a minor, the minor may be referred to state or county juvenile authorities and in addition, the police officer or designee shall send the minor's parents, legal guardian or adult person having care and custody of the minor, written notice of the violation, by certified mail, return receipt requested, or by serving such notice personally on such person, warning them that further violations may result in the filing of a charge against such parent, legal guardian or adult person having care and custody of the minor for a violation of subsection (D)(3).

3. No parent, legal guardian or other adult person having the care and custody of a minor shall permit such minor to violate the

provisions of Subsection B. In any prosecution for the violation of the provisions of this Section, proof that the minor violated Subsection B hereinabove, together with proof that the parent, legal guardian or adult person having the care and custody of such minor was given written notice of a previous violation of Subsection B as provided by Subsection D2, shall constitute in evidence a prima facie presumption that the parent, legal guardian or adult person having the care and custody of such minor permitted such minor to violate Subsection B of this Section.

4. Any parent, legal guardian or adult person having the care and custody of a minor who is contacted by the police pursuant to Subsection D1 hereinabove for a violation by such minor of Subsection B and who refuses to take custody of such minor, shall be guilty of an offense.

E. It is unlawful for any person, firm or corporation operating or having charge of any public place to knowingly permit or suffer the presence of minor during the curfew times as specified in this section.

F. The Council may permit by resolution or motion procedures for advance notice or registration with the City of special events or functions sponsored by churches, schools, clubs, or other organizations which require minor to be out after curfew. The Council may also prescribe the procedures for taking into custody minors found in violation of this section.

G. No minor shall violate this section.

H. A parent, guardian or custodian of such minor, may file a written application directed to the chief of police of the City who may grant a special exemption of enforcement of the curfew, for a specific time stated in writing and signed by the police chief, minor and parent, guardian or custodian of such minor. If the police chief rejects such request or limits the requested time period, the aggrieved party may request a hearing before the municipal judge and his decision in the matter shall be final.

I. Any law enforcement officer who shall witness a violation of this section may take such offender into his custody to be prosecuted for such violation, require the posting of a sufficient bond for the minor's appearance in court, or may place the minor in the custody of his parent, guardian or custodian or other responsible adult person.

ARTICLE 10

PREVENTION OF YOUTH ACCESS TO TOBACCO AND VAPOR PRODUCTS AND OTHER TOBACCO RULES

Section 10-1001 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 product, which, because of its appearance, the type of tobacco used in the filter, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette.

The term "cigarette" includes "roll-your-own" (i.e. any tobacco which, because of its appearance, type, packaging, or labeling is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes.) For purposes of this definition of cigarette, nine one-hundredths (0.09) of an ounce of "roll-your-own" tobacco shall constitute one individual "cigarette".

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.

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.

Section 10-1002 FURNISHING OR SALE OF TOBACCO PRODUCTS AND VAPOR PRODUCTS TO MINORS.

A. It is unlawful for any person to sell, give or furnish in any manner any tobacco, tobacco product or vapor product to another person who is under eighteen (18) years of age, or to purchase in any manner tobacco, a tobacco products or vapor product on behalf of any such person. It shall not be unlawful for an employee under eighteen (18) years of age to handle tobacco, tobacco products or vapor products when required in performance of the employee's duties.

B. A person engaged in the sale or distribution of tobacco, tobacco products or vapor products shall demand proof of age from a prospective purchaser or recipient if an ordinary person would conclude on the basis of appearance that the prospective purchaser may be less than 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 section is an offense against the City of Fairview; 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 the 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 reasonably relied upon proof of age, and such person shall not be found guilty of the violation if such person proves that:

1. The individual who purchased or received the tobacco product or vapor product presented a driver license or other government-issued photo identification purporting to establish that such individual was eighteen (18) years of age or older; or

2. The person cited for the violation confirmed the validity of the driver license or other government-issued photo identification presented by such individual by performing a transaction scan by means of a transaction scan device.

Provided, that this defense shall not relieve from liability any person cited for a violation of this section if the person failed to exercise reasonable diligence to determine whether the physical description and picture appearing on the driver license or other government-issued photo identification was that of the individual who presented it. The availability of the defense described in this subsection does not affect the availability of any other defense under any other provision of law.

Section 10-1003
MINORS.

RECEIPT OF TOBACCO PRODUCTS AND VAPOR PRODUCTS BY

A. It is unlawful for any person who is under eighteen (18) years of age to purchase, receive, or have in his or her possession a tobacco product, or vapor product, or to present or offer to any person any purported proof of age which is false or fraudulent for the purpose of purchasing or receiving any tobacco product or vapor products. It shall not be unlawful for an employee under age 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 continued sentence for a violation of subsection A of this section, the total of any fines, fees, or costs shall not exceed the following:

1. One Hundred Dollars (\$100.00) for a first offense; and

2. Two Hundred Dollars (\$200.00) for a second or subsequent offense within a one-year period following the first offense.

Section 10-1004 DISTRIBUTION OF TOBACCO PRODUCT AND VAPOR PRODUCT SAMPLES.

A. It shall be unlawful for any person or retailer to distribute tobacco, tobacco products, tobacco or tobacco product samples or vapor products samples to any person under 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 continued sentence for a violation of subsections A or B of this section, the total of any fines, fees, or costs shall not exceed the following:

1. One Hundred Dollars (\$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.

Section 10-1005 PUBLIC ACCESS TO DISPLAYED TOBACCO PRODUCTS AND VAPOR PRODUCTS

A. It is unlawful for any person or retail store to display or offer for sale tobacco products or vapor products in any manner that allows public access to the tobacco product or vapor products without assistance from the person displaying the tobacco product or vapor products or an employee or the owner of the store. The provisions of this subsection shall not apply to retail stores which do not admit into the store persons under eighteen (18) years of age

B. When a person is convicted or enters a plea and receives a continued sentence for a violation of this section, the total of any fines, fees, or costs shall not exceed Two Hundred Dollars (\$200.00) for each offense.

Section 10-1006 REPORT OF VIOLATIONS AND COMPLIANCE CHECKS.

A. Any conviction for a violation of this Article and any compliance checks conducted by the Police Department pursuant to Subsection B of this section shall be reported in writing to the Alcoholic Beverage Laws Enforcement (ABLE) Commission within 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.

(Note: This Article was adopted as Ordinance No. 2015-05 approved on the 19th day of May 2015).

Section 10-1007 TOBACCO-FREE IN CITY-OWNED AND OPERATED BUILDINGS AND REAL PROPERTIES LOCATED WITHIN THE CORPORATE LIMITS OF THE CITY OF FAIRVIEW.

Sections 10-1007 through Section 10-1007D shall be hereafter known as the Tobacco-Free in City-Owned and Operated Buildings and Real Properties located within the corporate limits of the City of Fairview Ordinance.

Section 10-1007A DEFINITIONS

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

A. "Indoor area" shall mean any indoor city-owned and operated property located within the Fairview corporate limits. An indoor area includes work areas, employee lounges, restrooms, conference rooms, classrooms, employee cafeterias, hallways, any other spaces used or visited by employees or the public, and all space between a floor and ceiling that is predominantly or totally enclosed by walls or windows, regardless of doors, doorways, open or closed windows, stairways, or the like. The provisions of this section shall apply to such indoor areas at any given time, whether or not work is being performed;

B. "Outdoor area" shall mean any covered area, partially covered area or area open to the sky that is on a property owned and operated by the City of Fairview and located within the Fairview corporate limits;

C. "Recreational area" shall mean any area that is owned and operated by the City of Fairview located within the Fairview corporate limits and open to the general public for recreational purposes, regardless of any fee or age requirement, and includes parks, picnic areas, playgrounds, sports fields, walking paths, gardens, hiking trails, bike paths, riding trails, swimming pools, roller skating rinks and skateboard park.

D. "Tobacco product" shall mean any product that contains or is derived from tobacco and is intended for human consumption excluding drugs or devices approved for cessation by the United States Food and Drug Administration. This includes e-cigarettes and vapor products, with or without nicotine.

E. "Tobacco-free" shall mean to prohibit the use of any tobacco product by anyone, anywhere, at any time as further defined by this Ordinance.

F. "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, Drug and Cosmetic Act.

Section 10-1007B PROHIBITION OF TOBACCO PRODUCTS AND VAPOR PRODUCTS ON CITY-OWNED AND OPERATED PROPERTIES WITHIN THE CORPORATE LIMITS.

A. The possession of lighted tobacco in any form is a public nuisance and dangerous to public health and is hereby prohibited when such possession is in any indoor or outdoor areas owned and operated by the City of Fairview located within the Fairview corporate limits.

B. All buildings and other properties, including indoor and outdoor areas, owned and operated by the City of Fairview located within the Fairview corporate limits, shall be entirely tobacco free to include all forms of tobacco products including vapor products.

C. All indoor and outdoor recreational areas owned and operated by the City of Fairview located within the Fairview corporate limits, shall be entirely tobacco free to include all forms of tobacco products including vapor products.

Section 10-1007C POSTING.

The City of Fairview shall post a sign or decal, at least four inches by two inches in size, at each entrance of city owned and operated property located within the Fairview corporate limits indicating the property is tobacco-free.

The posting of signs or decals is the responsibility of the City Manager and/or supervisor of the city owned and operated property located within the Fairview corporate limits.

Section 10-1007D ENFORCEMENT.

The City of Fairview shall, at a minimum, do the following in order to prevent tobacco and vapor product use in city owned and operated property located within the Fairview corporate limits:

A. Post signs at entrances to city owned and operated properties located within the Fairview corporate limits 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 Ordinance.

(Note: Sections 10-1007 through Section 10-1007D were adopted by Ordinance No. 2015-09 approved on the 1st day of December 2015).

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CHAPTER 11

PARKS, RECREATION AND CEMETERY

ARTICLE 1

PARKS AND RECREATION

Section 11-101 RULES AND REGULATIONS ADOPTED.

The city council shall from time to time adopt rules and regulations governing the city parks, lakes and recreation facilities.

Section 11-102 FEEES TO BE DETERMINED

The city shall provide by rules, from time to time, the fees charged for any such park or recreational privilege on any property or facility for recreational purposes owned or operated by the city.

Section 11-103 SPECIFIC REGULATIONS AND PROHIBITED ACTS IN PUBLIC RECREATION AREAS

A. It is an offense for any person to perform any of the following acts within any public recreation area unless the doing of such act is authorized by the city manager or city council:

1. To erect any signboard or distribute or give away any handbills or other thing of a commercial advertising nature.

2. To sell any article whatsoever.

3. To occupy or use any picnic shelter or other facility within the public parks during the hours from 12:00 midnight and 6:00 a.m., except as may be allowed under special permit.

4. To camp, erect tent, build a fire, park an automobile or other vehicle for the purpose of sleeping therein or under cover projecting therefrom within any park, except as may be allowed under special permit.

5. To knowingly and willfully permit any cattle, horses, mules, hogs, sheep, goats, dogs, chickens, or other domestic fowls to trespass within the confines of the city parks. The animal or fowl shall be impounded and disposed of as provided for other impounded animals.

6. To ride a horse upon or in any portion of any park except on designated areas unless so authorized under a special permit.

7. To operate any mini bike, motorcycle, motor scooter or similar device upon, over, or across any park, public school ground, recreational area, parkways, drainage facilities or other public right-of-way other than the streets used for motor vehicular traffic except where so signed.

8. To ride bicycles, tricycles or velocipedes in parks or upon parkways or park roads except on paths specifically provided for that purpose or upon the roadway. In no case shall they be permitted to ride upon the sidewalks, footpaths, or in parking areas or grasses.

9. To allow any vehicle other than those used for pleasure driving or those vehicles employed by the city in the construction or caring for the parks to enter the parks.

10. To disregard or violate any adopted rule, regulation or order governing the use of any playground, tennis court, ball diamond, swimming pool, or any playing field within any park or other area under the jurisdiction of the city.

11. To ascend or take off, or attempt to ascend or takeoff or make a landing in any park in any airplane, hydroplane, airship, balloon or other aircraft designed or intended to travel in the air with the operator or passenger without a permit in writing first obtained from the city clerk. This regulation shall not apply to emergency landings made necessary for the purpose of saving human life.

12. To engage in any trick or acrobatic flying, or drop parachute laden with person or thing, or drop, throw, or permit to fall therefrom any object except for emergency.

B. All traffic ordinance of the city now in effect or hereinafter enacted shall be in full force and effect within all parks.

C. The speed limit on the operation of automobiles shall be at a speed not to exceed twenty (20) miles per hour on straight away drives and fifteen (15) miles per hour on curved drives and at all intersections.

D. It is unlawful to:

1. Park any automobile or motor vehicle at any kind or description between the hours of 12:00 midnight and 6:00 a.m. upon or along any roadway or drive, or elsewhere within the parks.

2. Park a motor vehicle at any time between sunset and sunrise at any place unless the parking lights and rear lights are lighted; and

3. To disregard any "One Way" traffic signs.

Section 11-104 PENALTY.

It is unlawful for any person to use any parks or recreational facilities owned or operated by the city without having complied with the rules and regulations promulgated by the city in connection therewith. Any violation of the rules and regulations, or failure to comply with such, shall constitute an offense.

ARTICLE 2

LIBRARIES

Section 11-201 DEFINITIONS.

As used in this chapter, the term "library" means the public library created herein, the term "board" or "board of directors" means the library board of directors created herein and the term "director" means a member of such board.

State Law References: Library boards, powers, 11 O.S. Section 31-101 et seq.

Section 11-202 CREATED.

There is hereby created a public library with reading rooms for the use and benefit of the citizens of the city.

Section 11-203 CREATED; COMPOSITION; APPOINTMENT AND TERMS OF MEMBERS.

A. There is hereby created a board of directors for the government and control of the library, to consist of five (5) members, chosen and appointed by municipal governing body from the citizens of the municipality with reference to their fitness for office.

B. The directors shall hold office for a term of five (5) years from the first day in July following their appointment and their terms shall be staggered.

Section 11-204 DIRECTORS NOT COMPENSATED.

The directors shall serve without compensation.

Section 11-205 REMOVAL OF DIRECTORS.

The municipal governing body may remove any director for misconduct or neglect of duty.

Section 11-206 VACANCIES.

Vacancies in the board of directors occasioned by removals, resignations or otherwise shall be reported to the mayor and council and be filled in a like manner as original appointments.

Section 11-207 ELECTION OF OFFICERS.

The directors shall, immediately after appointment, meet and organize by the election of one of their number as president and by the election of such other officers as they may deem necessary.

Section 11-208 GENERAL POWERS AND DUTIES.

The board shall have control of the library building and of the supervision, care and custody of the grounds, rooms or buildings constructed, leased or set apart for that purpose, and shall, in general, carry out the spirit and intent of this chapter. The board shall have power, with the approval of the mayor and council, to recommend purchase of grounds and a suitable building for the use of the library. All powers delegated to the board of directors shall be executed subject to the approval of the city manager and council, as appropriate.

Section 11-209 AUTHORITY TO APPOINT, LIBRARIAN ASSISTANTS.

The board shall have the power to recommend appointment of a suitable librarian and necessary assistants, and their compensation, to the City Manager. The City Manager shall appoint all library employees.

Section 11-210 BYLAWS, RULES AND REGULATIONS.

A. The board shall make and adopt such bylaws, rules and regulations for its own guidance and for the government of the library and reading rooms, or either of them, as may be expedient, not inconsistent with this chapter.

B. The library or reading room established under this chapter shall always be subject to such reasonable rules and regulations as the board may adopt, in order to render the use of such library and reading room, or either of them, of the greatest benefit to the greatest number, and the board may exclude from the use of the library or reading room, or either of them, any and all persons who shall willfully violate such rules.

C. Any person who shall willfully violate any rules or regulations regularly adopted by the board for the government, care and use of the library or reading room shall be deemed guilty of an offense and be punished accordingly.

Section 11-211 DAMAGING, DEFACING OR FAILING TO RETURN BOOKS OR OTHER PROPERTY.

Any person who shall destroy or deface any book, periodical or other property of the library, or who shall fail to return any book, periodical or other property at such time as the same is due to be returned, shall be guilty of a misdemeanor.

Section 11-212 USE, TRANSFER OF LIBRARY.

A. Any library or reading room established shall be used as such, and for such other public purposes as the city council may deem proper, and shall always be subject to such reasonable rules and regulations as the city council may adopt, in order to render the use of the library and reading room, or rooms of the greatest benefit to the greatest number.

B. Any library already existing or hereafter established may be transferred by the society, association or individual owning the same, to the city on such terms not inconsistent with the object of this chapter as may be mutually agreed upon.

Section 11-213 ACCEPTANCE OF DONATIONS.

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

B. The city shall have power to accept, or in its discretion decline, donations tendered as provided in this Section.

Section 11-214 ANNUAL REPORT.

The board of directors shall make, on or before the thirty-first (31st) day of July in each year, an annual report to the municipal governing body stating the condition of its trust on the thirtieth day of June of that year; the various sums of money received from the library fund and other sources and the amount of money expended and for what purposes; the budget for the library for the next fiscal year; statistics on the general character and number of books and periodicals which are on hand, are lost or missing, have been added by purchase, gift or otherwise during the year; the

number of persons attending the library; the number of books loaned out; the general character and kind of such books; and such other statistics, information and suggestions as the board may deem of general interest.

ARTICLE 3

CEMETERY

Section 11-301 ADMINISTRATION

The city cemetery is controlled and administered by the public works department.

Section 11-302 SEXTON.

The City Manager shall appoint a sexton for the city cemetery. The sexton shall perform such duties as may be required of him by ordinance and all other duties imposed upon him by the mayor and council, and shall work under their direction and receive such compensation as the mayor and council may direct. He shall supervise the opening and closing of all graves. It shall be the duty of the sexton to keep and maintain the cemetery in a sanitary and orderly manner at all times and to prevent any unlawful use or injury to any of the properties of the city or individuals owning lots thereon. He shall establish markers for all graves, showing the names of the persons interred, such markers to be removed and replaced by monuments at the instance of relatives or other persons. He shall keep all weeds cut and maintain all roadways, streets and sidewalks in good condition of use. The sexton shall approve and supervise the placing of all monuments, trees, shrubs, and other improvements of a permanent nature, to insure that all such shall conform to the general beautification plan of the cemetery. Curbing and fences around lots are hereby expressly prohibited.

Section 11-303 RULES.

The City Manager may enact rules and regulations protecting and governing the municipal cemetery, the ownership of lots therein, and visitors therein; and the violation of any of the rules shall be an offense. All such rules shall be entered in a book to be kept for that purpose and shall be posted in a conspicuous place in the cemetery.

Section 11-304 CEMETERY CARE FUND; CEMETERY SPECIAL FUND.

A. Cemetery Care Fund. Whenever lots are sold or charges made for interments, fifty percent (50%) of all monies received from the sale of lots and interments shall be segregated and set aside as a permanent fund to be known as the "Cemetery Care Fund". The Cemetery Care Fund principal shall be expended for purchasing lands

for cemeteries and for making capital improvements, if necessary. The balance of the fund may be invested in the manner provided by law for investments of municipal funds. The interest from the investments shall be used for the same purpose as the principal, or in improving, caring for, and embellishing the lots, walks, drives, parks, and other necessary improvements on such cemeteries. For the purpose of this Section, "capital improvements" shall mean all items and articles, either new or replacements, not consumed with use but only diminished in value with prolonged use, including but not limited to roads and streets, drainage improvements, water and sewerage improvements, machinery, equipment, furniture and fixtures, all real property, all construction or reconstruction of buildings, appurtenances and improvements to real property, the cost and expenses related thereto of rights-of-way or other real property, engineering, architectural or legal fees, and payment for improvements for which subsequent reimbursement is made to the Cemetery Care Fund.

B. Cemetery Special Fund. The Cemetery Special Fund is established by the city clerk and shall be a separate fund from the Cemetery Care Fund. In the Cemetery Special Fund shall be deposited the donations and gifts of persons and families desiring to memorialize loved ones. Principal and interest may be used for special improvements not provided for herein. Expenditures of monies from this fund shall be pursuant to vote by the city council, after receiving the advise of the Cemetery Advisory Committee,

Note: Approved by Ordinance No. 2003-7 passed on 6-17-2003

Section 11-305

DEED RECORD.

All contracts for the transfer of lots shall be signed and conveyed by certificate signed by the city manager and countersigned by the city clerk, under the seal of the city, upon the payment to the city clerk of the price of the lot as entered upon the list filed in the city clerk's office. The certificate shall show the price for which the lots are sold and specify that the person to whom it is issued is the owner of the lot or lots described therein by number, as laid down in the plat, for purpose of interment. The certificate shall vest in the purchaser and his heirs a right to the lot or lots, for the sole purpose of interment, under the regulations of the city, or as such regulations may be hereinafter amended. The city clerk shall keep a complete record of all sales and burials in books provided by the city. All abandoned lots or spaces of lots shall be so declared by resolution of the city council and such abandoned lots or spaces of lots shall thereafter revert to the city. All monies received by the city from the sale of lots or from interments or from any other source shall be paid daily to the city treasurer, who shall deposit same in the municipal treasury. Expenses incurred for the upkeep, repair, and adornment of the cemetery may be paid by the treasurer upon proper warrants.

Section 11-306 OFFENSE.

It is an offense for any person to violate any posted or published rule or regulation relating to the government or preservation of the city cemetery which has been adopted by the mayor and council. The commission of any act of trespass, malicious mischief, or other thing which is prohibited by ordinance within the city limits shall be an offense when committed in any cemetery owned or governed by the city. Any person who commits any such offense shall, upon conviction, be punished as provided in Section 1-108 of this code.

Section 11-307 PRICE SCHEDULE.

The price schedule to be utilized in all transactions by the city at the Cemetery shall be as set by the mayor and the city council by motion or resolution. A copy of the current schedule is on file in the city clerk's office.

Section 11-308 USE OF GRAVE SITES.

Use of the purchased grave sites will be made in the following manner:

A. The owner or the duly authorized representative of the owner or estate of the deceased owner or funeral director shall contact the sexton of the city, with proof of ownership and request the grave is opened. A burial permit shall be received from the city clerk, which city clerk and sexton shall sign the proper form authorizing the city to open the grave and release the city from all liability;

B. The funeral director in charge shall inform the sexton of the grave site desired, grave site time and date and other pertinent details concerning the opening and closing of the grave; and

C. The sexton shall perform the requested services after proper determination of the grave location and the approval of the arrangements have been made.

Section 11-309 RULES, REGULATIONS AND REQUIREMENTS.

The only safe rule to observe in visiting this Cemetery is to "Touch nothing that does not belong to you."

No animals of any kind shall be permitted to be buried in the Cemetery

All motorized vehicles and bicycles shall remain on designated roads, except service vehicles.

Bringing lunches, alcoholic beverages and /or illegal drugs are strictly forbidden.

No person shall be permitted to enter or leave the Cemetery except by the public gates, which will be open at 8:00 A.M. throughout the year and closed soon after sunset, according to the season of the year. Any person found on the grounds after dark will be considered a trespasser.

No person or persons other than City of Fairview employees shall be permitted to bring or carry firearms within the Cemetery, except a Military Guard of Honor.

The clean up after a service is the responsibility of the Funeral Home and Florist serving the services.

All persons are strictly forbidden to break or injure any tree or shrub, or mar any landmark, marker or memorial or in any way deface the grounds of the Cemetery.

The City of Fairview is not responsible for theft or damage to anything placed on graves or lots. The City and its agents have authority to enter upon any lots and to remove any item that may have been located there, contrary to regulations of said Cemetery, and they may remove any dead, damaged or living trees, shrubs, vines, plants or flowers.

No items interfering with mowing and or maintenance will be permitted on any graves, lot or trees. Corner markers are permitted if set at ground level and can be mowed over, or they will be removed.

All work and all planting of any kind on all lots and graves is strictly prohibited, except with the permission or under the supervision of the management.

The only exception will be: Existing flowers, decorations, etc. may remain if the lot or lots are mowed and maintained by family members on a regular basis. If family members cease to mow and maintain the lot or lots, the City may remove any or all plants, flowers, decorations or any other items and resume mowing and maintenance.

The City reserves the right to remove objects for any reason when it is in the best interest of the Cemetery.

Any marker or item that extends more than 16 inches above the ground is considered a headstone. All headstones must be in line with the headstones in that row. This regulation shall apply to any existing, or future markers and may be removed or relocated by City Employees at the instruction of the City Manager.

The Cemetery authorities shall have full right to fill and level graves and plant grass thereon, and no permanent mound whatever shall be permitted. All graves shall be filled, tamped and finished to the same level as the surrounding ground and all graves shall be covered completely with grass. This regulation must be strictly enforced in order to preserve the beautiful park-like appearance of the lawns and ground as a whole, and to assure the perpetual maintenance of the property.

Note: The following ordinance governing the City Cemetery were revised on May 3, 2013.

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CHAPTER 12

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CHAPTER 12: PLANNING, ZONING AND DEVELOPMENT

ARTICLE 1

BOARDS AND COMMISSIONS

DIVISION 1

PLANNING COMMISSION

Section 12-101 PLANNING COMMISSION CREATED.

There is hereby created a planning commission of the city. The commission shall be composed of five (5) members, nominated by the Mayor and confirmed by the city council. The Mayor and the City Engineer shall be ex-officio members of the commission. Each appointed member shall hold office for a period of three (3) years, or until his successor takes office. The appointed members of the commission shall be nominated and appointed solely with reference to their fitness and without reference to party affiliation and shall serve without compensation. Members may be removed by the city council only for inefficiency, neglect of duty or malefaction in office. Vacancies occurring, otherwise than through the expiration of term, shall be filled only for the un-expired terms by the Mayor with confirmation by the city council. The Mayor shall receive no compensation for his service on the commission. Terms shall be staggered and members shall serve until their respective June 30.

State Law Reference: Planning commissions, 11 O.S. 45-101 et seq.

SECTION 12-102 QUORUM.

Three (3) members of the planning commission shall constitute a quorum for the transaction of business. Any action taken shall be official when concurred in by not less than a majority of all appointed members of the planning commission present.

Note: Quorum amended on January 16, 2001 by Ordinance No. 2001-01A.

SECTION 12-103 ORGANIZATION AND RULES.

Each year the commission shall elect a chairman, a vice chairman and a secretary, and may create and fill such other offices as it may deem necessary. The term of the chairman, vice chairman, and secretary shall be one year. The planning commission shall adopt rules for the transaction of business and regulations

necessary to effectuate the purposes of this Chapter 12 of the city code.

SECTION 12-104 POWER TO EMPLOY STAFF.

The planning commission, subject to approval of the city council, shall have the power and authority to employ planners, engineers, attorneys, clerks and other help deemed necessary within the limits of the appropriation fixed by the city council. The salary and compensation of such employees shall be fixed by the city council and shall be paid out of the city treasury as are other officers and employees. Necessary expenses incurred by the commission shall be paid from the city treasury as other legal expenses of the city.

SECTION 12-105 POWERS AND DUTIES.

The planning commission shall have the power to prepare and recommend to the city council for adoption a comprehensive plan for the physical development of the city. In conducting its work, the planning commission may consider and investigate any subject matter tending to the development and betterment of the city and may make recommendations as it may deem advisable concerning the adoption thereof to the city council. The planning commission may make or cause to be made surveys, studies, maps and plans in the conduct of its activities. Before final action is taken by the city council on the location or design of any public buildings, statue, memorial, park, boulevard, street, alley, playground, public grounds, bridge or change in any location of any street or alley, such question shall be submitted to the planning commission for investigation and report. In the preparation of the comprehensive plan, the planning commission may from time to time prepare and recommend to the city council for adoption a part or parts thereof, which parts shall cover one or more major geographical divisions of the city or one or more major elements of the comprehensive plan. The planning commission may from time to time recommend extending, amending or changing any portion of the comprehensive plan.

SECTION 12-106 PURPOSES OF PLAN.

In the preparation of such plan, the planning commission may make careful and comprehensive surveys and studies of present conditions and future growth of the city with due regard to its relation to neighboring territory. The plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the city and its environs which will, in accordance with present and future needs, best promote health, safety, morals, order, convenience, prosperity and general welfare,

as well as efficiency and economy in the process of development; including, among other things, adequate provisions for traffic, the promotion of safety from fire and other dangers, adequate provision for light and air, the promotion of healthful and convenient distribution of population, the promotion of good civic design and arrangement, and wise and efficient expenditure of public funds.

SECTION 12-107 SUBDIVISION OF LAND.

The planning commission may prepare and recommend to the city council for adoption rules and regulations governing the subdivision of land within the corporate limits for the city. All plans, plats or replats of land laid out in lots, plots, blocks, streets, alleys or other ways intended to be dedicated to public or private use within the corporate limits of the city may first be submitted by the city council to the planning commission for its recommendations. The disapproval of any such plan, plat or replat by the city council shall be deemed a refusal of the dedications shown thereon. No plat or replat of subdivision of land, or dedication of street or alley or other easement shall be entitled to record unless it bears the signature of the Mayor, attested by the City Clerk, certifying the approval and acceptance thereof by the city council. Provided however, unless otherwise required under this Chapter, the City Council's review and approval shall not be required for the granting of a lot split.

SECTION 12-108 ZONING COMMISSION.

The planning commission shall also act as the zoning commission, which shall have the power to prepare and to recommend to the city council for adoption a zoning plan to regulate and restrict the height, number of stories and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts and other open spaces, the density of population, the location and use of buildings, structures and land for trade, industry, residence and other purposes.

SECTION 12-109 UNIFORMITY OF REGULATIONS.

The planning commission may recommend the division of the city into districts of such number, size and area as may be deemed best suited to carry out the zoning plan. All such regulations shall be uniform for each class or kind of buildings throughout each district, but the regulations in one district may differ from those in other districts.

SECTION 12-110 COMPREHENSIVE PLAN, PURPOSE OF REGULATIONS AND MATTERS CONSIDERED.

Zoning regulations shall be made in accordance with a comprehensive plan and designed to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the over-crowding of land; to avoid undue concentration of population; to facilitate the adequate provisions of transportation, water, sewerage, schools, parks, and other public requirements. Such regulations shall be made with reasonable consideration, among other things, as to the character of the district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the municipality.

SECTION 12-111 EXPENSES

Any person requesting a Zoning Change or Use by Review or other zoning or planning related request shall pay an application fee of One Hundred Dollars (\$100.00) to be used to defray any associated expenses such as postage for notice to property owners within the 300' radius as required and all publication costs. The applicant shall further submit with its application a certified abstractor, registered professional engineer or a registered surveyor's list of the names of all property owners within a three hundred foot (300') radius of the exterior boundary of the territory on which the applicant seeks the amendment. The City will provide the stationary, labor, required notices, mailing and publication.

DIVISION 1

BOARD OF ADJUSTMENT

SECTION 12-121 BOARD OF ADJUSTMENT CREATED.

There is hereby created a board of adjustment consisting of five (5) members, who shall be appointed for a term of three (3) years, and removable for cause by the city council upon written charges and after public hearing. The members of the City Council shall not be members of the Board of Adjustment. Vacancies shall be filled for the unexpired term of any members whose term becomes vacant. The board of adjustment in effect on the effective date of this section shall be constituted as the board of adjustment, with terms of three (3) years, or until their successors are appointed and qualified.

SECTION 12-122 MEETINGS AND PROCEDURES.

The board of adjustment shall elect one of its members as chairman. The board shall adopt rules in accordance with the provisions of this chapter. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. The chairman, or, in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses by subpoena. The board of adjustment shall be subject to the open meeting laws of the state, and all meetings, deliberations and voting of the board shall be open to the public. The board shall keep the minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such facts, and shall keep records of all official actions, all of which shall be immediately filed in the office of the city clerk and shall be a public record.

SECTION 12-123 APPEALS.

A. Appeals to the board of adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of the municipality affected by any decision of the administrative officer. Such appeal shall be taken within thirty (30) days after the decision by filing with the officer from whom the appeal is taken and with the City Clerk notice of appeal specifying the grounds therefore, and by paying the fee as provided in Section 12-129. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.

B. An appeal stays all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken certifies to the board of adjustment after the notice of appeal has been filed with him that by reason of facts stated in the certificate a stay would in his opinion cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board of adjustment or by a court of record on application and notice to the officer from whom the appeal is taken and on the cause shown.

C. Notice of public hearing before the board of adjustment shall be given by publication in a newspaper of general circulation in the municipality where the property is located and by mailing written notice by the city clerk to all owners of property within a three hundred (300) foot radius of the exterior boundary of the subject property. A copy of the published notice may be mailed in lieu of the written notice; however, the notice by publication and

written notice shall be published and mailed at least ten (10) days prior to the hearing.

D. The notice, whether by publication or mail, of a public hearing before the board of adjustment shall contain:

1. Legal description of the property and the street address or approximate location in the municipality;

2. Present zoning classification of the property and the nature of the appeal or variance requested; and

3. Date, time and place of hearing.

E. At the hearing, any party may appear in person or by agent or by attorney.

F. The record of the meeting at which the variance or special exception was granted shall show that each element of a variance was established at the public hearing on the question, otherwise said variance or special exception shall be voidable on appeal to the district court.

SECTION 12-124 POWERS, APPEALS.

The board of adjustment shall have the powers to hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the administrative officer in the enforcement of the zoning regulations set forth in Sections 12-201 et seq. of this code.

SECTION 12-125 POWERS TO GRANT VARIANCES.

The board of adjustment shall have the power to authorize upon appeal in specific cases such variances from the terms of the zoning regulations in Sections 12-201 et seq. of this code as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of the zoning regulations, will in any individual case, result in unnecessary hardship, so that the spirit of the zoning regulations shall be observed, public safety and welfare secured, and substantial justice done. Such variances may be granted in such individual case of unnecessary hardship upon a finding by the board of adjustment that:

1. At the time of the original adoption of the regulations there are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape,

or topography, or other extraordinary or exceptional situation or condition of a specific piece of property;

2. The strict application of the zoning regulations to this particular and exceptional piece of property would create an unnecessary hardship, not self-imposed by the owner or developer;

3. Such conditions are peculiar only to the particular piece of property involved and not generally prevalent in the area;

4. Relief if granted, would not cause substantial detriment to the public good or impair the purposes and intent of the zoning regulations, provided, however, that no variance may be granted for a use of land or building or structure that is prohibited by the zoning regulations set forth in Sections 12-201 et seq. of this code.

SECTION 12-126

POWERS RELATIVE TO EXCEPTIONS.

The board shall have the power to hear and decide special exceptions to the terms of this title upon which the board is required to pass under this title. Upon appeal, the board is empowered to permit the following exceptions:

1. To permit the extension of a district where the boundary line of a district divides a lot in single ownership as shown of record;

2. To interpret the provisions of this title where the street layout actually on the ground varies from the street layout as shown on the map fixing the several districts, which map is on file in the office of the City Clerk; and

3. To grant exceptions to the off-street parking requirements set forth in Sections 12-280 et seq. of this code when it is determined that the size and shape of the lot to be built on is such that off-street parking provisions could not be complied with, and that the proposed use will not create undue traffic congestion in the adjacent streets.

SECTION 12-127

EXERCISE OF POWERS

In exercising its powers the board may, in conformance with the provisions of this title, reverse or affirm, wholly or partly, or may modify the order, requirement, decisions or determination appealed from and may make such order, requirement, decision or determination as out to be made, and to that end shall have all the powers of the officer from whom the appeal is taken. In considering

all appeals from rulings made under this title, the board shall, in making its findings on any specific case, determine the effect of the proposed change upon the supply of light and air to adjacent property, upon the congestion of the public streets, upon the public safety from fire and other hazards, upon the established property values within the surrounding area, and upon other factors relating to the public health, safety, comfort, morals, and general welfare of the people of the city. Every ruling made upon any appeal to the board shall be accompanied by a written finding of fact based upon the testimony received at the hearing afforded by the board, and shall specify the reason for granting or denying the appeal.

SECTION 12-128

APPEAL TO DISTRICT COURT.

A. An appeal from any action, decision, ruling, judgment or order of the board of adjustment may be taken by any person or persons, jointly or severally aggrieved, or any taxpayer or any officer, department, board or bureau of the city to the district court by filing notice of appeal, with the City Clerk and with the board of adjustment within ten (10) days from the filing of the decision of the board, which notice shall specify the grounds of such appeal. Upon filing of the notice of appeal as herein provided, the board shall transmit to the court clerk the original or certified copy of all the papers constituting the record in the case, together with the order, decision or ruling of the board.

B. An appeal to the district court from the board of adjustment stays all proceedings in furtherance of the action appealed from, unless the chairman of the board of adjustment from which the appeal is taken certifies to the court clerk, after the notice of appeal has been filed, that by reason of facts stated in the certificate, a stay would in his opinion cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the district court or superior court upon application or notice to the administrative officer in charge of the enforcement of the terms and provisions of this title, and upon notice to the chairman of the board of adjustment from which the appeal is taken, and upon due cause being shown, the court may reverse or affirm, wholly or partly, or modify the decision brought up for review.

SECTION 12-129

EXPENSES.

Any person requesting a variance, special condition or any other relief from the Board of Adjustment shall pay an application fee of One Hundred Dollars (\$100.00) to be used to defray any associated expenses, such as postage for notice to property owners within the 300' radius as required and all publication costs. The

applicant shall further submit with its application a certified abstractor's, registered professional engineer's or registered land surveyors list of the names of all property owners within a three hundred feet (300') radius of the exterior boundary of the territory on which the applicant seeks the amendment. The City will provide the stationary, labor, required notices, mailing and publication.

ARTICLE 2

ZONING REGULATIONS

DIVISION 1

GENERAL PROVISIONS

SECTION 12-201 CITATION.

These regulations, in pursuance of the authority granted by the legislature of the State of Oklahoma in Sections 401-410 of Chapter 7 of Title 11 of the Oklahoma Statutes, shall be a part of the general plan for the city and shall be known as the zoning ordinance and may be cited as such.

SECTION 12-202 PURPOSE AND NECESSITY.

The regulations contained herein are necessary to encourage the most appropriate uses of land to:

1. Maintain and stabilize the value of property;
2. Reduce fire hazards and improve public safety and safeguard the public health;
3. Decrease traffic congestion and its accompanying hazards;
4. Prevent undue concentration of population; and
5. Create a comprehensive and stable pattern of land uses upon which to plan for transportation, water supply, sewerage, schools, parks, public utilities, and other facilities.

In interpreting and applying the provisions of these regulations they shall be held to be the minimum requirements for the promotion of the public health, safety, comfort, convenience and general welfare.

SECTION 12-203

NATURE OF ZONING PLAN.

These regulations classify and regulate the use of land, building, and structures within the city limits of the city as hereinafter set forth. The regulations contained herein are necessary to promote the health, safety, convenience and welfare of the inhabitants by dividing the city into zones and regulating therein the use of the land and the use and size of buildings as to height and number of stories, the coverage of the land by building, the size of yards and open spaces, density of population and location of buildings.

SECTION 12-204

REGULATION OF USE, HEIGHT, AREA YARDS AND OPEN SPACES.

Except as hereinafter otherwise provided, no land shall be used and no building, structure or improvements shall be made, erected, constructed, moved, altered, enlarged or rebuilt which is designed, arranged or intended to be used or maintained for any purpose or in any manner except in accordance with the requirements established in the district in which such land, building structure, or improvement is located, and in accordance with the provisions of the articles contained herein relating to any or all districts.

SECTION 12-205

ZONING DISTRICTS ESTABLISHED.

The city is hereby divided into zones as shown on the zoning map filed with the City Clerk. The map and all explanatory material thereon is hereby made a part of these regulations by reference zones which shall be designated as follows:

1. Agricultural
 1. A-1 General Agricultural District
 2. A-2 Suburban District
2. Residential:
 - a. E-1 Estate Residential District
 - b. R-2 Single Family Residential District
 - c. R-2 Restricted Residential District
 - d. R-3 General Residential District
3. Commercial:
 - a. C-1 Neighborhood Shopping District
 - b. C-2 General Commercial District

4. Industrial:
 - a. I-1 Light Industrial District
 - b. I-2 Heavy Industrial District
5. F Flood Plain
6. PUD Planned Unit Development District
7. Public Institutional (PI) District

SECTION 12-206 DEFINITIONS.

For the purpose of these regulations certain terms and words are to be used and interpreted as defined hereinafter. Words used in the present tense shall include the future tenses, words in the singular number include the plural, and words in the plural number include the singular, except where the natural construction of the writing indicates otherwise. The word "shall" is mandatory and not directory:

1. "Accessory building" means a building customarily incidental and subordinate to the main building and located on the same lot with the main building;

2. "Accessory use" means a use customarily incidental appropriate and subordinate to the principal use of land or buildings located upon the same premises;

3. "Advertising sign or structure" means any cloth, card, paper, metal, painted, glass, wooden, plastic, plaster, stone sign or other sign, device or structure of any character whatsoever, including statuary placed for outdoor advertising purposes on the ground or any tree, wall, bush, rock, post, fence, building or structure. The term "placed" shall include erecting, constructing, posting, painting, printing, tacking, nailing, gluing, sticking, carving or otherwise fastening, affixing or making visible in any manner whatsoever. The area of an advertising structure other than a sign shall be determined as the area of the largest cross section of such structure. Neither directional, warning nor other signs posted by public officials in the course of their public duties nor merchandise or materials being offered for sale shall be construed as advertising signs for the purpose of this definition;

4. "Alley" means a public passage or way affording a secondary means of vehicular access to abutting property and not intended for general traffic circulation;

5. "Apartment house or multiple family dwelling" means a single detached dwelling designed for and occupied by three (3) or more families living independently of each other as separate housekeeping units, including apartment houses, apartment hotels and flats, but not including auto or trailer courts or camps, hotels, or resort type hotels;

6. "Basement" means a story partly or wholly underground. For purposes of height measurement a basement shall be counted as a story when more than one-half ($\frac{1}{2}$) of its height is above the average level of the adjoining ground or when subdivided and used for commercial or dwelling purposes by other than a janitor employed on the premises;

7. "Boarding house" means a dwelling other than a hotel where, for compensation and by prearrangement for definite periods, meals, or lodging and meals are provided for three (3) or more persons, but not exceeding twelve (12) persons on a weekly or monthly basis.

8. "Building" means any structure intended for shelter, housing or enclosure of person, animals or chattel. When separated by dividing walls without openings, each portion of such structure so separated, shall be deemed a separate structure;

9. "Building height" means the vertical distance from the average line of the highest and lowest points of that portion of the lot covered by the building to the highest point of coping of a flat roof, or the deck line of a mansard roof, or to the average height of the highest gable of a pitch or hip roof;

10. "Building main" means a building in which is conducted the principle use of the lot on which it is situated. In any residential district any dwelling shall be deemed to be a main building on the lot on which it is situated;

11. "Building site" means a single parcel of land under one ownership, occupied or intended to be occupied by a building or structure;

11A. "Carport" means a structure which houses an automobile and which is unenclosed on three sides above a height of three (3) feet.

12. "Child care center" means any place, home or institution which receives three (3) or more children under the age of sixteen (16) years, and not of common parentage, for care apart from their natural parents, legal guardians or custodians, when received for regular periods of time for compensation; provided, however, this

definition shall not include public and private schools organized, operated or approved under the laws of this state, custody of children fixed by a court of competent jurisdiction, children related by blood or marriage within the third degree to the custodial person, or to churches or other religious or public institutions caring for children within the institutional building while their parents or legal guardians are attending services, meetings or classes or engaged in church activities;

13. "Coverage" means the percentage of the lot acre covered by the building. The building area shall include all overhanging roofs;

14. "District" means any section or sections of the city for which regulations governing the use of buildings and premises or the height and area of buildings are uniform;

15. "Dwelling" means any building, or portion thereof, which is designed or used as living quarters for one or more families, but not including house trailers;

16. "Dwelling, single-family" means a dwelling designed to be occupied by one family;

17. "Dwelling", two-family" means a dwelling designed to be occupied by two (2) families living independently of each other;

18. "Dwelling multiple" means a dwelling designed for occupancy by three (3) or more families living independently of each other, exclusive of auto or trailer courts of camps, hotels or resort type hotels;

19. "Family" means one or more persons related by blood or marriage, including adopted children, or a group of not to exceed five (5) persons (excluding servants) not all related by blood or marriage, occupying premises and living as a single nonprofit housekeeping unit as distinguished from a group occupying a boarding or lodging house, hotel, club, or similar dwelling for group use. A family shall be deemed to include domestic servants employed by the family;

20. "Garage apartment" means a dwelling unit for one family erected above a private garage;

21. "Garage, parking" means an accessory building or a part of a main building used for storage purposes only for not more than four (4) automobiles in which any servicing which may be provided is

incidental to the primary use for storage purposes, and where repair facilities are not provided.

22. "Garage, public" means any garage other than a private garage, available to the public, used for the care, servicing, repair or equipping of automobiles or where such vehicles are parked or stored for remuneration, hire or sale;

23. "Gasoline or filling stations" mean any area of land, including structures thereon, that is used for the sale of gasoline, oil fuels or other automobile accessories, but not butane or propane fuels and which may or may not include facilities for lubricating, washing, cleaning or otherwise servicing automobiles, but not including the painting thereof;

24. "Fraternity or sorority house" means a building other than a hotel, where for compensation and by pre-arrangement for definite periods, meals, or meals and lodging are provided for organized living groups;

25. "Help-yourself laundry" means a laundry providing home type washing, drying and ironing machines for hire to be used by the customers on the premises;

26. Reserved.

27. "Hotel" means a building or group of building under one ownership containing six (6) or more sleeping rooms occupied, intended or designed to be occupied as the more or less temporary abiding place of persons who are lodged with or without meals for compensation, but not including an auto nor trailer court nor camp, sanatorium, hospital, asylum, orphanage or building where persons are housed;

28. "House trailer" means any portable or mobile vehicle used or designed to be used for living purposes;

29. "Kennel" means any lot or premises on which four (4) or more dogs and/or four (4) or more cats above the age of six (6) months are kept.

30. "Lot" means any plot of land occupied or intended to be occupied by one building or a group of buildings, and its accessory buildings and uses, including such open spaces as required by these regulations and other laws or ordinances and having its principal frontage on a street;

31. "Lot corner" means a lot of which at least two (2) adjacent sides abut for their full lengths on a street, provided that the interior angle at the intersection of such two (2) sides is less than one hundred thirty-five degrees. (135 degrees);

32. "Lot, double frontage" means a lot having a frontage on two (2) non-intersecting streets, as distinguished from a corner lot;

33. "Lot, interior" means a lot other than a corner lot;

34. "Lot, area" means the total horizontal area included within lot lines;

35. "Lot, depth" means the average distance from the street line of the lot to its rear line, measured in the general direction of the side lines of the lot;

36. "Lot frontage" means that dimension of a lot or portion of a lot abutting on a street, excluding the side dimension of corner lot;

37. "Lot lines" mean the lines bounding a lot as defined herein;

38. "Medical facilities":

a. "Convalescent, rest or nursing home" means a health facility where persons are housed and furnished with meals and continuing nursing care for compensation;

b. "Dental clinic or medical clinic" means a facility for the examination and treatment of ill and afflicted human outpatients, provided, however, that patients are not kept overnight except under emergency conditions;

c. "Dental office or doctor's office" means the same as dental or medical clinic;

d. "Hospital" means an institution providing health services primarily for human inpatient medical or surgical care for the sick or injured and including related facilities such as laboratories, outpatient departments training facilities, central service facilities and staff offices which are an integral part of the facilities;

e. "Public health center" means a facility primarily utilized by a health unit for the provisions of public health services

including related facilities such as laboratories, clinics, and administrative offices operated in connection therewith; and

f. "Sanitarium" means an institution providing health facilities for inpatient medical treatment or treatment and recuperation using natural therapeutic agents;

39. "Non-conforming use" means a structure of land lawfully occupied by a use that does not conform to the regulations of the district in which it is situated;

40. "Rooming house" means a building where lodging only is provided for compensation to three (3) or more, but not exceeding twenty (20) persons; all in excess of this number shall be defined as a hotel under the terms of these regulations;

41. "Story" means that portion of a building, other than a basement, included between the surface of any floor and the surface of the floor next above it, then the space between the floor and the ceiling next above it;

42. "Story, half" means a space under a sloping roof which has the line of intersection of roof decking and wall face not more than three (3) feet above the top floor level, and in which space not more than two-thirds (2/3) of the floor area is finished off for use. A half story containing independent apartment of living quarters shall be counted as a full story;

43. "Street" means any public thoroughfare right-of-way which affords the principal means of access to abutting property;

44. "Street, intersecting" means any street which joins another street at an angle, whether or not it crosses the other;

45. "Structures" mean anything constructed or erected, the use of which requires location on the ground or attached to something having a location on the ground;

46. "Structural alterations" mean any change in the supporting members of a building, such as bearing walls or partitions, columns, beams, or girders, or any substantial change in the roof or in the exterior walls;

47. "Tourist court" means an area containing one or more structures designed or intended to be used as temporary sleeping facilities of one or more transient families and intended primarily for automobile transients;

48. "Trailer court" means land or property which is used or intended to be used or rented for occupancy by two (2) or more trailers or movable sleeping quarters of any kind;

49. "Tourist home" means a dwelling in which sleeping accommodations in not more than four (4) rooms are provided or offered for transient guests for compensation;

50. "Tree" means any object of natural growth;

51. "Yard" means an open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward except where otherwise specifically provided in these regulations that an accessory building may be located in a portion of a yard required for a main building. In measuring a yard for the purpose of determining the width of the side yard, the depth of a front yard or the depth of a rear yard, the least horizontal distance between the lot line and the main building shall be used;

52. "Yard front" means a yard located in front of the front elevation of a building and extending across a lot between the side yard lines and being the minimum horizontal distance between the front property line and the main building or any projection thereof, other than steps;

53. "Yard rear" means a yard extending across the rear of a lot measured between lot lines and being the minimum horizontal distance between the rear lot line and the rear of the main buildings or any projections other than steps, unclosed balconies or unenclosed porches. On corner lots the rear yard shall be considered as parallel to the street upon which the lot has its least dimension. On both corner lots and interior lots the rear yard shall in all cases be at the opposite end of the lot from the front yard; and

54. "Yard, side" means a yard between the building and the side line of the lot and extending from the front lot line to the rear lot line and being the minimum horizontal distance between a side lot line and the side of the main building or any projections other than steps.

SECTION 12-207

INTERPRETATION OF DISTRICT BOUNDARIES.

Where uncertainty exists with respect to the boundaries of any of the districts as shown on the zoning map, the following rules shall apply:

1. Where district boundaries are indicated as approximately following the center lines of streets or highways, street lines or highway right-of-way lines, such center lines, street lines, or highway right-of-way lines shall be construed to be such boundaries;

2. Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be the boundaries;

3. Where district boundaries are so indicated that they are approximately parallel to the center lines or street lines of streets, or the center lines or right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at such scaled distance there from as indicated on the zoning map;

4. Where the boundary of a district line follows a railroad line such boundary shall be deemed to be located on the easement line to which it is closest, which shall completely include or exclude the railroad easement unless otherwise designated.

SECTION 12-208 VACATION OF PUBLIC EASEMENTS.

Whenever any street, alley or other public easement is vacated, the district classifications of the property to which the vacated portions of land accrue shall become the classification of the vacated land.

DIVISION 2

SPECIFIC DISTRICT REGULATIONS

SECTION 12-211 USES PERMITTED.

A. Property and buildings in an A-1 general agriculture district shall be used only for the following purposes:

1. One family or two (2) family dwelling for farm owner, operator or employee;

2. All agricultural land uses, buildings and activities;

3. Mining, quarrying and earth-extraction industries;

4. Transportation, pipeline and utility easements and right-of-way;

5. Temporary roadside stands for the sale of farm products grown on the premises; provided, however, that up to one-third (1/3)

of the display area for produce may be used for the sale of products not grown on the premises. The temporary structure shall be required to set back from the roadway an adequate distance to permit parking and ingress and egress, and shall not be constructed in such location as would create an undue traffic hazard subject to the determination of the city engineer;

6. All of the following uses:

- a. Advertising signs;
- b. Church;
- c. Reserved;
- d. Kennel (no animals permitted on tracts smaller than five (5) acres);
- e. Library;
- f. Park or playground or public recreation area;
- g. Plant nursery or greenhouse;
- h. Public utility buildings and facilities; and
- i. Schools, colleges and universities;
- j. Medical Marijuana Grower Facility in strict accordance with the applicable provisions of Article 6 of Chapter 5 of the Fairview Municipal Code 2017, or

7. Accessory buildings which are not a part of the main building, including barns, sheds and other farm buildings, private garages and accessory buildings which are a part of the main building.

SECTION 12-212

USES PERMITTED ON REVIEW.

The following uses may be permitted on review in an A-2 Suburban District by the City Council after a public hearing before the planning commission upon the following procedures provided in Section 12-334A of this code:

- 1. Airport or landing field;
- 2. Cemetery;
- 3. Reserved;
- 4. Oil well or gas well including the drilling thereof;
- 5. Private marina, boat docks, golf course or driving range, or other private outdoor recreation activity;

6. Public stable or riding academy (no animals permitted on tracts smaller than five (5) acres);

7. Sale barn; or

8. Any enterprise operated by a subdivision of the State of Oklahoma.

9. Medical Marijuana Grower Facility in strict accordance with the applicable provisions of Article 6 of Chapter 5 of the Fairview Municipal Code 2017.

SECTION 12-213 AREA REGULATIONS.

A. Front yard. All buildings and mining operations, except temporary roadside stands for the sale of farm products grown on the premises, shall be set back from road and street right-of-way lines to comply with the following front yard requirements:

1. All buildings shall set back from a state or federal highway or county highway or section line road a minimum of twenty-five (25) feet from the right-of-way line or seventy-five (75) feet from the center line of the right-of-way easement, whichever is greater; or

2. On all public roads or streets, other than federal, state or county highways and section line roads, all buildings shall set back a minimum of twenty-five (25) feet from the right-of-way line or fifty-five (55) feet from the center line of the right-of-way easement, whichever is greater.

B. Side yard regulations are as follows:

1. For dwellings located on interior lots there shall be a side yard on each side of the main building of not less than eight (8) feet for dwellings of one story, and of not less than twelve (12) feet for dwellings of more than one story, except as hereinafter provided in Section 12-301 of this code:

2. For unattached buildings of accessory use there shall be a side yard of not less than eight (8) feet; provided, however, that unattached one-story buildings of accessory use shall not be required to set back more than three (3) feet from an interior side lot line when all parts of the following uses:

- a. Country club and golf course;
- b. Home occupation;

- c. Library;
- d. Park or playground or public recreation area; or
- e. Plant nursery;

7. Transportation, pipeline and utility easements, and rights-of-way;

8. Bulletin board or sign, not exceeding forty (40) square feet in area appertaining to the lease, hire, or sale of a building or premises, which board or sign shall be removed as soon as the premises are leased, hired or sold; or

9. Accessory buildings which are not a part of the main building, including barns, sheds and other farm buildings, and private garages and accessory buildings which are a part of the main building.

SECTION 12-217 USES PERMITTED ON REVIEW.

The following uses may be permitted on review by the City Council after a public hearing before the planning commission upon the following procedures provided in Section 12-334A of this code:

- 1. Airport or landing field;
- 2. Cemetery;

3. Home beauty shop located in a dwelling provided such shop is conducted within the main dwelling, and is operated only by the inhabitants thereof and does not exceed one operator. The use shall be conducted in such a way that it is clearly incidental to the dwelling use and shall not change the character thereof. No sign shall be permitted except one non-illuminated nameplate not exceeding two (2) square feet in area, attached to the main building;

4. Private marina, boat docks, golf course or driving range, or other private outdoor recreation activity;

5. Public stable or riding academy;

6. Kennel;

7. Radio or television station;

8. Sewage lagoon; or

9. Oil well or gas well, including location or drilling of the well.

SECTION 12-218 AREA REGULATIONS.

A. Front yard. All buildings shall be set back from street right-of-way lines to comply with the following front yard requirements:

1. All buildings shall set back from a state or federal highway, county highway or section line road a minimum of twenty-five (25) feet from the right-of-way line or seventy-five (75) feet from the center line of the right-of-way easement, whichever is greater;

2. On all public roads or streets other than federal, state or county highways and section line roads all buildings shall set back a minimum of twenty-five (25) feet from the right-of-way line or fifty-five (55) feet from the center line of the right-of-way easement, whichever is greater;

3. If twenty-five percent (25%) or more of the lots on one side of the street between two (2) intersecting streets are improved with buildings, all of which have observed an average setback line of greater than twenty-five (25) feet, and no building varies more than six (6) feet from this average setback line, then no building shall be erected closer to the street line than the minimum setback so established by existing buildings; but this regulation shall not require a front yard of greater depth than fifty (50) feet; or

4. When a yard has double frontage the front yard requirements shall be complied with on both streets.

B. Side yard regulations are as follows:

1. For dwellings located on interior lots there shall be a side yard on each side of the main building of not less than eight (8) feet for dwellings of one story, and of not less than twelve (12) feet for dwellings of more than one story, except as hereinafter provided in Section 12-301 of this code;

2. For unattached buildings of accessory use there shall be a side yard of not less than eight (8) feet; provided, however, that unattached one-story buildings of accessory use shall not be required to set back more than three (3) feet from an interior side lot line when all parts of the accessory building are located more than ninety (90) feet behind the front lot line;

3. For dwellings and accessory buildings located on corner lots there shall be a side yard setback from the intersecting street of not less than twelve and one-half (12½) feet in case such lot is back to back with another corner lot, and twenty (20) feet in every other case. The interior side yard of a corner lot shall be the same as for dwellings and accessory buildings on an interior lot; and

4. Churches and main and accessory buildings, other than dwellings and buildings accessory to dwellings, shall set back from all exterior and interior side lot lines a distance of not less than twenty-five (25) feet. Accessory buildings are located more than ninety (90) feet behind the front lot line;

3. For dwellings and accessory buildings located on corner lots there shall be a side yard setback from the intersecting street of not less than twelve and one-half (12½) feet in case such lot is back to back with another corner lot, and twenty (20) feet in every other case. The interior side yard of a corner lot shall be the same as for dwellings and accessory buildings on an interior lot; and

4. Churches and main and accessory buildings, other than dwellings and buildings accessory to the dwellings, shall set back from all exterior and interior side lot lines a distance of not less than twenty-five (25) feet.

C. Rear yard. There shall be a rear yard for a main building of not less than twenty (20) feet or twenty percent (20%) of the depth of the lot, whichever amount is smaller. Unattached buildings of accessory use may be located in the rear yard of a main building.

SECTION 12-215 A-2 SUBURBAN DISTRICT, GENERAL DESCRIPTION.

This district is intended to provide a location for the land situated on the fringe of the urban area that is used for agricultural purposes, but will be undergoing urbanization in the near future. Many tracts in this district will be in close proximity to residential and commercial uses. Therefore the agricultural activities conducted in this district should not be detrimental to urban land uses. It is not intended that this district provide a location for a lower standard of residential, commercial, or industrial development than is authorized in other districts. The types of uses, required area, and intensity of use of land which is permitted in this district is designed to encourage and protect agricultural uses so long as the land therein is devoted primarily to agriculture.

SECTION 12-216 USES PERMITTED.

Property and buildings in an A-2 Suburban District shall be used only for the following purposes:

1. Detached one family dwelling for farm owner, operator or employee;

2. Church;

3. Public school or school offering general educational courses the same as ordinarily given in the public schools and having no rooms regularly used for housing or sleeping;

4. Agricultural crops;

5. The raising of farm animals in accordance with the regulations of the city, but not the operation of commercial feed pens for livestock. On all tracts of land containing less than ten (10) acres the raising of hogs shall be prohibited, and on all other tracts the number of hogs weighing more than twenty-five (25) pounds shall not exceed twenty (20) grain fed or three (3) garbage fed hogs. Hogs shall not be located closer than two hundred (200) feet to the property line of the tract on which they are located;

6. Rear yard. There shall be a rear yard for a main building of not less than twenty (20) feet or twenty percent (20%) of the depth of the lot, whichever amount is smaller. Unattached buildings of accessory use may be located in the rear yard of a main building.

D. Lot width. For dwellings there shall be a minimum lot width of fifty (50) feet at the front building line, and such lot shall abut on a street for a distance of not less than thirty-five (35) feet.

E. Intensity of use regulations are as follows:

1. For each dwelling, and buildings accessory thereto, there shall be a lot area of not less than one acre;

2. For churches and main and accessory buildings other than dwellings and buildings accessory to dwellings the lot area shall be adequate to provide the yard areas required by this section and the off-street parking areas required in Sections 12-310 to 12-317 of this code; and

F. Coverage. Main and accessory buildings shall not cover more than twenty-five percent (25%) of the lot area on interior

lots, and thirty percent (30%) of the lot area on corner lots; accessory buildings shall not cover more than twenty percent (20%) of the rear yard.

SECTION 12-219 HEIGHT REGULATIONS.

No building shall exceed two and one-half (2½) stories or thirty-five (35) feet in height except as provided in Section 12-302 of this code.

SECTION 12-225 E-1 ESTATE RESIDENTIAL DISTRICT, GENERAL DESCRIPTION.

This is the most restrictive residential district. The principal use of land is for single family dwellings and related recreational, religious and educational facilities normally required to provide an orderly and attractive residential area. These residential areas are intended to be defined and protected from the encroachment of uses which are not appropriate to residential environment. Stability of property value, attractiveness, order and efficiency are encouraged by providing for adequate light, air and open space for dwellings and related facilities and through consideration of the proper functional relationship of the different areas. This district is limited to a maximum of twenty (20) lots, each lot being a minimum of two (2) or more acres in size.

SECTION 12-226 USES PERMITTED.

Property and buildings in an E-1 Estate Residential District shall be used only for the following purposes:

1. Detached one family dwelling;
2. Churches, but not including missions or revival tents or arbors;
3. Public school or school offering general educational courses the same as ordinarily given in public schools and having no rooms regularly used for housing and sleeping;
4. Public park or playground;
5. Library;
6. Agricultural crops, but not the raising of farm animals or poultry;
7. Reserved;

8. Transportation and utility easements, alleys and rights-of-way;

9. Accessory buildings which are not a part of the main building, including one private garage, or accessory buildings which are a part of a main building, including one private garage;

10. A temporary bulletin board or sign, not exceeding twelve (12) square feet in area appertaining to the lease, hire or sale of a building or premises, which board or sign shall be removed as soon as the premises are leased, hired, or sold;

11. A church bulletin board or sign not exceeding fifteen (15) square feet in area, attached to the main building or located behind the front building line on the same lot with the church building;

12. Temporary building of the construction industry which is incidental to the erection of buildings permitted in this district and which shall be removed when construction work is completed; and

13. Parking lot required to serve the uses permitted in this district.

SECTION 12-227 USES PERMITTED ON REVIEW.

The following uses may be permitted on review by the City Council after a public hearing before the planning commission upon the following procedures provided in Section 12-334A of this code:

1. Municipal use, public building and public utility;

2. Plant nursery in which no building or structure is maintained in connection therewith;

3. Golf course or country club; or

4. Home beauty shop located in a dwelling provided such shop is conducted within the main dwelling and is operated only by the inhabitants thereof and does not exceed two (2) operators. The use shall be conducted in such a way that is clearly incidental to the dwelling use and shall not change the character thereof. No sign shall be permitted except one non-illuminated nameplate not exceeding two (2) square feet in area, attached to the main building.

A. All buildings shall be set back from street right-of-way and lot lines to comply with the following yard requirements.

B. Front yard regulations are as follows:

1. The minimum depth of the front yard shall be thirty-five (35) feet;

2. If twenty-five percent (25%) or more of the lots on one side of the street between two (2) intersecting streets are improved with buildings all of which have observed an average setback line and no building varies more than six (6) feet from this average setback line, then no building shall be erected closer to the street line than the minimum setback so established by the existing buildings; but this regulation shall not require a front yard of greater depth than fifty (50) feet; and

3. When a yard has double frontage the front yard requirements shall be complied with on both streets.

C. Side yard regulations are as follows:

1. For dwellings located on interior lots there shall be a side yard on each side of the main building of not less than five (5) feet for dwellings of one story, and of not less than ten (10) feet for dwellings of more than one story, except as provided in Section 12-301 of this code;

2. For unattached buildings of accessory use there shall be a side yard of not less than five (5) feet; provided, however, that unattached one story buildings of accessory use shall not be required to set back more than three (3) feet from an interior side lot line when all parts of the accessory building are located more than ninety (90) feet behind the front lot line;

3. For dwellings and accessory buildings located on corner lots there shall be a side yard setback from the intersecting street of not less than twelve and one-half (12½) feet in case such lot is back to back with another corner lot, and twenty (20) feet in every other case. The interior side yard of a corner lot shall be the same as for dwellings and accessory buildings on an interior lot; and

4. Churches and main and accessory buildings, other than dwellings, and buildings accessory to dwellings, shall set back from all exterior and interior side lot lines a distance of not less than twenty-five (25) feet.

D. Rear yard. There shall be a rear yard for a main building of not less than twenty (20) feet or twenty percent (20%) of the depth of the lot, whichever amount is smaller. Unattached buildings of accessory use may be located in the rear yard of a main building; provided however, that no accessory building shall be located closer than ten (10) feet to the rear lot line where no alley exists and not closer than three (3) feet to the rear lot line where an alley exists.

E. Lot width. For dwellings there shall be a minimum lot width of fifty (50) feet at the front building line, and such lot shall abut on a street for a distance of not less than thirty five (35) feet.

F. Intensity of use regulations are as follows:

1. For each dwelling, and building accessory thereto, there shall be a lot area of not less than eighty-seven thousand one hundred twenty (87,120) square feet, (two (2) acres); and

2. For churches and main and accessory buildings, other than dwellings and buildings accessory to dwellings, the lot area shall be adequate to provide the yard areas required by this section and the off-street parking areas required in Sections 12- 310 to 12-317 of this code; provided however, that the lot area for a church shall not be less than eighty-seven thousand one hundred twenty (87,120) square feet, (two (2) acres).

G. Coverage. Main and accessory buildings shall not cover more than twenty-five percent (25%) of the lot area on interior lots and thirty percent (30%) of the lot area on corner lots. Accessory buildings shall not cover more than twenty percent (20%) of the rear yard.

SECTION 12-229 HEIGHT REGULATIONS.

No building shall exceed two and one-half (2½) stories or thirty-five (35) feet in height except as provided in Section 12-302 of this code.

SECTION 12-230 DRIVEWAY REGULATIONS.

Each dwelling shall have a concrete driveway, a minimum of twenty (20) feet in width, extending from garage to street.

Cross Reference: See also Section 12-412 for street standards in estate residential subdivisions.

SECTION 12-235 R-1 SINGLE FAMILY RESIDENTIAL DISTRICT,
GENERAL DESCRIPTION.

This is a residential district to provide for a slightly higher population density, but with similar restrictions to the E-1 District. The principal use of land is for single family dwellings and related recreational, religious and educational facilities normally required to provide an orderly and attractive residential area. These residential areas are intended to be defined and protected from the encroachment of uses which are not appropriate to residential environment. Stability of property value, attractiveness, order and efficiency are encouraged by providing for adequate light, air and open space for dwellings and related facilities and through consideration of the proper functional relationship of the different areas.

SECTION 12-236 USES PERMITTED.

Property and buildings in a R-1 Single Family Residential District shall be used only for the following purposes:

1. Detached one family dwelling;
2. Churches, but not including missions or revival tents or arbors;
3. Public school or school offering general educational courses the same as ordinarily given in public schools and having no rooms regularly used for housing and sleeping;
4. Public park or playground;
5. Library;
6. Agricultural crops, but not the raising of farm animals or poultry;
7. Home occupation;
8. Transportation and utility easements, alleys and rights-of-way;
9. Accessory buildings which are not a part of the main building, including one private garage, or accessory buildings which are a part of a main building, including one private garage;
10. A temporary bulletin board or sign, not exceeding twelve (12) square feet in area appertaining to the lease, hire or sale of

a building or premises, which board or sign shall be removed as soon as the premises are leased, hired, or sold;

11. A church bulletin board or sign, not exceeding fifteen (15) square feet in area, attached to the main building or located behind the front building line on the same lot with the church building;

12. Temporary building of the construction industry which is incidental to the erection of buildings permitted in this district, and which shall be removed when construction work is completed; and

13. Parking lot required to serve the uses permitted in this district.

SECTION 12-237 USES PERMITTED ON REVIEW.

The following uses may be permitted on review by the City Council after a public hearing before the planning commission upon the following procedures provided in Section 12-334A of this code:

1. Municipal use, public building and public utility;
2. Plant nursery in which no building or structure is maintained in connection therewith;
3. Golf course or country club;
4. Home beauty shop located in a dwelling provided such shop is conducted within the main dwelling, and is operated only by the inhabitants thereof and does not exceed two (2) operators. The use shall be conducted in such a way that is clearly incidental to the dwelling use and shall not change the character thereof. No sign shall be permitted except one non-illuminated nameplate not exceeding two (2) square feet in area, attached to the main building;

SECTION 12-238 AREA REGULATIONS.

A. All buildings shall be set back from street right-of-way and lot lines to comply with the following yard requirements.

B. Front yard regulations are as follows:

1. The minimum depth of the front yard shall be twenty-five (25) feet;

2. If twenty-five percent (25%) or more of the lots on one side of the street between two (2) intersecting streets are improved with buildings all of which have observed an average setback line and no building varies more than six (6) feet from this average setback line, then no building shall be erected closer to the street line than the minimum set back so established by the existing buildings; but this regulation shall not require a front yard of greater depth than fifty (50) feet; and

3. When a yard has double frontage the front yard requirements shall be complied with on both streets.

C. Side yard regulations are as follows:

1. For dwellings located on interior lots there shall be a side yard on each side of the main building of not less than five (5) feet for dwellings of one story, and of not less than eight (8) feet for dwellings of more than one story, except as hereinafter provided in Section 12-301 of this code;;

2. For unattached buildings of accessory use there shall be a side yard of not less than five (5) feet; provided, however, that unattached one story buildings of accessory use shall not be required to set back more than three (3) feet from an interior side lot line when all parts of the accessory building are located more than ninety (90) feet behind the front lot line;

3. For dwellings and accessory buildings located on corner lots there shall be a side yard setback from the intersecting street of not less than twelve and one-half (12½) feet in case such lot is back to back with another corner lot, and twenty (20) feet in every other case. The interior side of a corner lot shall be the same as for dwellings and accessory buildings on an interior lot; and

4. Churches and main and accessory buildings, other than dwellings, and buildings accessory to dwellings, shall set back from all exterior and interior side lot lines a distance of not less than twenty-five (25) feet.

D. Rear yard. There shall be a rear yard for a main building of not less than twenty (20) feet or twenty percent (20%) of the depth of the lot, whichever amount is smaller. Unattached buildings of accessory use may be located in the rear yard of a main building; provided, however, that no accessory building shall be located closer than ten (10) feet to the rear lot line where no alley exists and not closer than three (3) feet to the rear lot line where an alley exists.

E. Lot width. For dwellings there shall be a minimum lot width of fifty (50) feet at the front building line, and such lot shall abut on a street for a distance of not less than thirty-five (35) feet.

F. Intensity of use regulations are as follows:

1. For each dwelling, and building accessory thereto, there shall be a lot area of not less than six thousand (6,000) square feet; and

2. For churches and main and accessory buildings, other than dwellings and buildings accessory to dwellings, the lot area shall be adequate to provide the yard areas required by this section and the off-street parking areas required in Sections 12-310 to 12-317 of this code; provided, however, that the lot area for a church shall not be less than twenty-one thousand (21,000) square feet;

G. Coverage. Main and accessory buildings shall not cover more than twenty-five percent (25%) of the lot area on interior lots, and thirty percent (30%) of the lot area on corner lots. Accessory buildings shall not cover more than twenty percent (20%) of the rear yard.

H. Height regulations. No building shall exceed two and one-half (2½) stories or thirty-five (35) feet in height except as provided in Section 12-302 of this code.

SECTION 12-240
DESCRIPTION.

R-2 RESTRICTED RESIDENTIAL DISTRICT GENERAL

This is a residential district to provide for a slightly higher population density but with basic restrictions similar to the R-1 District. The principal use of land is for single family, two family dwellings, and multiple family structures and related recreational, religious, and educational facilities normally required to provide a balanced and attractive residential area. Internal stability, attractiveness, order and efficiency are encouraged by providing for adequate light, air and open space for dwellings and related facilities and through the consideration of the proper functional relationship of the different uses.

SECTION 12-241

USES PERMITTED.

Property and buildings in an R-2 Restricted Residential District shall be used only for the following purposes:

1. Any uses permitted in R-1 Single Family Dwelling District;

2. Two family dwelling or a single family dwelling and a garage apartment;

3. Multiple family dwelling; or

4. Accessory buildings and uses customarily incidental to any of the above uses when located on the same lot.

SECTION 12-242 USES PERMITTED ON REVIEW.

The following uses may be permitted on review by the City Council after a public hearing before the planning commission upon the following procedures provided in Section 12-334A of this code:

1. Any use permitted on review in R-1 Single Family Dwelling District; and

2. Child care center.

SECTION 12-243 AREA REGULATIONS.

A. All buildings shall set back from street right-of-way and lot lines to comply with the following yard requirements.

B. Front yard regulations are as follows:

1. The minimum depth of the front yard shall be twenty-five (25) feet;

2. If twenty-five percent (25%) or more of the lots on one side of the street between two (2) intersecting streets are improved with buildings all of which have observed an average setback line and no building varies more than six (6) feet from this average setback line, then no building shall be erected closer to the street line than the minimum setback so established by the existing buildings; but this regulation shall not require a front yard of greater depth than forty (40) feet; and

3. When a lot has double frontage the front yard requirements shall be provided on both streets.

C. Side yard regulations are as follows:

1. For dwellings located on interior lots there shall be a side yard on each side of the main building of not less than five (5) feet for dwellings of one story, and of not less than eight (8) feet for dwellings of more than one story except as hereinafter provided in Section 12-301 of this code;

2. For unattached buildings of accessory use there shall be a side yard of not less than five (5) feet; provided, however, that unattached one story buildings of accessory use shall not be required to set back more than three (3) feet from an interior side lot line when all parts of the accessory building are located more than ninety (90) feet from the front lot line;

3. For dwellings and accessory buildings located on corner lots there shall be a side yard setback from the intersecting street of not less than twelve and one-half (12 1/2) feet in case such lot is back to back with another corner lot and twenty-five (25) feet in every other case. The interior side yard of a corner lot shall be the same as for dwellings and accessory buildings on an interior lot; or

4. Churches and main and accessory buildings, other than dwellings and buildings accessory to dwellings, shall set back from all exterior and interior side lot lines and a distance of not less than twenty-five (25) feet.

D. Rear yard. For main buildings, other than garage apartments, there shall be a rear yard of not less than twenty (20) feet or twenty percent (20%) of the depth of the lot, whichever is smaller. Garage apartments may be located in the rear yard of a single family dwelling, but shall not be located closer than ten (10) feet to the rear lot line. Unattached buildings of accessory use may be located in the rear yard of a main building but they shall not cover more than thirty percent (30%) of the rear yard.

E. Lot width. There shall be a minimum lot width of fifty (50) feet at the front building line for single family dwellings and two (2) family dwellings and ten (10) feet additional width at the front building line for each family, more than two (2), occupying a dwelling. However, a lot width at the front building line shall not be required to exceed one hundred fifty (150) feet. A lot shall abut on a street not less than thirty-five (35) feet.

F. Intensity of use regulations are as follows:

1. For each single family dwelling and accessory building there shall be a lot area of not less than six thousand (6,000) square feet;

2. For each two (2) family dwelling and accessory buildings there shall be a lot area of not less than seven thousand (7,000) square feet. A garage apartment located on the same lot with a single family dwelling shall have the same area requirements as a two family dwelling, and for purposes of intensity shall constitute

a two family dwelling. A garage apartment shall not be located on the same lot with a two family dwelling;

3. For a multiple family dwelling there shall be a lot area of not less than seven thousand (7,000) square feet for the first two (2) dwelling units and not less than two thousand (2,000) square feet for each additional unit; and

4. For churches and main and accessory buildings, other than dwellings and buildings accessory to dwellings, the lot area shall be adequate to provide the yard areas required by this section and the off-street parking area required in Sections 12- 310 to 12-317 of this code; provided, however, that the lot area for a church shall not be less than twenty-one thousand (21,000) square feet.

G. Coverage. Main and accessory buildings shall not cover more than thirty percent (30%) of the lot area on interior lots, and thirty-five percent (35%) of the lot area on corner lots. Accessory building shall not cover more than twenty percent (20%) of the rear yard.

SECTION 12-244 HEIGHT REGULATIONS.

No building shall exceed two and one-half (2½) stories or thirty-five (35) feet in height, except as provided in Section 12-302 of this code.

SECTION 12-245 R-3 GENERAL RESIDENTIAL DISTRICT, GENERAL
DESCRIPTION.

This is a residential district to provide for medium and high population density. The principal use of land may range from single family to multiple family and garden apartment uses. Certain uses which are more compatible functionally with intensive residential uses than with commercial uses are permitted. The recreational, religious and educational facilities normally required to provide an orderly and attractive residential area are permitted. Stability of property value, attractiveness, order and efficiency are encouraged by providing for adequate air, light and open space for dwellings and related facilities and through consideration of the proper functional relationship of each use permitted in the district.

SECTION 12-246 USES PERMITTED.

Property and buildings in a R-3 General Residential District shall be used only for the following purposes:

1. Any use permitted in an R-2 Restricted Residential District;
2. Multiple family dwelling;
3. Rooming or boarding house;
4. Garage apartment, when located on a separate lot or on the same lot with another dwelling use; and
5. Accessory buildings and uses customarily incidental to the above uses when located on the same lot.

SECTION 12-247 USES PERMITTED ON REVIEW.

The following uses may be permitted on review by the City Council after a public hearing before the planning commission upon the following procedures provided in Section 12-334A of this code:

1. Any use permitted on review in an R-2 Restricted Residential District;
2. Institutions of a religious, educational or philanthropic nature;
3. Private clubs, sororities, fraternities, and lodges, excepting those the chief activity of which is a service customarily carried on as a business;
4. Medical facility;
5. Trailer home or mobile home park; and
6. An off-street parking lot associated with a C-Commercial use as required under the provisions of Sections 12-310 to 12-317 of these regulations.

SECTION 12-248 AREA REGULATIONS.

- A. All buildings shall set back from street right-of-way lines or lot lines to comply with the following yard requirements.
- B. Front yard:
 1. The minimum depth of the front yard shall be twenty-five (25) feet;

2. If twenty-five percent (25%) or more of the lots on one side of the street between two (2) intersecting streets are improved with buildings all of which have observed an average setback line and no building varies more than six (6) feet from this average setback line, then no building shall be erected closer to the street line than the minimum setback so established by the existing buildings, but this regulation shall not require a front yard of greater depth than fifty (50) feet; and

3. When a yard has double frontage the front yard requirements shall be complied with on both sides.

C. Side yard:

1. For dwellings located on interior lots there shall be a side yard on each side of the main dwelling of not less than five (5) feet for dwelling;

2. For unattached buildings of accessory use there shall be a side yard of not less than five (5) feet; provided, however, that unattached one story buildings of accessory use shall not be required to set back more than three (3) feet from an interior side lot line when all parts of the accessory building are located more than ninety (90) feet behind the front property line;

3. For dwellings and accessory buildings located on corner lots there shall be a side yard setback from the intersecting street of not less than twelve and one-half (12½) feet in case such lot is back to back with another corner lot, and twenty (20) feet in every other case. The interior side yard shall be the same as for dwellings and accessory buildings on an interior lot;

4. Mobile home parks shall be planned in such a manner that no trailer, or related building, shall be located closer than ten (10) feet to any side lot line; and

5. Churches and main and accessory buildings, other than dwellings and buildings accessory to dwellings and trailers, shall set back from all exterior and interior side lot lines a distance of not less than twenty-five (25) feet.

D. Rear yard:

1. For main buildings, other than garage apartments, there shall be a rear yard of not less than twenty (20) feet or twenty percent (20%) of the depth of the lot, whichever is smaller. Unattached buildings of accessory use may be located in the rear yard of a main building; provided, however, that no accessory

building shall be located closer than ten (10) feet to the rear lot line where no alley exists and not closer than three (3) feet to the rear lot line where an alley exists; and

2. Garage apartments may be located in the rear yard of another dwelling, but shall not be located closer than ten (10) feet to the rear lot line.

E. Lot width. There shall be a minimum lot width of fifty (50) feet at the front building line and a lot shall abut on a street not less than thirty-five (35) feet.

F. Intensity of use:

1. There shall be a lot area of not less than six thousand (6,000) square feet for a single family dwelling, not less than five thousand (5,000) square feet for a two family dwelling, and an additional area of not less than one thousand (1,000) square feet for each family, more than two (2), occupying a dwelling;

2. There shall be a lot area of not less than seven thousand (7,000) square feet where a garage apartment is located on the same lot with a single family dwelling. When a garage apartment is located in the rear yard of a two family or multiple family dwelling the lot area shall not be less than two thousand (2,000) square feet more than is required for the two family or multiple family dwelling; and

3. For churches and main and accessory buildings, other than dwellings and buildings accessory to dwellings, the lot area shall be adequate to provide the yard areas required by this section and the off-street parking area required in Sections 12- 310 to 12-317 of this code; provided, however, that the lot area for a church shall not be less than twenty-one thousand (21,000) square feet.

G. Coverage. Main and accessory buildings shall not cover more than thirty-five percent (35%) of the lot area on interior lots and not more than forty percent (40%) of the lot area on corner lots. Accessory buildings shall not cover more than thirty percent (30%) of the rear yard.

SECTION 12-249 HEIGHT REGULATIONS.

No buildings shall exceed two and one-half (2½) stories or thirty-five (35) feet in height, except as provided in Section 12-302 of this code.

SECTION 12-255
DESCRIPTION.

C-1 NEIGHBORHOOD SHOPPING DISTRICT, GENERAL

This commercial district is for the conduct of retail trade and personal service enterprises to meet the regular needs and for the convenience of the people of adjacent residential areas. Because these shops and stores may be an integral part of the neighborhood closely associated with residential, religious, recreational and educational uses, more restrictive requirements for light, air, open space and off-street parking are made than are permitted in other commercial districts.

SECTION 12-256

USES PERMITTED.

Property and buildings in a C-1 Neighborhood Shopping District shall be used only for the following purposes:

1. Any use permitted in an R-3 General Residential District;
2. Any use permitted on review in an R-3 General Residential District;
3. Retail stores and shops, the total area of which do not exceed fourteen thousand (14,000) square feet of gross floor area and which supply the regular and customary needs of the residents of the neighborhood and which are primarily for their convenience as follows:
 - a. Antique shop;
 - b. Appliance store;
 - c. Art school, gallery or museum;
 - d. Artists materials, supply studio;
 - e. Automobile parking lot;
 - f. Baby shop;
 - g. Bakery goods store;
 - h. Barber shop;
 - i. Beauty shop;
 - j. Book or stationery store;
 - k. Camera shop;
 - l. Candy store;
 - m. Cleaning, pressing, laundry collection agency;
 - n. Curio store or gift shop;
 - o. Drugstore or fountain;
 - p. Dry goods store;
 - q. Dairy products or ice cream store;
 - r. Delicatessen;
 - s. Dress shop;
 - t. Florist shop, greenhouse, nursery;

- u. Furniture store;
- v. Grocery store or supermarket;
- w. Hardware store;
- x. Hotel;
- y. Jewelry or notion store;
- z. Lodge hall;
- aa. Meat market;
- bb. Medical facility;
- cc. Messenger or telegraph service;
- dd. Musical instrument sales;
- ee. Newspaper or magazine sales;
- ff. Office, business;
- gg. Optometrists sales and service;
- hh. Photographer studio;
- ii. Pharmacy;
- jj. Radio and television sales and service;
- kk. Restaurant but not drive-in restaurants;
- ll. Self-service laundry or dry cleaning;
- mm. Sewing machine sales, instruction;
- nn. Sporting goods sales;
- oo. Shoe repair shop;
- pp. Tailor shop;
- qq. Toy store; and
- rr. Variety store.

4. One name plate and sign of reasonable size relating only to the use of the store and premises or to products sold on the premises;

5. Accessory buildings and uses customarily incidental to the above uses; and

6. A building used for any of the above enumerated uses may not have more than forty percent (40%) of its floor area devoted to purposes incidental to the primary use. No material or goods offered for sale or stored in connection with the uses enumerated in paragraphs 1 through 5 of this subsection shall be displayed or stored outside of a building.

SECTION 12-257 AREA REGULATIONS.

A. The area requirements for dwellings shall be the same as the requirements of the R-2 General Residential District. The following requirements shall apply to all other uses permitted in this district.

B. Front yard. All buildings shall set back from the street right-of-way line to provide a front yard having not less than twenty-five (25) feet in depth.

C. Side yard. On the side of a lot adjoining a dwelling district there shall be a side yard of not less than ten (10) feet. There shall be a side yard setback from an intersecting street not less than twenty (20) feet.

D. Rear yard. There shall be provided an alley, service court, rear yard, or combination thereof, of not less than thirty (30) feet.

SECTION 12-258 HEIGHT REGULATIONS.

No building shall exceed two and one-half (2½) stories or thirty-five (35) feet in height, except as hereinafter provided in Section 12-302 of this code.

SECTION 12-260 C-2 GENERAL COMMERCIAL DISTRICT, GENERAL DESCRIPTION.

This commercial district is intended for the conduct of personal and business services and the general retail business of the community. Persons living in the community and in the surrounding trade territory require direct and frequent access. Traffic generated by the uses will be primarily passenger vehicles and only those trucks and commercial vehicles required for stocking and delivery of retail goods.

SECTION 12-261 USES PERMITTED.

Property and buildings in a C-2 General Commercial District shall be used only for the following purposes:

1. Any use permitted in a C-1 Neighborhood Shopping District; provided, however, that multiple family structures must comply with all requirements of the R-3 General Residential District except the intensity of use requirements which shall not apply;

2. Amusement enterprises;

3. New automobile sales and services, new machinery sales and service, and public garage, provided no gasoline is stored above ground; used automobile and machinery sales and service, and automobile and machinery repairing if conducted in conjunction with a retail agency and wholly within a completely enclosed building, but not including automobile or machinery wrecking establishments or junk yards

4. Any of the following uses:
- a. Advertising signs or structures.
 - b. Auto court or tourist court;
 - c. Ambulance service, office or garage;
 - d. Automobile service station;
 - e. Bait sales;
 - f. Bakery;
 - g. Bath house;
 - h. Boat sales;
 - i. Bus terminal;
 - j. Cleaning plant;
 - k. Cabinet shop;
 - l. Clothing or apparel store;
 - m. Commercial school or hall;
 - n. Dance studio;
 - p. Department store;
 - q. Drive-in theater or restaurant;
 - r. Electric transmission station;
 - s. Feed and fuel store;
 - t. Frozen food locker;
 - u. Furniture repair and upholstery;
 - v. Funeral parlor or mortuary;
 - w. Golf course, miniature or practice range;
 - x. Heating, ventilating or plumbing supplies, sales and service;
 - y. Hospital for small animals;
 - z. Interior decorating store;
 - aa. Ice storage locker plant or storage house for food;
 - bb. Key shop;
 - cc. Kennel;
 - dd. Laboratories, testing and experimental;
 - ee. Laundry;
 - ff. Leather goods shop;
 - gg. Music, radio or television shop;
 - hh. Museum;
 - ii. Night club;
 - jj. Novelty shop;
 - kk. Nursery or garden supply store; kk. Outdoor advertising signs;
 - ll. Pawn shop; mm. Pet shop;
 - mm. Printing plant;
 - nn. Recreation center;
 - oo. Research laboratories;
 - pp. Roller skating rink;
 - qq. Sign painting shop;
 - rr. Sporting goods store;
 - ss. Stock and bond broker;

tt. Storage warehouse;
uu. Theater;
vv. Tavern;
ww. Toy store;
xx. Travel trailer park; zz. Used automobile sales; and
yy. Wholesale distributing center;
zzz. Medical Marijuana Dispensaries in strict accordance with the applicable provisions of Article 6 of Chapter 5 of the Fairview Municipal Code 2017.

5. Building material sales yard and lumber yard, including the sale of rock, sand, gravel, and the like as an incidental part of the main business, but not including a concrete batch plant or transit mix plant;

6. Buildings, structures and uses accessory and customarily incidental to any of the above uses, provided that there shall be no manufacture, processing or compounding of products other than such as are customarily incidental and essential to retail establishments; and

7. Any other store or shop for retail trade or for rendering personal, professional, or business service which does not product more noise, odor, dust, vibration, blast or traffic than those enumerated above.

SECTION 12-262 OPEN DISPLAY USES PERMITTED.

A. The following uses shall be permitted in the C-2 General Commercial District, provided that they comply with the additional provisions of this subsection:

1. Boat sales and service;
2. Farm implement and machinery, new and used, sales;
3. Metal and wood fencing, ornamental grillwork and decorative wrought iron work and play equipment sales;
4. Mobile home and travel trailer sales;
5. Monument sales;
6. New and used automobile sales;
7. Prefabricated house sales; and
8. Trailers for hauling, rental and sales.

B. The uses enumerated in paragraphs 1 through 8 of subsection A of this section shall comply with the following provisions:

1. All of the lot used for the parking vehicles, for the storage and display of merchandise and all driveways used for vehicle ingress and egress shall be paved with a sealed surface pavement and maintained in such a manner that no dust will be produced by continued use;

2. All servicing of vehicles carried on as an incidental part of the sales operation shall be conducted within a completely enclosed building;

3. Driveways used for ingress and egress shall not exceed twenty-five (25) feet in width, exclusive of curb returns; and

4. Outdoor lighting, when provided, shall have an arrangement of reflectors and an intensity of lighting which will not interfere with adjacent land uses or the use of adjacent streets, and shall not be of a flashing or intermittent type.

SECTION 12-263 AREA REGULATIONS.

A. The area regulations for dwellings shall be the same as the requirements of the R-3 General Residential District. The following requirements shall apply to all other uses permitted in this district:

B. Front and side yards. There are no specific front or side yard requirements for uses other than dwellings.

C. Rear yard. There shall be provided an alley, service court, rear yard, or combination thereof, of not less than thirty (30) feet in width.

D. Area for off-street parking. Buildings shall be provided with a yard area adequate to meet the off-street parking requirements set forth in Sections 12-310 to 12-317 of this code.

SECTION 12-264 HEIGHT REGULATIONS.

The height regulations for dwellings and buildings accessory to dwellings shall be the same as those in the R-3 General Residential District. For other uses no building shall exceed forty-five (45) feet in height, except as hereinafter provided in Section 12- 302 of this code.

SECTION 12-270 I-1 LIGHT INDUSTRIAL DISTRICT, GENERAL DESCRIPTION.

This industrial district is intended primarily for the conduct of manufacturing, assembling and fabrication. These uses do not

depend primarily on frequent personal visits of customers or clients, but usually require good accessibility to major rail, air or street transportation facilities.

SECTION 12-271 USES PERMITTED.

A. Property and buildings in an I-1 Light Industrial District shall be used only for the following purposes:

1. Any use, except dwelling, permitted in the C-2 General Commercial District. Except as otherwise provided, no dwelling use, except sleeping facilities required by caretakers or night-watchman employed on the premises, shall be permitted in an I-1 Light Industrial District. Notwithstanding any other provision in this code to the contrary, the following dwelling uses shall be permitted in an I-1 Light Industrial District: Recreational Motor Homes, small camper trailers, mobile homes, manufactured homes (including portable bunk houses) or similar residential structures located on the premises, provided such dwelling use shall only be made by persons who work for the business or industry (or related entity) and such dwelling use shall only be permitted if an approved permit providing for such dwelling use is issued by majority vote of the City Council. Such annual permit may contain conditions relating to such dwelling use, including but not limited to the number of permitted structures, spacing, fencing and other matters directly relating to the health, safety and welfare of the residents of the City of Fairview. Failure to adhere to such conditions may result in a termination of such permit or failure to renew such permit in any subsequent year.

2. Any of the following uses:

- a. Bakery;
- b. Bottling works;
- c. Book bindery;
- d. Candy manufacturing;
- e. Engraving plant;
- f. Electronic equipment assembly;
- g. Electronic equipment assembly and manufacture;
- h. Food products processing and packing;

- i. Furniture manufacturing;
- j. Instrument and meter manufacturing;
- k. Jewelry and watch manufacturing;
- l. Laundry and cleaning establishment;
- m. Leather goods; fabrication;
- n. Optical goods manufacturing;
- o. Paper products manufacturing;
- p. Show manufacturing;
- q. Sporting goods manufacturing; and
- r. Wholesale or warehousing enterprise
- s. Medical Marijuana Grower Facility in strict accordance with the applicable provisions of Article 6 of Chapter 5 of the Fairview Municipal Code 2017.
- t. Medical Marijuana Processor Facility in strict accordance with the applicable provisions of Article 6 of Chapter 5 of the Fairview Municipal Code 2017, except that no Medical Marijuana Processor Facility shall be located on I-1 Light Industrial District between State Road on the North and Sand Creek Road on the South).

3. Any of the following uses:

- a. Building material sales yard and lumber yard, including the sale of rock, sand, gravel and the like as an incidental part of the main business, but not including a concrete batch plant or transit mix plant;
- b. Contractor's equipment storage yard or plant, or rental of equipment commonly used by contractors;
- c. Freightling or trucking yard or terminal;
- d. Oil field equipment storage yard;
- e. Oil field service companies;

f. Public utility service yard or electrical receiving or transforming station; and

g. No article or material permitted in paragraphs 1 and 2 of subsection A of this section shall be kept, stored or displayed outside of a building unless it be fenced;

4. The following uses when conducted within a completely enclosed building:

a. The manufacture, compounding, processing, packaging or treatment of such products as bakery goods, candy, cosmetics, dairy products, drugs, perfumes, pharmaceuticals, perfumed toilet soap, toiletries, and food products;

b. The manufacture, compounding, assembling or treatment of articles or merchandise from the following previously prepared materials: bone, cellophane, canvas, cloth, cork, feathers, felt, fibre, fur, glass, hair, horn, leather, paper, plastics, precious or semi-precious metals or stone, shell, textiles, tobacco, wood, yarn, and paint not employing a boiling process;

c. The manufacture of pottery and figurines or other similar ceramic products, using only previously pulverized clay and kilns fired only by electricity or gas;

d. The manufacture and maintenance of electric and neon signs, commercial advertising structures, light sheet metal products, including heating and ventilating ducts and equipment, cornices, eaves, and the like;

e. Manufacture of musical instruments, toys, novelties, and rubber and metal stamps;

f. Automobile assembling, painting, upholstering, rebuilding, reconditioning, body and fender works, truck repairing and overhauling, tire retreading or recapping, and battery manufacturing;

g. Machine shop;

h. Foundry casting lightweight nonferrous metal not causing noxious fumes or odors;

i. Assembly of electrical appliances, electronic instruments and devices, radios and phonographs, including the manufacture of small parts only, such as coils, condensers, transformers, crystal holders, and the like; and

j. Buildings, structures and uses accessory and customarily incidental to any of the above uses.

B. The uses permitted under this section shall be conducted in such a manner that no noxious odor, fumes or dust will be emitted beyond the property line of the lot on which the use is located.

SECTION 12-272 AREA REGULATIONS.

A. Front yard and side yard. There are no specific front or side yard requirements for uses in this district; provided, however, that a building shall set back a distance of not less than twenty-five (25) feet from the side lot line that adjoins a dwelling district.

B. Rear yard. Where a building is to be serviced from the rear there shall be provided an alley, service court, rear yard or combination thereof of not less than thirty (30) feet in width or of adequate area and width to provide for maneuver of service vehicles, whichever is the greater. In all other cases no rear yard is required; provided, however, that a building shall set back a distance of not less than twenty-five (25) feet from the rear lot line that adjoins a dwelling district.

C. Rear area. Buildings shall be provided with a yard area adequate to meet the off-street parking requirements set forth in Sections 12-310 through 12-317 of this code.

SECTION 12-273 HEIGHT REGULATIONS.

No building shall exceed ninety (90) feet in height, except as hereinafter provided in Section 12-302 of this code.

SECTION 12-275 1-2 HEAVY INDUSTRIAL DISTRICT, GENERAL DESCRIPTION.

This industrial district is intended to provide for heavy industrial uses and other uses not otherwise provided for in the districts established by these regulations. The intensity of uses in this district makes it most desirable that they be located down-wind and separated from residential and commercial uses.

SECTION 12-276 USES PERMITTED.

Property and buildings in an I-2 Heavy Industrial District may be used for any use except the following:

1. All residential uses except sleeping facilities required by night watchmen and caretakers employed upon the premises;

2. All uses not complying with these regulations, or any other county or state regulation or law;
3. Automobile salvage or junk yard;
4. Building materials salvage yard;
5. Junk or salvage yard of any kind;
6. Scrap metal storage yard;
7. Cement, lime or gypsum manufacture;
8. Commercial feed pens for livestock;
9. Natural gas production and distribution;
10. Petroleum production and refining;
11. Wholesale or bulk storage of gasoline, propane or butane, or other petroleum products; or
12. Disposal plants of all types including trash and garbage, sewage treatment including lagoons and compost plants.
13. Medical Marijuana Grower Facility in strict accordance with the applicable provisions of Article 6 of Chapter 5 of the Fairview Municipal Code 2017.
14. Medical Marijuana Processor Facility in strict accordance with the applicable provisions of Article 6 of Chapter 5 of the Fairview Municipal Code 2017.

SECTION 12-277 USES PERMITTED ON REVIEW.

The following uses may be permitted on review by the City Council after a public hearing before the planning commission upon the following procedures provided in Section 12-334A of this code:

1. Cement, lime or gypsum manufacture;
2. Commercial feed pens for livestock;
3. Natural gas production and distribution;
4. Petroleum production and refining;

5. Wholesale or bulk storage of gasoline, propane or butane, or other petroleum products;

6. Disposal plants of all types including trash and garbage, sewage treatment including lagoons and compost plants;

7. Salvage yards for automobiles, building materials, scrap metal, junk or for any other kind of salvage; provided, however, that all salvage operations shall be so screened by ornamental fences, walls and evergreen planting that it cannot be seen by a person standing at ground level at any place immediately adjacent to the lot on which the salvage operation is located, and further provided, however, that no screening in excess of seven (7) feet in height shall be required; and

8. Any use not otherwise authorized by these regulations.

SECTION 12-278 AREA REGULATIONS.

A. Front and side yard. There are no specific front or side yard requirements for uses in this district.

B. Rear yard. Where a building is to be serviced from the rear there shall be provided an alleyway, service court, rear yard or combination thereof of not less than thirty (30) feet in width or of adequate area and width to provide for maneuver of service vehicles whichever is the greater. In all other cases no rear yard is required.

C. Yard area. Buildings shall be provided with a yard area adequate to meet the off-street parking requirements set forth in Sections 12-310 through 12-317 of this code.

SECTION 12-279 HEIGHT REGULATIONS.

Where a lot adjoins a dwelling district the building shall not exceed thirty-five (35) feet, unless it is set back ten (10) feet from all front and side yard lines, plus an additional one foot of setback for each foot of additional height above forty-five (45) feet, except as otherwise provided in Section 12-302 of this code.

Section 12-279A PUBLIC INSTITUTIONAL (PI) DISTRICT.

A. Description. The Public Institutional (PI) District is intended to offer protection of property held and used for the benefit of the general public, and where property is acquired and held for the special benefit of the inhabitants of the city, and to

exercise the right of regulation over public properties in a manner consistent with the laws and general policies of the state.

B. Permitted Uses. Property and buildings in a Public Institutional (PI) District shall be used only for the following purposes:

1. Government: Government offices; municipal facilities and activities;

2. Public Education: Public elementary and secondary schools; public libraries and information centers;

3. Intensive Community Recreation: Outdoor public participant sports park or playground (with night lighting); indoor public recreation facilities;

4. Low Impact Institutional: Private elementary and secondary schools; private libraries and information centers; church, chapel, synagogue, or other place of worship; convent, monastery, religion school;

5. Moderate Impact Institutional: Public or private junior college, technical institute, professional school; vocational schools; job training and vocational rehabilitation services; nursing and similar care facilities (for more than 5 residents);

6. High Impact Institutional: College or university; hospitals;

7. Indoor Cultural: Art gallery; museum; planetarium; aquarium; indoor cultural facilities;

8. Outdoor Cultural: Arboreta, botanical, and zoological gardens; outdoor cultural facilities;

9. Surface Passenger Transportation: Local bus line operation office; local airport transportation service office; taxicab operation office; intercity/interstate bus line office; charter bus service office; school bus company office; bus terminal operation;

10. Aircraft Transportation: Aircraft transportation facilities and airfield services;

11. Communication Services: Telephone exchange buildings and relay stations without garaging, maintenance, or storage facilities; telegraph services; radio broadcasting station; television broadcasting or translator stations; communication services;

12. Communication Towers: Telephone/telegraph transmission microwave tower; communication towers; radio/television towers;

13. Restricted Light Utility: Pipelines for substations other than natural gas or water; electricity regulating substation; natural gas transmission facilities/pressure control station; water storage facility/ pressure control station; sewage pressure control station; and

14. General Light Utility and Public Protection: Garbage and refuse collecting and transporting service facility, excluding disposal; telephone company service facility with garaging, maintenance, and storage; electric company service facility with garaging, maintenance, and storage; gas company service facility with garaging, maintenance, and storage; utility services.

15. General Light Utility and Public Protection: Ambulance service; police station; fire station;

16. Heavy Utility: Electricity generating plant; water purification plant; sewage treatment plant, sludge drying beds; resource recovery operation for processing waste materials for use in energy production.

C. Area, Height, Setback or other Requirements. There are no area, height, setback or other requirements specifically prescribed for the Public Institutional (PI) District.

SECTION 12-280 F-FLOOD PLAIN DISTRICT, GENERAL DESCRIPTION.

This district is intended to comprise those areas which are subject to periodic or occasional flooding and therefore are unsuited for all residential uses and for most commercial and industrial uses. It is intended that the area be retained for agricultural and recreational uses only until danger from flooding is eliminated.

SECTION 12-281 USES PERMITTED.

Property and buildings in the F-Flood Plain District shall be used only for the following purposes:

1. The growing of agricultural crops and nursery stock and gardening;

2. The raising of poultry and livestock in accordance with the municipal ordinances relating thereto, but not the operation of commercial feed pens for cattle or hogs; and

3. Public recreation.

Cross Reference: See also Sections 12-501 et seq. for Flood Plain Regulations.

SECTION 12-285 PLANNED UNIT DEVELOPMENT SUPPLEMENTAL DISTRICT,
DESCRIPTION.

Planned Unit Development is an alternative to conventional development where the particular tract is under common ownership or control, and a detailed plan (outline development plan) for the development of the tract as a unit is proposed and submitted for public review. The supplemental zoning district PUD must be approved by the city council as a prerequisite to the planned unit development.

SECTION 12-286 PURPOSES.

The purposes of Planned Unit Development are as follows:

1. To permit flexibility that will encourage a more creative approach in the development of land and will result in a more efficient use of open area, while maintaining density and area coverage permitted in the general zoning district or districts in which the project is located; and

2. To permit flexibility in design, placement of buildings, and use of open spaces, circulation facilities, and off-street parking areas and to best utilize the potential of sites characterized by special features of geography, topography, size or shape.

SECTION 12-287 GENERAL PROVISIONS.

Planned Unit Development is permitted on tracts that have the supplemental district designation PUD. In every instance, the PUD is to be reviewed as to the proposed location and character of the uses and the unified treatment of the development of the tract. The regulations of the general zoning district or districts remain applicable except as specifically modified pursuant to the provisions of this chapter. No modification or use or bulk and area requirements of the applicable general use district or districts shall be permitted unless a subdivision plat incorporating the provisions and requirements of this chapter is submitted to and approved by the planning commission and filed of record in the office of the county clerk.

SECTION 12-288
DEVELOPMENTS.

PRINCIPAL USES PERMITTED IN PLANNED UNIT

A Planned Unit Development shall primarily be residential when located within an R-1, R2, or R-3 District. The development may consist of one or more of the following dwelling types:

Single Family Detached Dwelling, Duplex Dwelling, Multifamily Dwelling, Townhouse, and similar uses. The uses other than dwellings, which are permitted by right or uses, other than dwellings, which are permitted by right or exception in the R Districts may be included within a PUD, if such non-residential uses do not occupy more than ten percent (10%) of the gross area of the PUD which are in the R-1, R-2, or R-3 Zone, and are designed and located to be compatible with the residential use of adjacent properties. Land set aside for public facilities such as schools, libraries, firehouses, etc., shall be excluded for the purposes of calculating the gross area of the PUD. The use permitted in areas zoned as commercial or industrial districts shall be limited to those uses permitted in the district to which the property is zoned.

SECTION 12-289

ACCESSORY USES.

Accessory uses customarily incident to the residential uses included within the PUD are permitted. Accessory signs shall comply with the provisions of the Residential Districts except as hereafter provided for accessory commercial uses. Within a PUD accessory commercial facilities may be included in accordance with the following standards:

1. The commercial uses shall be limited to convenience goods and services and eating places other than drive-ins;
2. The aggregate floor area of the commercial facilities shall not exceed fifty (50) square feet per dwelling unit nor a total of thirty thousand (30,000) square feet;
3. Each commercial establishment shall be limited to a maximum of three thousand five hundred (3,500) square feet of floor area;
4. Commercial signs shall be limited to one nameplate of not more than sixteen (16) square feet for each establishment. Nameplates shall be attached flat against a building wall and shall not be animated, flashing, or have other than indirect illumination. Window signs shall not be permitted; and

5. The commercial area shall be designed primarily for the service, convenience, and benefit of the residents of the PUD, and shall be designed and located in such manner as to be compatible with the residential use of the PUD and of adjacent properties.

SECTION 12-290 LOT WIDTH AND LOT AREA MINIMUMS.

Within a PUD, a minimum lot size requirement of eight hundred (800) square feet shall apply to lots utilized for dwelling purposes. A minimum lot width requirement of twenty (20) feet shall apply to lots utilized for dwelling purposes.

SECTION 12-291 NUMBER OF PERMITTED DWELLING UNITS.

A. It is the intent of this code that the aggregate density and intensity of use within the PUD remain the same as that which would be permitted if the area were developed conventionally, but that within the PUD the permitted number of dwelling units may be reallocated irrespective of use district lines or lot lines. The maximum number of permitted dwelling units within a PUD shall be computed as follows:

Residential Area of the PUD
divided by Permitted D.U.'s = Minimum land area per d.u. permitted
in the applicable use district.

B. The residential area for the purposes of the above described computation shall be the gross area of the PUD less the lot area or areas designated for any use other than dwellings, quasi-dwellings, residential open space and recreation areas. Each six hundred (600) square feet of a quasi-dwelling, such as a care home, shall constitute a dwelling unit. If the PUD is within two (2) or more use districts, the permitted density shall be the sum of the permitted dwelling units computed separately for the residential area within each district.

SECTION 12-292 LIVABILITY SPACE.

Livability space may be provided on the lot containing the dwelling unit or units on which computed, or in common areas. Common livability space shall be designed and located so as to be accessible to the dwelling units it is intended to serve. Provisions for the ownership and maintenance of common livability space as will insure its continuity and conservation shall be incorporated in the subdivision plat, in compliance with the provisions of Sections 12-297 and 12-298 of this code.

SECTION 12-293 BUILDING HEIGHT.

Within a PUD, the maximum building height shall be established in the outline development plan as set forth in these regulations.

SECTION 12-294 YARDS.

Within a PUD, there shall be no minimum yards except as provided within Section 12-295 of this code.

SECTION 12-295 PERIMETER REQUIREMENTS.

The building setback from the exterior boundaries of the PUD shall not be less than the minimum yards customarily required for the district or districts in which located, provided that within two hundred (200) feet of any abutting property in an R-1 classification, structures containing more than two (2) dwelling units and exceeding fifteen (15) feet in height measured from the ground floor to the top of the top plate shall be setback twenty-five (25) feet plus two (2) feet of setback for each one foot of building height exceeding fifteen (15) feet measured from the ground floor level to the top of the top plate. Unenclosed off street parking area, containing six (6) or more spaces, shall be screened from adjoining R-1 Districts by the erection of a screening wall or fence along the lot line or lines in common with the R-i District, provided that if the parking area is located more than fifty (50) feet from the R-1 District, the screening requirement shall not apply.

SECTION 12-296 OFF-STREET PARKING AND LOADING.

Off-street parking and loading spaces shall be provided as specified in the applicable use units and in conformance with the requirements for off-street parking and loading. Required spaces may be provided on the lot containing the dwelling units for which it is intended to serve or in common areas. Common parking area shall be designed and located so as to be accessible to the dwelling units it is intended to serve. Provisions for the ownership and maintenance of common parking space as will insure its continuity and conservation shall be incorporated in the subdivision plat, in compliance with the provisions of Sections 12-297 and 12-298 of this code.

SECTION 12-297 GENERAL ADMINISTRATION OF PLANNED UNIT DEVELOPMENT.

A. Any person, corporation, partnership, association, or combination thereof, owning or possessing a property right or interest in or to a tract of not less than two (2) acres in size may

make application for the approval of a PUD by filing an application for an outline development plan and a supplemental zoning district designation PUD.

B. An application for the approval of an outline development plan and the supplemental district designation PUD, may be processed simultaneously with and contingent upon an application for an amendment to the zoning map.

SECTION 12-298 APPLICATION AND OUTLINE DEVELOPMENT PLANS.

An application for a Planned Unit Development shall be filed with the planning commission. The application shall be accompanied by the payment of a Thirty-five Dollar (\$35.00) fee. Such fee shall not include advertising and sign costs which shall be billed to the applicant. The application shall be in such form and content as the planning commission may by resolution establish, provided that three (3) copies of an outline development plan shall accompany the filing of the application. The outline development plan shall consist of maps or text which contain the following:

1. Existing topographic character of the land;
2. Proposed land uses, including public uses and open space and the approximate location of buildings and other structures;
3. The character and approximate density of dwellings. Density shall be expressed in number of dwelling units and quantitative area of each identifiable segment of the PUD;
4. The approximate location of thoroughfares;
5. Sufficient surrounding area to demonstrate the relationship of the PUD to adjoining uses, both existing and proposed;
6. An explanation of the character of the planned development; and
7. The expected schedule of development.

Section 12-299 SITE PLAN REVIEW.

A. PURPOSE. By reason of potential adverse effect on public service, community appearance, environment, welfare, and to neighboring land uses, Site Plan Review and approval shall be required of development. For the purpose of assuring proper accessibility, circulation, functional relationships of use, and

compatibility with adjoining and nearby development, no Building or Occupancy Permit shall be issued, nor use commenced, except in accordance with a Site Plan submitted and approved by the City.

B. INTENT. The Site Plan Review process recognizes that the developments to which it is made applicable, even though generally suitable for location in a particular district or on a particular site, are, because of their nature, size, complexity, or other indicators of probable impact, capable of adversely affecting the purposes for which these regulations are established, unless careful consideration has been given to critical design elements. Therefore, it is the intent of this process to insure that all elements are reviewed for compatibility with the provisions of these regulations. A Site Plan, much like a preliminary plat of subdivision, is intended to serve as a working document for the developer and the City. It shall provide sufficiently detailed information to allow an informed decision concerning the overall acceptability of the proposed development.

C. APPLICABILITY. Site Plan Review shall be required, as a precondition to the issuance of a Building or Occupancy Permit, in the following instance:

The development or establishment of any commercial or special (public) use.

D. RESERVED.

E. DESIGN STANDARDS. The following design standards shall apply to any development requiring a Site Plan Review:

1. Access. All developments requiring Site Plan Review shall have adequate and safe vehicular access to adjacent streets. All entrance and exit driveways to public streets shall be located with due consideration for traffic flow so as to afford minimum conflict to traffic on public streets. All such entrances and exits shall be so located and designed so as to comply with the Traffic Control Policies of the City and in the case of State or United States Highways, with the Oklahoma State Highway Commission's Driveway Regulations for Oklahoma Highways or other federal regulations as may be applicable.

2. Drainage. Proper surface drainage shall be provided so that removal of surface waters will not adversely affect neighboring properties or the public storm drainage system and will, so far as practicable, avoid flooding, erosion, and detrimental depositing of silt, gravel or stone. Surface water shall be removed from all roofs, canopies and paved areas and disposed of in an appropriate

drainage system. Surface water in all paved areas shall be disposed of in a manner as provided by the Site Plan.

3. Landscaping. Landscaping shall be included as an integral part of the development to provide a quality of life and amenities in keeping with the natural physical surroundings of the City. All developments shall be landscaped with trees, ornamental shrubs and green areas according to the following standards:

a. No less than five percent (5%) of the total land area of the development shall be landscaped with trees, ornamental shrubs, walkways, and green areas. At least seventy-five percent of this area shall be in the front or side yards.

b. All Site Plans shall include a detailed landscaping plan indicating the type and number of plants to be provided.

c. Artificial grass or any form of synthetic plant shall not be permitted as landscaping.

d. The use of gravel as ground cover shall not be considered as meeting the minimum requirements of this Division.

e. The plan shall not interfere with sight triangles at intersections.

f. A Certificate of Occupancy shall not be issued until landscaping has been installed in accordance with the approved Site Plan. If the season of the year will not permit planting, a temporary Certificate of Occupancy shall be issued until growing season. Failure to plant landscaping shall be a violation of these regulations and shall be an offense.

g. All landscaping improvements shall at all times be maintained in a live and healthy manner.

h. The Planning Commission may recommend and the City Council may require that existing landscaping and vegetation on the site be retained in order to satisfy the requirements of this Division and may require that sprinkling systems are established to ensure the viability of the landscaping provided.

4. Lighting. All lighting in parking areas, as part of signs and advertising or special lighting, shall be so arranged to avoid unreasonable reflection, glare, or radiation onto operators of motor vehicles, pedestrians, and neighboring land uses or properties. Outdoor lighting, when provided, shall have an arrangement of reflectors and an intensity which will not interfere with adjacent

land uses or the use of adjacent streets. No flickering, moving or flashing lights shall be permitted.

5. Parking. The location, width and layout of interior drives shall be appropriate for the proposed interior circulation. The location and layout of accessory off-street parking and loading spaces shall provide for efficient circulation and the safety of pedestrians and vehicles. The location of parking areas shall not detract from the design of proposed buildings and structures or from the appearance of the existing neighboring buildings, structures and landscape. Provisions shall be made for access by police, fire and emergency vehicles.

a. All parking lots containing more than 10 spaces must have a minimum five (5) foot landscaped strip adjacent to their perimeters with shade trees planted in the amount equivalent to one shade tree for every thirty-five (35) feet of the perimeter lineal footage. On parking lot perimeters adjacent to residentially zoned or developed land, the landscaped strip shall contain 75% opaque screening which shall include a solid wall, fence or compact evergreen hedge not less than five (5) feet in height. In addition, unenclosed parking lots with more than twenty (20) spaces shall have a minimum of two percent (2%) of the interior surface area landscaped and shall have a permanent underground watering system. The interior landscaping shall be in planting islands at aisle ends or strips between aisles. Where planting will be susceptible to injury by pedestrians or motor traffic, they shall be protected by appropriate curbs, tree guards, or other devices.

b. Surfacing. All property used for parking of vehicles, storage and display of merchandise, and all driveways used for vehicle ingress and egress shall be paved with a permanent hard surface.

6. Relation of proposed structures to environment. Proposed structures on the site shall be related in style and design and shall also relate visually to the terrain and existing buildings and roads in the vicinity. The achievement of such harmonious relationship may include the enclosure of space in conjunction with other existing buildings or other proposed buildings and the creation of focal points with respect to avenues of approach, terrain features or other buildings. Proposed structures shall be so cited as to minimize any adverse impact upon the surrounding area, and particularly upon nearby residences, by reason of:

a. Building location, height, bulk and shadows;

- b. Location, intensity, direction and time usage of outdoor lighting;
- c. Likelihood of nuisances;
- d. Other similar considerations.

Appropriate screening shall be required to minimize any such adverse impact.

7. Screening. Development and maintenance of plantings, fences, and walls shall be provided as an aesthetic barrier against traffic, noise, heat, glare, and dust for the protection and conservation of property. Whenever any lot located in any commercial zone is to be developed or occupied by commercial uses(s) and it abuts a lot located in any residential zone or a lot developed residentially, the lot shall be screened by the development with a minimum 75% opaque barrier not less than 5 feet in height along the entire abutting lot line. Said screening or barrier shall be dense landscaping, earthen berm, solid lumber or masonry fence, wall, or combination thereof. Solid lumber fencing shall be treated or painted in earth tone colors. More extensive screening may be required by the Planning Commission and City Council in instances where the above described screening does not adequately protect adjacent properties from unsightly or distractive activity. The screening shall be maintained in good condition. Prescribed screening need not be provided along a lot line if a building, fence, wall or dense landscaping of at least equivalent height, capacity, and maintenance exists immediately abutting on the opposite side of said lot line. In addition, the Planning Commission and the City Council may require that existing landscaping and vegetation on the site which serves a partial or full screening be retained in order to satisfy the requirements of this Division.

8. Special Features. Outside storage areas, service and machinery installations, service areas, truck loading areas, utility buildings, and structures, and similar accessory areas and structures shall be subject to such setbacks, screen plantings or other screening methods as shall reasonably be required to prevent any adverse effect upon the environment or nearby property.

9. Waste disposal. All containers for the disposal of wastes can be required to be located on a concrete pad and shall be screened to the extent that the container cannot be viewed by the public.

10. Public Rights-of-Way, Streets and Easements. Each Site Plan shall provide for the appropriate dedication and improvement of needed rights-of-way and easements as are necessary to adequately serve the proposed development and occupancy, and the minimum design standards of the City.

F. PRE-APPLICATION REVIEW. Prior to submission of a Site Plan, the applicant should discuss with the City's engineer or city staff the procedure and the requirements of the general layout of the site, utilities, access to arterials, general design and narrative, the availability of existing services, and similar matters. The intent of the pre-application review is to expedite the Site Plan Review process and to facilitate the approval of the development.

G. SITE PLAN PREPARATION.

1. Site Plans or any portion thereof involving public engineering improvements shall be certified by a Professional Engineer registered in the State of Oklahoma.

2. Every Site Plan shall include a boundary survey completed and certified by a land surveyor licensed by the State of Oklahoma.

3. Site Plans shall be prepared to a scale of one inch equals thirty feet or larger.

4. A Site Plan shall be prepared on one or more sheets to show clearly the information required by these regulations and to facilitate the review and approval of the plan. If appropriate, match lines shall clearly indicate where sheets join.

5. Site Plans shall be submitted in three (3) clearly legible blue or black line copies and shall also include any supportive maps or data as may be required.

6. The Site Plan must, at the time of submittal, be accompanied by the completed application form. The filing fee for Site Plan Review shall be One Hundred Dollars (\$100.00) plus the actual cost of publication. An application for the approval of a Site Plan may be processed simultaneously with and contingent upon, the approval of an application for a zoning amendment.

H. CONTENTS OF THE SITE PLAN.

1. All Site Plans shall contain the following information:

Location of the tract, with references to names of adjoining streets, railroads, subdivisions, or other landmarks sufficient to clearly identify the location of the property.

b. The name, address, telephone numbers and e-mail of the owner or developer, north arrow, date, scale of drawing, and number of sheets.

c. Boundary dimensions and references as indicated by survey.

d. Existing topography, with a maximum contour interval of two (2) feet, if required by the City's engineer or city staff member.

e. All existing and proposed streets, pedestrian circulation systems, utilities and easements, indicating their name, type and dimensions and the location of all private utility service lines and connections to public utilities.

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f. Zoning of all adjacent properties.

g. The delineation of any flood hazard areas and drainage features as defined by the Federal Insurance Administration.

h. Location, type and dimensions of vehicular entrances to the site.

i. All off-street parking and loading areas in accordance with off-street parking regulations as specified in this Code.

j. The proposed location, use, number of floors, height and gross floor area for each building; any outside display areas; signs and lighting. Elevation drawings shall be submitted for all signs and buildings.

k. Location, type, size and height of fencing, retaining walls, screening, plantings, or landscaping. Elevation drawings shall be submitted for all screen planting and fencing.

l. Provisions for the adequate disposition of natural storm water in accordance with the adopted design criteria, standards, and ordinances of the City indicating the location, size, type and grade of ditches, catch basins and dips, and connections to existing drainage systems and on-site storm water detention systems.

m. Proposed finished grading by contours of two (2) feet supplemented where necessary by spot elevation if required by the City's engineer.

I. SITE PLAN SUBMISSION AND REVIEW. Plans for Development on Property.

1. All Site Plans shall be reviewed and approved by the Planning Commission prior to the issuance of any Building Permit or Occupancy Permit for the property.

2. The Site Plan shall be submitted to the City Clerk no later than twenty (20) days prior to the Planning Commission meeting date at which it is to be considered.

3. The City's engineer or city staff member shall review the Site Plan for completeness and compliance with the provisions of these regulations. Any necessary modifications shall be forwarded to the applicant for resubmittal.

4. After review, the City's engineer shall provide to the Planning Commission, a written report recommending and listing reasons for the approval or denial of the Site Plan.

5. The Planning Commission shall conduct a public hearing regarding the proposed Site Plan and shall consider:

a. Whether the proposed Site Plan is consistent with the Land Use Plan.

b. Whether the proposed Site Plan harmonizes with the existing and expected development of surrounding areas.

c. Whether provisions have been made for proper accessibility, circulation and functional relationships of land uses.

d. Whether the proposed Site Plan is consistent with the purposes and standards of these regulations.

6. The Planning Commission may take the following actions:

a. Approval. If the Site Plan is recommended for approval, the developer may make application for permits in compliance with the approved Site Plan.

b. Conditional approval. The Planning Commission may recommend conditional approval of the Site Plan subject to any necessary amendments.

c. Denial. If the Site Plan is recommended for denial, the reasons for such shall be recorded in the minutes of the Planning

Commission meeting. The reasons for denial shall refer to specific provisions of these regulations which the Site Plan does not conform.

7. The recommendation of the Planning Commission shall be referred to the City Council for final action.

8. The City Council shall approve, conditionally approve or deny the Site Plan. In the case of any action other than approval, the City Council shall state the reasons for its action. As a condition of approval, the City Council may require certain on-site and off-site improvements be installed and/or dedication of easements or right-of-ways made. The City Council may waive any requirement contained herein if it is determined to be in the best interest of the City of Fairview and after considering any adverse impact that such waiver would have upon surrounding uses and the City generally.

J. PUBLIC NOTICE.

1. After the City Clerk receives an application for Site Plan Review, the subject property shall be posted with a notice or notices which shall describe the development being proposed and the time and place in which the application may be viewed by any interested person.

2. Said Notice shall be posted no later than ten (10) days prior to the hearing before the Planning Commission. The subject property shall remain posted until a final decision has been made concerning the application.

Upon approval of the Site Plan, building and/or occupancy permits may be issued in accordance with the provisions of the approved Site Plan.

K. AMENDMENTS. Minor changes to the Site Plan may be accomplished administratively through the City's engineer so long as substantial compliance is maintained with the approved Site Plan. Proposed changes which could represent a significant departure from the Site Plan, as approved by the Planning Commission or City Council, shall require resubmittal. Major changes to an approved Site Plan which would require resubmittal shall include but not be limited to, an increase in the bulk of any building by more than ten percent (10%), an increase in residential density, or an increase in total ground area covered by buildings by more than ten percent (10%).

L. OCCUPANCY PERMIT. Prior to the issuance of any Certificate of Occupancy, the applicant shall complete in a manner satisfactory to the City's engineer, all improvements required by these regulations and as required by the City Council.

M. EXCEPTIONS: The foregoing Site Plan Procedure shall not apply to:

1. New occupancies of existing structures that do not require the issuance of a building permit shall not be subject to the site plan review ordinance.

2. Any use permitted on a temporary basis for a period of not to exceed six (6) months.

3. Attached or unattached additions to existing non-residential buildings or uses; provided however, such additions must not change the character of the use or cause or extend a nuisance or nonconformity and must otherwise conform to the appropriate City ordinances.

N. ADMINISTRATIVE SITE PLAN REVIEW: The following Administrative Site Plan Review procedures shall apply to additions to existing non-residential buildings or uses, when such additions do not change the character of the use, cause or extend a nuisance or nonconformity and otherwise conform to the appropriate City ordinances.

1. There is hereby created an Administrative Site Plan Review Board (hereinafter the "Board") to review applications for Administrative Site Plan Review (hereinafter the "review"). The Board shall be composed of the City's Engineer, the Chairman of the Planning Commission or his designee and the City Manager.

2. Any Administrative Site Plan Review Applicant (hereinafter the "Applicant") shall request a Pre-Application Review with the City Manager as provided by subsection F. Prior to the administrative hearing, the City Manager may choose, in his sole discretion, to send the Application for consideration and review by the Planning Commission and the City Council.

3. The City Manager shall determine which design standards (as provided in subsection E), what site plan preparation (as provided in subsection G) and which site plan contents are applicable for this type of Application, together with any such other related matters to expedite the Application. Upon submission of such applicable items in the Application by the Applicant to the City Clerk, the affected property shall be immediately posted with a

notice which describes the development being proposed and the time and place of the administrative hearing before the Board. The property shall be posted for at least five (5) days prior to the date of the administrative hearing. At the hearing, the Board shall consider:

a. Whether the proposed Site Plan is consistent with the Land Use Plan;

b. Whether the proposed Site Plan harmonizes with the existing and expected development of surrounding areas;

c. Whether provisions have been made for the proper accessibility, circulation and functional relationships of land uses;

d. Whether the proposed Site Plan is consistent with the purposes and standards of these regulations; and

e. Whether, as a condition of approval, certain on-site and off-site improvements should be installed at the Applicant's sole cost.

The decision of any two members of the Board shall be binding on the Applicant. All Board decisions shall be reduced to writing and forwarded to the Planning Commission for their records. Any person may appear at the administrative hearing and be heard. If no appeal to the decision of the Board is filed with the City Clerk within three (3) business days of the Board's decision, such decision shall be binding. Any decision appealed shall be heard and decided by the City Council.

Note: Section 12-299 was approved by the City Council by Ordinance No. 2013-3 which was approved on July 16, 2013.

Section 12-299A

HOME OCCUPATIONS.

A. Purpose

Home occupations:

1. can be an incubator for new business;
2. can help people enter or stay in the work force who might otherwise be unable to work; and/or

3. can provide jobs for the elderly or those who do not wish to work in a conventional work setting, and those for whom a conventional work setting does not exist or work.

On the other hand, home occupations can sometimes be intrusive on a residential neighborhood and can become nuisances. This section takes into consideration the effect of a home occupation on traffic patterns, parking availability, aesthetics, and nuisances and is designed to maintain a residential character in residential neighborhoods.

B. Definition

"HOME OCCUPATION" is an accessory use of a dwelling unit located in any residential district for the purpose of gainful employment conducted by a member of the family residing in the dwelling which is clearly customary, incidental and a subordinate secondary use of the dwelling unit as a residence and does not alter the exterior of the property or affect the residential character of the neighborhood.

C. Home Occupations Permitted by Right

The following home occupations shall be permitted by right, but shall comply with the provisions set out in subsection E:

- Artists
- Authors and Composers
- Catering/Food Service
- Computer Programming
- Home cooking and preserving
- Home crafts
- Ironing
- Sewing
- Telephone answering and/or solicitation
- Tutorial service

D. Prior to commencement of a Home Occupation, accessory uses of a dwelling unit used for gainful employment, that meet the definition of Home Occupation and which comply with the provisions set out in subsection E, but which are not permitted by right to be a Home Occupation as provided in subsection C, are subject to a use by review process as provided in Section 12-334A entitled "Uses by Review", Subsections A, B, C and D. The Planning Commission and/or City Council may provide for any specific condition or requirement necessary to further the purpose of the Home Occupation, including but not limited to requiring additional parking spaces, if necessary. In the event the Home Occupation is granted, such use shall be terminated in the event:

1. Ownership of the property changes. The approval of a Use By Review for a home occupation is intended to be for the existing land

owner only. Any transfer of ownership after the home occupation is approved nullifies the particular approved use.

2. The nature of home occupation changes from that which was reviewed.

3. The home occupation lapses for a period of ninety (90) days.

4. Reviewed conditions and agreements are not followed.

E. Requirements for all Home Occupations, whether by right or permitted according to the use by review process.

1. The use is conducted entirely within:

a. The principal dwelling unit and attached garage and/or

b. One accessory building.

Such use is limited to members of the family or other residents residing in the dwelling unit; provided however, one additional employee may be specifically permitted by Board recommendation and City Council's approval.

2. No vehicular traffic shall be generated by the home occupation business in greater volumes than would reasonably be expected in the residential neighborhood or create unreasonable parking or traffic congestion for the abutting or adjoining neighbors or for the immediate neighborhood. Any parking or traffic of such character, intensity and continued duration, which substantially interferes with the comfortable enjoyment of private homes by persons of ordinary sensibilities, shall be considered unreasonable. It shall be a defense to prosecution under this subsection that the parking or traffic created was reasonable under the totality of the circumstances existing in the neighborhood.

3. The use is clearly incidental and secondary to the residential use of the dwelling and may not alter the existing residential character of the principal dwelling or garage/accessory building to comply with nonresidential construction code is prohibited, except for accessibility requirements.

4. Except as herein provided, a change in the outside appearance of the dwelling unit or lot indicating the use or conduct of a home occupation, including advertising signs or displays is prohibited. All equipment, goods, wares, merchandise or materials

associated with home occupation, including equipment, goods, wares, merchandise or materials located in or on vehicles, must not be visible from any public street or public right-of-way or from other location off the premises.

5. The direct sale of commodities, goods, wares, materials, merchandise or products to the general public is prohibited unless:

- a. The sale was made after an appointment to view the commodities, goods, wares, materials, merchandise or products occurred between the seller and purchaser;
- b. The sale was made pursuant to an order filled on the premises pursuant to a prior individual oral or written invitation; or
- c. The sale was made pursuant to a prior individual oral or written invitation or if placed earlier by a customer by phone, mail, Internet, or on or off site sales parties.

6. Excepting one (1) non-illuminated nameplate not more than two (2) square feet in an area attached to the main or accessory building or located on the real property and/or advertising on a vehicle as herein provided. For purpose of this section "vehicle" is defined as a passenger automobile, passenger van, motorcycle or pick-up truck. All advertising on vehicles shall be mounted flat against or painted on the vehicle and shall not refer to the street address of the home occupation business.

7. All off-site advertising, including signs, displays, billboards, television, radio, and/or any other advertising medium uses that refers to the street address is prohibited, other than business stationary, business cards, the home occupation business website, newsletters and applicable trade directories.

8. No mechanical equipment shall be used which will be obnoxious or offensive by reason of vibrations, noise, odor, dust, smoke or fumes. No combustible materials shall be permitted on the premises that are in violation of the city's fire code.

9. Any use permitted by right which use materially violates any of the above listed subsections herein may be required by the Planning Commission to secure a use by review approval pursuant to this section prior to continuing such home occupation or otherwise forfeit the right to continue such permitted home occupation.

10. No use involving a vehicle, boat or small engine repair, painting, welding or metal shop, restaurant, or child care facility for more than five (5) children shall be considered for a home occupation.

11. All persons desiring to operate and conduct Home Occupations, whether by right or permitted according to the use by review process, shall make application for such Home Occupation on forms as provided in the Office of the City Clerk and pay an application fee of (\$25.00). Upon approval of such application in accordance with this section, the applicant shall be issued a business license for such home occupation. All Home Occupations shall be subject to the provisions of Article 1 of Chapter 9 of this code, including but not limited to the business license revocation and appeal procedure for failure to conduct the Home Occupation in strict compliance with this section.

F. Special Requirements:

1. Area - Height and Setback Requirements. The height and setback requirements shall be the same as the Residential or Agricultural zone in which the permitted use is located.

(Note: This section was approved by Ordinance No. 2015-04 approved on May 19, 2015).

SECTION 12-299B PODS.

A. DEFINITION. POD, which is an acronym for portable on-demand storage container, is a box-like container transported by truck or trailer to a desired location for drop off with a storage capacity of more than 216 cubic feet that would normally be stored at an offsite location.

B. LOCATION AND USE OF PODS REGULATED. One (1) POD or similar storage container may only be stored on property within any district of the City for a period of not to exceed thirty (30) days when used to store materials and equipment when the principal structure on such real property is damaged or destroyed and/or the structure is undergoing renovation, repair or reconstruction, but only upon issuance of a permit by the City Clerk and the payment of permit fee of Ten Dollars (\$10.00). The City Manager or designee may extend the time during which the POD or similar storage container is permitted for a reasonable period of not to exceed an additional sixty (60) days upon a showing that such extension is necessary and appropriate and not an undue nuisance or unduly intrusive to owners or occupiers of neighboring properties. The POD or similar storage container shall be located on the driveway of the property and shall

not be located upon any street or within any setback location unless specifically approved by the City Manager or designee. The POD or similar storage container shall be kept closed except when being loaded or unloaded, and otherwise maintained so as to minimize unsightly appearances to neighboring properties. No POD or similar storage container shall be located on any real property within the City without a permit, or not in compliance with such permit, and all locations and uses of the POD or similar storage container shall conform to this section.

C. Any owner or person in lawful possession of any real property who shall by act or omission violate this section shall be guilty of an offense and if convicted shall be subject to a maximum fine of two hundred dollars (\$200.00) plus costs; provided however, each day the violation shall continue shall be considered a subsequent offense.

D. Any owner or person in lawful possession of any real property who shall have a POD or similar storage container on such owner or person's real property in use as a storage shed in the backyard of said real property on or before the date that this section becomes effective, such owner or person in lawful possession of such real property may permit such POD or similar storage container to remain on such real property without compliance with the terms of this section, subject to any future enactment of an ordinance regulating or governing its location and/or use.

Note: This section was approved as Ordinance No. 2017-08.01.3 approved on August 1, 2017.

ARTICLE 3

GENERAL PROVISIONS APPLYING TO ALL OR TO SEVERAL DISTRICTS

SECTION 12-300 APPLICATION OF REGULATION TO THE USES OF A MORE RESTRICTED DISTRICT.

A. Whenever the specific district regulations pertaining to one district permit the uses of a more restricted district, such uses shall be subject to the conditions set forth in the regulations of the more restricted district, unless otherwise specified.

B. It is intended that these regulations be interpreted as not permitting a dwelling unit to be located on the same lot with or within a structure used or identified to be used primarily for non-residential purposes.

SECTION 12-301

OPEN SPACE.

The following requirements are intended to provide exceptions or qualify and supplement, as the case may be, the specific district regulations set forth in Article 2 herein:

1. An open space or lot area required for an existing building or structure shall not be counted as open space for any other building or structure;

2. Open eaves, cornices, window sills, and belt courses may project into any required yard a distance not to exceed two (2) feet. Open uncovered porches or open fire escapes may project into a front or rear yard a distance not to exceed five (5) feet. Fences, walls, or hedges in residential districts may be erected in any required yard, or along the edge of any yard, provided that no fence, wall or hedge located in front of the front building line shall exceed four (4) feet in height, and no other wall or fence shall exceed seven (7) feet in height;

3. Where the dedicated street right-of-way is less than fifty (50) feet, the front yard depth shall be determined by measuring fifty (50) feet back from the center line of the street easement; provided, however, that this shall not be construed as reducing specific district requirements;

4. No dwelling shall be erected on a lot which does not abut on at least one street, at least fifty (50) feet in width, for at least thirty-five (35) feet. A street shall form the direct and primary means of ingress and egress for all dwelling units. Alleys, where they exist, shall form only a secondary means of ingress and egress. A garage apartment may be built to the rear of a main dwelling if there is compliance with all other provisions of these regulations. Accessory buildings which are not a part of the main building may be built in the rear yard but shall not cover more than thirty percent (30%) of the rear yard;

5. No minimum lot sizes and open spaces are prescribed for commercial and industrial uses. It is the intent of these regulations that lots of sufficient size be used by any business or industry to provide adequate parking and loading and unloading space required for operation of the enterprise;

6. On any corner lot on which a front and side yard is required, no wall, fence, sign, structure or any plant growth which obstructs sight lines at elevations between two (2) feet six (6) inches and six (6) feet above any portion of the crown of the adjacent roadway shall be maintained in a triangle formed by

measuring from the point of intersection of the front and exterior side lot lines a distance of twenty-five (25) feet along the front and side lot lines and connecting the points so established to form a right triangle on the area of the lot adjacent to the street intersection;

7. An attached or detached private garage or carport which faces on a street shall not be located closer than twenty-five (25) feet to the street easement line;

8. No accessory building shall be constructed upon a lot until the construction of the main building has been actually commenced, and no accessory building shall be used unless the main building on the lot is also being used; and

9. Whenever one or more residential, institutional, commercial or industrial buildings are proposed to be located in a cluster or grouping which has a different arrangement, orientation, or other site planning variation from that of other buildings, structures or uses in the area or on adjacent properties, the architectural design, location, orientation, service and parking areas of such buildings shall be planned so as not to adversely affect the use of adjacent or other properties in the area, as determined by the planning commission.

SECTION 12-302 HEIGHT.

The following requirements are intended to provide exceptions or qualify and supplement, as the case may be, the specific district regulations set forth in Article 2 herein:

1. In measuring heights, a habitable basement or attic shall be counted as a story. A story in a sloping roof, the area of which story at a height of four (4) feet above the floor does not exceed two-thirds ($2/3$) of the floor area of the story immediately below it and which does not contain an independent apartment, shall be counted as a half story;

2. Chimneys, elevators, poles, spires, tanks, towers, and other projections not used for human occupancy may extend above the height limit;

3. Churches, schools, hospitals, sanitariums, and other public and semi-public buildings may exceed the height limitation of the district if the minimum depth of rear yards and the minimum width of the side yards required in the district are increased one foot for each two (2) feet by which the height of such public or semi-public structure exceeds the prescribed height limit.

SECTION 12-303

GROUP HOUSING PROJECTS.

In the case of a housing project consisting of a group of two (2) or more buildings to be constructed on a plot of ground of at least two (2) acres not subdivided into the customary streets and lots, and which will not be so subdivided, where the existing or contemplated street and lot layout make it impracticable to apply the requirements of these regulations to the individual buildings in such housing project, the application of such requirements to such housing project may be changed by the board of adjustment, in a manner that will be in harmony with the character of the neighborhood, will insure a density of land use no higher and a standard of open space at least as high as required by these regulations in the district in which the proposed project is to be located. In no case shall a use or building height or density of population be permitted which is less than the requirement of the district in which the housing project is to be located.

SECTION 12-304

STORAGE AND PARKING OF TRAILERS AND COMMERCIAL VEHICLES.

Commercial vehicles and trailers of all types, including travel, camping and hauling and mobile homes shall not be parked or stored on any lot occupied by a dwelling or on any lot in any residential district except in accordance with the following provisions:

1. Not more than one vehicle, which does not exceed one and one-half ($1\frac{1}{2}$) tons rated capacity, per family living on the premises, shall be permitted; and in no case shall a commercial vehicle used for hauling explosives, chemicals, gasoline, liquified petroleum products or similar hazardous product be permitted;

2. Not more than one camping or travel trailer or hauling trailer per family living on the premises shall be permitted and the trailer shall not exceed thirty-three (33) feet in length, or eight and one half ($8\frac{1}{2}$) feet in width; and further provided that the trailer shall not be parked or stored for more than forty-eight (48) hours unless it is located behind the front yard building line. All such vehicles shall be parked behind the front yard build line. A camping or travel trailer shall not be occupied either temporarily or permanently while it is parked or stored in any area within the incorporated limits except in a trailer court authorized under the regulations of the city; and

3. A mobile home shall be parked or stored only in a trailer court which is in conformity with the regulations of the city.

4. The above size, duration and use requirements shall also apply to boats.

SECTION 12-305 ARCHITECTURAL DESIGN OF ACCESSORY BUILDINGS AND FENCES.

The architectural design and materials used for the construction of accessory buildings and fences shall harmonize with the main building to which the building or fence is accessory.

SECTION 12-306 ANIMALS.

Animals in any district shall be kept only in accordance with the regulations of the city.

SECTION 12-307 STORAGE OF LIQUIFIED PETROLEUM GASES.

The use of land or buildings for the commercial, wholesale or retail storage of liquified petroleum gases shall be in accordance with the regulations of the city and the regulations of the Liquified Petroleum Gas Administration of the State of Oklahoma.

SECTION 12-308 TRAILER PARK REGULATIONS.

Travel trailer parks and mobile home parks shall be constructed in accordance with the requirements of the regulations of the city.

ARTICLE 4

OFF-STREET PARKING REQUIREMENTS

SECTION 12-310 GENERAL INTENT AND APPLICATION OF OFF-STREET AUTOMOBILE AND VEHICLE PARKING AND LOADING.

It is the intent of these requirements that adequate parking and loading facilities be provided off the street easement for each use of land within the city. Requirements are intended to be based on the demand created by each use. These requirements shall apply to all uses in all districts.

SECTION 12-311 REQUIRED OPEN SPACE.

Off-street parking or loading space shall be a part of the required open space associated with the permitted use and shall not be reduced or encroached upon in any manner. The area required for off-street parking shall be in addition to the yard areas herein required; except that the front yard required in a C-i Neighborhood Shopping District may be used for uncovered parking area. The front

yard required in a residential district may be used for the uncovered parking area for six (6) or less vehicles associated with a residential use when the area is surfaced with a sealed surface pavement adequate to prevent the occurrence of mud and dust with continued use, and may be used for uncovered parking area for more than six (6) vehicles in accordance with the provisions of Section 12-317 of this code.

SECTION 12-3 12 LOCATION.

The off-street parking lot shall be located within two hundred (200) feet, exclusive of street and alley widths, of the principal use and shall have direct access to a street or alley.

SECTION 12-3 13 JOINT PARKING FACILITIES.

Whenever two (2) or more uses are located together in a common building, shopping center or other integrated building complex, the parking requirements may be complied with by providing a permanent common parking facility, cooperatively established and operated, which contains the requisite number of spaces for each use. The total number of spaces provided shall not be less than the sum of the individual requirements.

SECTION 12-314 SIZE OF OFF-STREET PARKING SPACE.

The size of a parking space for one vehicle shall consist of a rectangular area having dimensions of not less than nine (9) by twenty (20) feet plus adequate area for ingress and egress.

SECTION 12-315 AMOUNT OF OFF-STREET PARKING AND LOADING
REQUIRED.

A. Off-street parking and loading facilities shall be provided in all districts in accordance with the following schedule:

1. Dwelling, single family or duplex: One parking space for each separate dwelling unit within the structure;
2. Dwelling, multiple family: The number of spaces provided shall not be less than one and one-half (1 1/2) times the number of units in the dwelling;
3. Boarding or rooming house or hotel: One parking space for each two (2) guests provided overnight accommodations;
4. Hospitals: One space for each four (4) patient beds, exclusive of bassinets, plus one space for each staff or visiting

doctor, plus one space for each three (3) employees including nurses, plus adequate area for the parking of emergency vehicles;

5. Medical or dental clinics or offices: Six (6) spaces per doctor plus one space for each two (2) employees;

6. Sanitariums, convalescent or nursing homes: One space for each six (6) patient beds plus one space for each staff or visiting doctor plus one space for each two (2) employees including nurses;

7. Community center, theater, auditorium, church sanctuary: One parking space for each four (4) seats, based on maximum seating capacity;

8. Convention hall, lodge, club, library, museum, place of amusement or recreation:

One parking space for each fifty (50) square feet of floor area used for assembly or recreation in the building;

9. Office building: One parking space for each three hundred (300) square feet of gross floor area in the building, exclusive of the area used for storage, utilities and building service;

10. Commercial establishments not otherwise classified: One parking space for each one hundred fifty (150) square feet of floor space used for retail trade in the building and including all areas used by the public; and

11. Industrial establishments: Adequate area to park all employees' vehicles at all times and adequate space for loading, unloading and storing all vehicles used incidental to or as a part of the primary operation of the establishment.

B. For all uses not covered in paragraphs 1 through 11 above, the planning commission shall make a determination of the parking demand to be created by the proposed use, and the amount of parking thus determined shall be the off-street parking requirement for the permitted use.

SECTION 12-316

PAVED SURFACE REQUIRED.

All parking spaces shall be paved with a sealed surface pavement and maintained in a manner that no dust will result from the continued use.

SECTION 12-317
DISTRICTS.

OFF-STREET PARKING LOTS IN RESIDENTIAL

Whenever off-street parking lots for more than six (6) vehicles are to be located within or adjacent to a residential district, the following provisions shall apply:

1. All sides of the lot within or abutting the residential district shall be enclosed with an opaque ornamental fence, wall or dense evergreen hedge having a height of not less than five (5) nor more than six (6) feet. Such fence, wall or hedge shall be maintained in good condition;

2. No parking shall be permitted within a front yard setback line established fifteen (15) feet back of the property line of interior and corner lots wherever the parking lot is located in a residential district or immediately abuts the front yard of a residential unit. In all other cases no setback shall be required;

3. All yards shall be landscaped with grass and shrubs and maintained in good condition the year round;

4. Driveways used for ingress and egress shall be confined to and shall not exceed twenty-five (25) feet in width, exclusive of curb returns;

5. All of the lot used for parking and driveway purposes shall be paved with a sealed surface pavement and maintained in such a manner that no dust will be produced by continued use;

6. Whenever lighting is provided, the intensity of light and arrangement of reflectors shall be such as not to interfere with residential district uses; and

7. No sign of any kind shall be erected except information signs used to guide traffic and to state the condition and terms of the use of the lots. Only non- intermittent white lighting of signs shall be permitted.

ARTICLE 5

NONCONFORMING BUILDINGS, STRUCTURES, AND USES OF LAND

SECTION 12-320

NONCONFORMING BUILDINGS AND STRUCTURES.

A nonconforming building or structure existing at the time of adoption of these regulations may be continued, maintained and repaired, except as otherwise provided in this article.

SECTION 12-321
STRUCTURES.

ALTERATION OR ENLARGEMENT OF BUILDINGS AND

A nonconforming building or structure shall not be added to or enlarged in any manner unless the building or structure, including additions and enlargements, is made to conform to all of the regulations of the district in which it is located; provided, however, that if a building or structure is conforming as to use, but nonconforming as to yards or height or off-street parking space, the building or structure may be enlarged or added to provided that the enlargement or addition complies with the yard and height and off-street parking requirements of the district in which the building or structure is located. No nonconforming building or structure shall be moved in whole or in part to another location on the lot unless every portion of the building or structure is made to conform to all of the regulations of the district in which it is located.

SECTION 12-322

OUTDOOR ADVERTISING SIGNS AND STRUCTURES.

Any advertising sign, billboard, commercial advertising structure, or statuary, which is lawfully existing and maintained at the time these regulations became effective, which does not conform to the provisions hereof, shall not be structurally altered and all such nonconforming advertising signs, billboards, commercial advertising structures and statuary, and their supporting members shall be completely removed from the premises not later than three (3) years from the effective date of these regulations (September 21, 1965).

SECTION 12-323

BUILDING VACANCY.

A building or structure or portion thereof, which is nonconforming as to use, which is or hereafter becomes vacant and remains unoccupied for a continuous period of six (6) months shall not thereafter be occupied except by a use which conforms to the use regulations of the district in which it is located.

SECTION 12-324

CHANGE IN USE.

A. A nonconforming use of a conforming building or structure shall not be expanded or extended into any other portion of such conforming building or structure or changed except to a conforming use. If such a nonconforming use, or a portion thereof, is discontinued or changed to a conforming use, any future use of such building, structure or portion thereof shall be in conformity with the regulations of the district in which such building or structure is located. A vacant or partially vacant nonconforming building or

structure may be occupied by a use for which the building or structure was designed or intended if occupied within a period of six (6) months after the effective date of these regulations, but otherwise it shall be used in conformity with the regulations of the district in which it is located.

B. The use of a nonconforming building or structure may be changed to a use of the same or a more restricted district classification, but where the use of nonconforming building or structure is changed to a use of more restricted district classification, it thereafter shall not be changed to a use of less restricted district classification; provided, however, that a building or structure that is nonconforming as to use at the time of adoption of these regulations, or at any time thereafter, shall not be changed to a wholesale or retail liquor store unless such change in use conforms to the provisions of the district in which it is located.

SECTION 12-325 DAMAGE TO BUILDING.

When a building, the use of which does not conform to the provisions of these regulations, is damaged by fire, explosion, act of God, or the public enemy to the extent of more than fifty percent (50%) of its true value, it shall not be restored except in conformity with the district regulations, unless express approval thereof is permitted by the planning commission after proper application is made therefor.

SECTION 12-326 NONCONFORMING USE OF LAND.

A nonconforming use of land, where the aggregate value of all permanent buildings or structures is less than One Thousand Dollars (\$1,000.00), existing at the time of adoption of these regulations, may be continued for a period of not more than three (3) years therefrom, provided that:

1. The nonconforming use may not be extended or expanded nor shall it occupy more area than was in use on the effective date of these regulations (September 21, 1965); and

2. If the nonconforming use or any portion thereof is discontinued for a period of six (6) months, or changed, any future use of such land, or change in use, shall be in conformity with the provisions of the district in which the land is located.

DIVISION 4

ADMINISTRATION

SECTION 12-330 BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY REQUIRED.

These regulations shall be enforced by a building inspector, acting at the direction of the city manager. It shall be a violation of these regulations for any person to change or permit the change in the use of land or buildings or structure or to erect, alter, move or improve any building or structure until a building permit or certificate of occupancy has been obtained under the conditions in this article.

SECTION 12-331 BUILDING PERMIT.

Whenever any structure or building is to be improved in an amount exceeding Five Hundred Dollars (\$500.00), or erected, moved, or structurally altered, a building permit shall be obtained from the building inspector. The building inspector may require any applicant for a building permit to furnish the following information:

1. A plot plan, drawn to scale, showing:
 - a. The exact size, shape, and dimensions of the lot to be built upon;
 - b. The exact size and location on the lot of all existing buildings and structures;
 - c. The exact size and location on the lot of the structure or building proposed to be repaired, altered, erected or moved; and
 - d. The size, arrangement, number of parking stalls, movement of vehicles and ingress and egress drives for all off-street parking and loading facilities;

2. A declaration of the existing and intended use of each existing and proposed building or structure on the lot and the number of families and housekeeping units which each existing building accommodates and which each existing and proposed building is designed to accommodate;

3. Additional information relating to the proposed improvement needed to determine the compliance with these

regulations; and

4. A survey prepared under the supervision of the city engineering department or by an engineer registered in the State of Oklahoma of the boundaries of the lot on which the improvement is proposed to be located.

SECTION 12-332 CERTIFICATE OF OCCUPANCY.

No change shall be made in the use of any land or building or structure after the passage of these regulations until a certificate of occupancy is obtained from the city clerk certifying that all of the provisions of these regulations are complied with. Whenever a building permit is issued for the erection of a new building or structure, an occupancy permit shall not be required, except where the use of the building or structure is changed from that for which the permit is issued or where the intended use is not clearly stated on the building permit.

Cross Reference: As regards building permits, see also Section 12-331 of this code.

SECTION 12-333 VIOLATIONS AND PENALTIES.

A violation of these regulations shall be deemed a misdemeanor and shall be punishable by fine. Any person, firm, or corporation who violates or refuses to comply with any of the provisions of these regulations shall be punished as provided in Section 1-108 of this code. Each day that a violation is permitted to exist shall constitute a separate offense.

SECTION 12-334 PLANNING COMMISSION RECOMMENDATION REQUIRED;
AMENDMENTS; APPLICATION FOR AMENDMENT; NOTICE AND PUBLIC HEARING;
PLANNING COMMISSION ACTION; CITY ACTION; PROTESTS TO AMENDMENTS.

A. The regulations, restrictions, prohibitions and limitations imposed and the districts created may from time to time be amended, supplemented, changed, modified or repealed by ordinance, but no change shall be made until the planning commission, after notice and public hearing, files with the City Council a report and recommendation on the proposed change.

B. The city council may, from time to time, on its own motion, or on petition from a property owner, or on recommendation of the planning commission, amend the regulations and districts herein established. No change in regulations, restrictions or district boundaries shall become effective until after a public hearing held in relation thereto, at which parties in interest and

citizens shall have an opportunity to be heard. At least twenty (20) days' notice of the time and place of such hearing shall be published in an official paper or paper of general circulation in the city.

C. An owner or his duly authorized agent or representative may make application for the amendment of the zoning restrictions applicable to his property by filing with the planning commission a written application. The applicant shall pay the fee as set out in this Section 12-111.

D. Parties in interest and citizens shall have an opportunity to be heard at a public hearing before the planning commission on any application, and before any district regulation, restriction, or boundary shall become effective. Upon receipt of an application, the planning commission shall set a date for public hearing not less than twenty (20) days nor more than sixty (60) days from the date of filing. At least fifteen (15) days' notice of the date, time and place of the hearing shall be published in a newspaper of general circulation in the city. The notice shall include a map of the area to be affected which indicates street names or numbers, streams, or other significant landmarks in the area.

E. Except as authorized in subsection F of this section, in addition to the notice requirements provided for in subsection A hereinabove, a notice of a public hearing on any proposed zoning change, except by a municipality acting pursuant to subsection C of this section, shall be given twenty (20) days prior to the hearing by mailing written notices by the secretary of the planning commission, to all the owners of real property within a three hundred (300) feet radius of the exterior boundary of the territory contained in the application. The application submitted by the applicant shall contain a certified abstractor's, registered professional engineer's or registered land surveyor's list of the names of all property owners within such area; no application shall be accepted without such list. The notice shall contain the following:

1. Legal description of the property and the street address or approximate location of the municipality;

2. Present zoning of the property and the zoning sought by the applicant; and

3. Date, time and place of the public hearing.

Additional notice may also be given by posting the notice of the hearing on the affected property at least twenty (20) days

before the date of the hearing.

F. If the planning commission or the city proposes reclassification in order to revise its comprehensive plan or official map or to identify areas which require specific land use development due to topography, geography, or other distinguishing features, including but not limited to flood plains, drainage, historic preservation, and blighted areas, the planning commission or City Council shall require, in addition to the notice requirements provided for in subsection E hereinabove, a sign to be posted on designated properties within the area affected by the proposed zoning reclassification. The sign and the lettering thereon shall be of sufficient size so as to be clearly visible and legible from the public street or streets toward which it faces. The notice shall state:

1. The date, time and place of the public hearing;
2. Who will conduct the public hearing;
3. The desired zoning classification;
4. The proposed use of the property; and
5. Other information as may be necessary to provide adequate and timely public notice.

G. In addition to the notices required by Subsection D & E hereinabove, if the zoning change requested permits the use of treatment facilities, multiple family facilities, transitional living facilities, halfway houses and any housing or facility that may be used for medical or non-medical detoxification as these terms are defined pursuant to Section 3-403 of Title 43A of the Oklahoma Statutes, the entity proposing the change in district regulation, restriction, or boundary shall mail a written notice within thirty (30) days of the hearing to all real property owners within one-quarter of a mile where the area to be affected is located and shall be responsible for all costs incurred in mailing this notice. For purposes of this subsection, "entity" means any individual, corporation, company, firm, partnership, association, trust, state agency, government instrumentality or agency, institution, county, incorporated municipality or municipal authority or trust in which any governmental entity is a beneficiary, venture, or other legal entity however organized.

H. After notice and public hearing, the planning commission shall vote to:

1. Recommend to the City Council that the application be approved as submitted, or as amended, or be approved subject to modification; or

2. Recommend to the City Council that the application be denied.

I. An application recommended for approval, or approval subject to modification, shall be transmitted to the city with the report and recommendation of the planning commission within fifteen (15) days from the date of planning commission action.

J. An application recommended for denial shall not be considered further unless the applicant, within fifteen (15) days from the date of the planning commission action, files a written request with the City Council for a hearing. Upon notice of such request, the planning commission shall forthwith transmit the application and its report and recommendation to the City Council. There shall be no fee charged the applicant for the hearing.

K. The City Council shall consider the recommendation of the Planning Commission on each application regularly transmitted. The City Council shall approve the application as submitted and recommended by the planning commission, or approve the application subject to modification, or deny the application, or return the application to the city planning commission for further study.

L. Protests against the proposed changes in regulations, restrictions and district boundaries in the city shall be filed at least three (3) days before the date of the public hearing before the City Council. If protests are filed by:

1. The owners of twenty percent (20%) or more of the area of the lots included in a proposed change; or

2. The owners of fifty percent (50%) or more of the area of the lots within a three hundred (300) foot radius of the exterior boundary of the territory included in a proposed change;

then the proposed change or amendment shall not become effective except by the favorable vote of three-fifths (3/5) of all the members of the City Council.

12-334A USES BY REVIEW

A. USES BY REVIEW. The development and administration of a Zoning Ordinance is based upon the division of the City into Zone Districts within which Districts the use of land and buildings and

the bulk and position of buildings and structures in relation to the land are relatively uniform. It is recognized, however, that there are occasions when in addition to the principal permitted uses, other uses, hereinafter referred to as "USES BY REVIEW", because of their unique characteristics and because of the uniqueness of their proposed location, may be allowed after careful consideration of the impact of the particular uses upon the neighborhood and the public facilities thereon.

B. AUTHORIZATION. The City Council may grant a use that is listed under the Uses By Review in a particular zone or as otherwise provided for after recommendation and at least one public hearing by the Planning Commission. The subject property will be required to be posted twenty (20) days prior to the public hearing. In addition, prior to the hearing, a written notice shall be mailed to all owners of real property located within a three hundred (300) foot radius of the exterior boundary of the property proposed for the use by review. The applicant shall, at his own cost, provide the City with a certified list of property owners from an abstractor, together with a copy of any restrictive covenants that are applicable to the tract which is the subject of the use by review. The mailed and posted notices shall contain the:

1. Legal description of the property and the street address or approximate location in the municipality;
2. Present zoning of the property and use by review sought by the applicant; and
3. Date, time and place of the public hearing.

C. CONDITIONS FOR AUTHORIZATION. No Use By Review shall be granted by the City Council until the Planning Commission first finds:

1. Surrounding Neighborhood: That the value and qualities of the neighborhood surrounding the Use By Review are not substantially injured.
2. Intent of General Description: That the Use By Review is consistent with the intent and purpose of the particular zone to promote public health, safety and general welfare.
3. Land Use Plan: That the Use By Review is in keeping with the Land Use Plan of the City.

D. APPLICATION. An application for a Use by Review shall be filed with the Zoning Officer. Any evidence as may be necessary to

enable the Planning Commission and City Council to properly consider the request should accompany the application. The applicant for a Use by Review shall pay a fee in the same amount as the re-zoning application fee.

A. The city council may, from time to time, on its own motion, or on petition from a property owner, or on recommendation of the planning commission, amend the regulations and districts herein established. No change in regulations, restrictions or district boundaries shall become effective until after a public hearing held in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. At least twenty (20) days' notice of the time and place of such hearing shall be published in an official paper or paper of general circulation in the city.

B. Every such proposed amendment shall be referred to the city planning commission for report. If a protest against such amendment be presented, duly signed and acknowledged by the owners of twenty percent (20%) or more of the land within such area proposed to be altered, or by the owner of twenty percent (20%) or more of the area of the lots immediately abutting either side of the territory included in such proposed change, or separated therefrom only by an alley or street, such amendment shall not be passed except by the favorable vote of three-fourths (3/4) of the city council.

C. Whenever the owners of fifty-one percent (51%) of the land in any area shall present a petition duly signed and acknowledged to the city council requesting an amendment of the regulations prescribed for such area, it shall be held the duty of the city council to vote upon such amendment within ninety (90) days of the filing of same by the petitioners with the city clerk.

D. For each petition for amendment to the zoning regulations a fee as set by the council plus the cost of legal publication shall be paid to the city clerk.

SECTION 12-335

CLASSIFICATION OF NEW ADDITIONS.

A. All new additions and annexations of land to the city shall be in an R-1 residential zone unless otherwise classified by the city council, for a period of time not to exceed one year from the effective date of the ordinance annexing the addition.

B. Within this one-year period of time the city council shall instruct the city planning commission to study and make recommendations concerning the use of land within the annexation to

promote the general welfare and in accordance with the comprehensive plan, and upon receipt of such recommendations, the city council shall, after public hearings as required by law, establish the district classification of the annexation; provided, however, that this shall not be construed as preventing the city council from holding public hearings prior to annexation and establishing the district classification at the time of the annexation.

SECTION 12-336 VACATION OF PUBLIC EASEMENTS.

Whenever any street, alley or other public easement is vacated, the portion vacated shall have the same district classification as the land to which the vacated portion accrues.

DIVISION 5 SIGN REGULATIONS

SECTION 12-340 PURPOSE.

1. Purpose. The purpose of this Article is to protect the safety and orderly development of the community through the regulation of signs and sign structures.

SECTION 12-341 DEFINITIONS.

1. Definitions. The following words and terms shall, for the purposes of this chapter and as used elsewhere in this code, have the meanings shown herein.

ABANDONED SIGN. A sign structure that has ceased to be used, and the owner no longer intends to use, for the display of sign copy, or as otherwise defined by state law.

ANIMATED SIGN. A sign employing actual motion or the illusion of motion. Animated signs, which are differentiated from changeable signs as defined and regulated by this code, include the following types:

ELECTRICALLY ACTIVATED. Animated signs producing the illusion of movement by means of electronic, electrical or electro-mechanical input and/or illumination capable of simulating movement through employment of the characteristics of one or both of the classifications noted below:

1. Flashing. Animated signs or animated portions of signs whose illumination is characterized by a repetitive on-off illumination. For the purposes of this Article, flashing will not be defined as occurring if the cyclical period between on-off phases of illumination exceeds 4 seconds.

2. Patterned illusionary movement. Animated signs or animated portions of signs whose illumination is characterized by simulated movement through alternate or sequential activation of various illuminated elements for the purpose of producing repetitive light patterns designed to appear in some form of constant motion.

(See ELECTRONIC MESSAGE SIGN OR CENTER)

ENVIRONMENTALLY ACTIVATED. Animated signs or devices motivated by wind, thermal changes, or other natural environmental input. Includes spinners, pinwheels, pennant strings, and/or other devices or displays that respond to naturally occurring external motivation.

MECHANICALLY ACTIVATED. Animated signs characterized by repetitive motion and/or rotation activated by a mechanical system powered by electric motors or other mechanically induced means.

ARCHITECTURAL PROJECTION. Any projection that is not intended for occupancy and extends beyond the face of an exterior wall of a building, but does not include signs as defined herein. See also; "Awning", "Backlit awning", and "Canopy-attached and freestanding."

AWNING. An architectural projection or shelter projecting from and supported by the exterior wall of a building and composed of a covering of rigid or nonrigid materials and/or fabric on a supporting framework that may be either permanent or retractable, including such structures that are internally illuminated.

AWNING SIGN. A sign displayed on or attached flat against the surface or surfaces of an awning. See also; "Wall" or "Fascia sign."

BACKLIT AWNING. An awning with a translucent covering material and a source of illumination contained within its framework.

BANNER. A flexible substrate on which copy or graphics may be displayed.

BANNER SIGN. A sign utilizing a banner as its display surface.

BILLBOARD. See "Off-premise sign" and "Outdoor advertising sign."

BUILDING ELEVATION. The entire side of a building, from ground level to the roof line, as viewed perpendicularly to the sides of the building.

CANOPY (Attached). A multi-sided overhead structure or

architectural projection supported by attachments to a building on one or more sides and either cantilevered from such building or also supported by columns at additional points. The surface(s) and/or soffits of an attached canopy may be illuminated by means of internal or external sources of light. See also, "Marquee."

CANOPY (Freestanding). A multi-sided overhead structure supported by columns, but not enclosed by walls. The surface(s) and/or soffits of a freestanding canopy may be illuminated by means of internal or external sources of light.

CANOPY SIGN. A sign affixed to the visible surface(s) of an attached or freestanding canopy. For reference, see Section 12-342.

CHANGEABLE SIGN. A sign with the capability of content change by means of manual or remote input, including signs which are:

1. Manually activated. Changeable sign whose message copy or content can be changed manually.

2. Electrically activated. Changeable sign whose message copy or content can be changed by remote electrical means. Illumination may be integral to the components, such as characterized by lamps or other light-emitting devices; or it may be from an external light source designed to reflect off the changeable component display. See also, "Electronic message sign or center."

COMBINATION SIGN. A sign that is supported partly by a pole and partly by a building structure.

COPY. Those letters, numerals, figures, symbols, logos and graphic elements comprising the content or message of a sign, excluding numerals identifying a street address only.

DEVELOPMENT COMPLEX SIGN. A freestanding sign identifying a multiple-occupancy development, such as a shopping center or planned industrial park, which is controlled by a single owner or landlord, approved in accordance with Section 12-348.2 of this Article.

DIRECTIONAL SIGN. Any sign that is designed and erected for the purpose of providing direction and/or orientation for pedestrian or vehicular traffic.

DOUBLE-FACED SIGN. A sign with two faces, back to back.

ELECTRIC SIGN. Any sign activated or illuminated electrically.

ELECTRONIC MESSAGE SIGN OR CENTER. An electrically activated

changeable sign whose variable message capability can be electronically programmed.

EXTERIOR SIGN. Any sign placed outside a building.

FACADE. See "Building facade."

FASCIA SIGN. See "Wall sign."

FLASHING SIGN. See "Animated Sign, electrically activated."

FOR SALE SIGN. A temporary sign advertising and item for sale.

FREESTANDING SIGN. A sign principally supported by a structure affixed to the ground, and not supported by a building, including signs supported by one or more columns, poles or braces placed in or upon the ground. For visual reference. See Section 12-342.

FRONTAGE (Building). The length of an exterior building wall or structure of a single premise oriented to the public way or other properties that it faces.

FRONTAGE (Property). The length of the property line(s) of any single premise along either a public way or other properties on which it borders.

GROUND SIGN. See "Freestanding sign."

HISTORICALLY SIGNIFICANT SIGN. Any sign determined by the Design Committee of *Main Street of Fairview, Inc.*, to exhibit unique characteristics that enhance the streetscape or identity of a neighborhood and as such contribute to the historical or cultural character of the building, streetscape or the community at large.

ILLUMINATED SIGN. A sign characterized by the use of artificial light, either projecting through its surface(s) (internally illuminated); or reflecting off its surface(s) (externally illuminated).

INTERIOR SIGN. Any sign placed within a building, but not including "window signs" as defined by this Article. This chapter does not regulate interior signs, with the exception of window signs as defined.

MANSARD. An inclined decorative roof-like projection that is attached to an exterior building facade.

MARQUEE. See "Canopy (attached)."

MARQUEE SIGN. See "Canopy sign."

MENU BOARD. A freestanding sign oriented to the drive-through line for a restaurant that advertises menu items available from the drive-through window, and which has no more than 20 percent of the total area for such a sign utilized for business identification.

MULTIPLE-FACED SIGN. A sign containing three or more faces.

OFF-PREMISE SIGN. See "Outdoor advertising sign."

ON-PREMISE SIGN. A sign erected, maintained or used in the outdoor environment for the purpose of the display of messages appurtenant to the use of, products sold on, or the sale or lease of, the property on which it is displayed.

OUTDOOR ADVERTISING SIGN. A permanent sign erected, maintained or used in the outdoor environment for the purpose of the display of commercial or noncommercial messages not appurtenant to the use of, products sold on, or the sale or lease of, the property on which it is displayed.

PARAPET. The extension of a building facade above the line of the structural roof.

PERSONAL NOTICE SIGN. A sign erected, maintained or used for the purpose of displaying messages appurtenant to the property on which it is displayed. Such signs include but are not limited to "BEWARE OF DOG", "NO TRESPASSING" and "NO SOLICITING".

POLE SIGN. See "Freestanding sign."

POLITICAL SIGN. A temporary sign intended to advance a political statement, cause or candidate for office. A legally permitted outdoor advertising sign shall not be considered to be a political sign.

PORTABLE SIGN. A sign not permanently attached to the ground or to a building surface.

PROJECTING SIGN. A sign other than a wall sign that is attached to or projects more than 18 inches from a building face or wall or from a structure whose primary purpose is other than the support of a sign. For visual reference, see Section 12-342.

REAL ESTATE SIGN. A temporary sign advertising the sale, lease or rental of the property or premises upon which it is located.

REVOLVING SIGN. A sign that revolves 360 degrees about an axis. See also, "Animated sign, mechanically activated."

ROOF LINE. The top edge of a peaked roof or, in the case of an extended facade or parapet, the uppermost point of said facade or parapet.

ROOF SIGN. A sign mounted on, and supported by, the main roof portion of a building, or above the uppermost edge of a parapet wall of a building and which is wholly or partially supported by such a building. Signs mounted on mansard facades, pent eaves and architectural projections such as canopies or marquees shall not be considered to be roof signs. For a visual reference example of a roof sign, and a comparison of differences between roof and fascia signs, see Section 12-342.

SIGN. Any device visible from a public place that displays either commercial or noncommercial messages by means of graphic presentation of alphabetic or pictorial symbols or representations. Noncommercial flags or any flags displayed from flagpoles or staffs will not be considered to be signs.

SIGN AREA. The area of the smallest geometric figure, or the sum of the combination of regular geometric figures, which comprise the sign face. The area of any double-sided or "V" shaped sign shall be the area of the larger single face only. The area of a sphere shall be computed as the area of a circle. The area of all other multiple-sided signs shall be computed as 50 percent of the sum of all the area of all faces of the sign. See Section 12-342.

SIGN COPY. Those letters, numerals, figures, symbols, logos and graphic elements compromising the content or message of a sign, exclusive of numerals identifying a street address only.

SIGN FACE. The surface upon, against or through which the sign copy is displayed or illustrated, not including structural supports, architectural features of a building or sign structure, nonstructural or decorative trim, or any areas that are separated from the background surface upon which the sign copy is displayed by a distinct delineation, such as a reveal or border. See Section 12-342.

1. In the case of panel or cabinet type signs, the sign face shall include the entire area of the sign panel, cabinet or face substrate upon which the sign copy is displayed or illustrated, but not open space between separate panels or cabinets.

2. In the case of a sign face with routed areas of sign copy,

the sign face shall include the entire area of the surface that is routed, except where interrupted by a reveal, border, or a contrasting surface or color.

3. In the case of a sign painted on a building, or individual letters or graphic elements affixed to a building or structure, the sign face shall comprise the sum of the geometric figures drawn closest to the edge of the letters or separate graphic elements comprising the sign copy, but not the open space between separate groupings of sign copy on the same building or structure.

4. In the case of sign copy enclosed within a painted or illuminated border, or displayed on a background contrasting in color with the color of the building or structure, the sign face shall comprise the area within the contrasting background, or within the painted or illuminated border.

SIGN STRUCTURE. Any structure supporting a sign.

TEMPORARY SIGN. A sign intended to display either commercial or noncommercial messages of a transitory or temporary nature. Portable signs or any sign not permanently embedded in the ground, or not permanently affixed to a building or sign structure that is permanently embedded in the ground, are considered temporary signs.

UNDER CANOPY SIGN OR UNDER MARQUEE SIGN. A sign attached to the underside of a canopy or marquee.

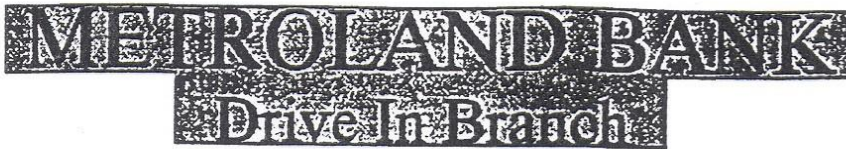
V SIGN. Signs containing two faces of approximately equal size erected upon common or separate structures, positioned in a "V" shape with an interior angle between faces of not more than 90 degrees with the distance between the sign faces not exceeding 5 feet at their closest point.

WALL OR FASCIA SIGN. A sign that is in any manner affixed to any exterior wall of a building or structure and that projects not more than 18 inches from the building or structure wall, including signs affixed to architectural projections from a building provided that copy area of such signs remains on a plane that is parallel to the face of the building facade or to the face or faces of the architectural projection to which it is affixed. For visual reference and comparison examples of differences between wall or fascia signs and roof signs (See Section 12-342).

WINDOW SIGN. A sign affixed to the surface of a window with its message intended to be visible to and readable from the public way or from adjacent property.

SECTION 12-342 GENERAL SIGN TYPES

1. General. Sign types and the computation of sign area of sign area shall be depicted in Figures (1) through (4).



COMPUTE AREA AROUND
COPY ELEMENTS ONLY.

COMPUTE AREA
INSIDE DEFINED
BORDER OR
INSIDE
CONTRASTING
COLOR AREA.



METROLAND BANK

Drive In Branch

SECTION 12-343 GENERAL PROVISIONS.

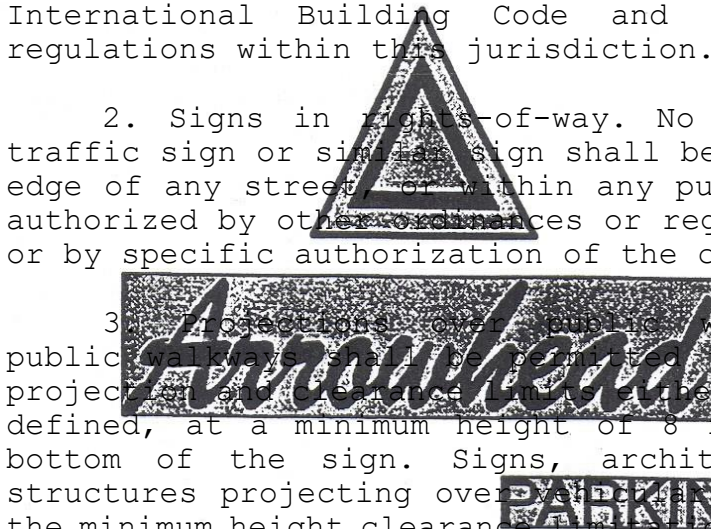
1. Conformance to codes. Any sign hereafter erected shall conform to the provisions of this Article and the provisions of the International Building Code and of any other ordinance or regulations within this jurisdiction.

2. Signs in right-of-way. No sign other than an official traffic sign or similar sign shall be erected within 2 feet of the edge of any street, or within any public way, unless specifically authorized by other ordinances or regulations of this jurisdiction or by specific authorization of the code official.

3. Projections over public ways. Signs projecting over public walkways shall be permitted to be so on a subject to the projection and clearance limits either defined herein or, if not so defined, at a minimum height of 8 feet from grade level to the bottom of the sign. Signs, architectural projections or sign structures projecting over public access areas must conform to the minimum height clearance limitations imposed by the jurisdiction for such structures.

4. Traffic visibility. No sign or sign structure shall be erected at the intersection of any street in such a manner as to obstruct free and clear vision, nor at any location where by its position, shape or color it may interfere with or obstruct the view of or be confused with any authorized signal or device.

5. Computation of frontage. If a premises indicated walls facing more than one property frontage bounded by more than one street or other property usages, the sign area(s) for each building



COMPUTE SUM OF
AREAS OF INDIVIDUAL
ELEMENTS ON WALL
OR STRUCTURE



IN COMPUTING AREA FOR UPPER
AND LOWER CASE LETTERING,
INCLUDE ASCENDERS OR
DESCENDERS, BUT NOT BOTH.
CALCULATE SUPER ASCENDERS
SEPARATELY AS INDICATED.

SIGN AREA - COMPUTATION METHODOLOGY

FIGURE 4

wall or property frontage will be computed separately for each building wall or property line facing a different frontage. The sign area(s) thus calculated shall be permitted to then be applied to permitted signs placed on each separate wall or property line frontage. For instance, businesses located in commercial and industrial zones proximate to Interstate 35 may have two frontages for wall and free-standing sign purposes.

6. Animation and changeable messages. Animated signs, except as prohibited in Section 12-345, are permitted in commercial and industrial zones. Changeable signs, both mechanically and electrically activated, are permitted in all nonresidential zones.

7. Maintenance, repair and removal. Every sign permitted by this Article shall be kept in good condition and repair. When any sign becomes insecure, in danger of falling or is otherwise deemed unsafe by the code official, or if any sign shall be unlawfully installed, erected or maintained in violation of any of the provisions of this Article, the owner thereof or the person or firm using same shall, upon written notice by the code official forthwith in the case of immediate danger, and in any case within nor more than ten (10) days, make such sign conform to the provisions of this Article, or shall remove it. If within ten (10) days the order is not complied with, the code official shall be permitted to remove or cause such sign to be removed at the expense of the owner and/or the user of the sign.

8. Obsolete sign copy. Any sign copy that no longer advertises or identifies a use conducted on the property on which said sign is erected must have the sign copy covered or removed within thirty (30) days after written notification from the municipal code official; and upon failure to comply with such notice, the code official is hereby authorized to cause removal of such sign copy, and any expense incident thereto shall be paid by the owner of the building, structure or ground on which the sign is located. Historically significant signs are exempt from this provision.

9. Nonconforming signs. Any sign legally existing at the time of the passage of this Article that does not conform in use, location, height or size with the regulations of the zone in which such sign is located, shall be permitted to continue in such status until such time as it is either abandoned or removed by its owner, subject to the following limitations:

A. Structural alterations, enlargement or re-erection are permissible only where such alterations will not increase the degree of nonconformity of the signs.

B. Any legal nonconforming sign may be rebuilt without increasing the existing height or area if it is damaged or deteriorated but must be removed if the cost of repair or restoration exceeds fifty percent (50%) of the replacement cost of the sign as determined by the code official.

C. Signs that comply with either Subsection A or B above do not need a permit.

SECTION 12-344 EXEMPT SIGNS

1. Exempt signs. The following signs shall be exempt from the permit requirements but must comply with all other provisions of this Article. No sign shall be exempt from Section 12-343.4.

A. Official notices authorized by a court, public body or public safety official.

B. Directional, warning or information signs authorized by federal, state or municipal governments.

C. Memorial plaques, building identification signs and building cornerstones when cut or carved into a masonry surface or when made of noncombustible material and made an integral part of the building or structure.

D. The flag of a government or noncommercial institution, such as a school.

E. Religious symbols and seasonal decorations within the appropriate public holiday season.

F. Works of fine art displayed in conjunction with a commercial enterprise where the enterprise does not receive direct commercial gain.

G. Street address signs and combination nameplate and street address signs that contain no advertising copy and which do not exceed 6 square feet in area.

H. Historically Significant Signs.

I. Personal Notice Signs.

J. For-Sale Signs

K. Temporary Signs, excepting portable signs which shall require a permit.

SECTION 12-345 PROHIBITED SIGNS

1. Prohibited signs. The following devices and locations shall be specifically prohibited:

A. Signs located in such a manner as to obstruct or otherwise interfere with an official traffic sign, signal or device, or obstruct or interfere with a driver's view of approaching, merging or intersecting traffic.

B. Except as provided for elsewhere in this Article, signs encroaching upon or overhanging public right-of-way. No sign shall be attached to any utility pole, traffic light poles or any other public facility or structure located within the public right-of-way.

C. Signs which blink, flash or are animated by lighting in any fashion that would cause such signs to have the appearance of traffic safety signs and lights, or municipal vehicle warning from a distance.

D. Portable signs except as allowed for temporary signs.

E. Any sign attached to, or placed on, a vehicle or trailer parked on public or private property, except for signs meeting the following conditions:

1. The primary purpose of such a vehicle or trailer is not the display of signs.

2. The signs are magnetic, decals or painted upon an integral part of the vehicle or equipment as originally designed by the manufacturer, and do not break the silhouette of the vehicle.

3. The vehicle or trailer is in operating condition, currently registered and licensed to operate on public streets when applicable, and actively used or available for use in the daily function of the business to which such signs relate.

F. Signs on vehicles and trailers used primarily as static displays, advertising a product or service, or utilized as storage, shelter or distribution points for commercial products or services for the general public.

G. Balloons, streamers or pinwheels except those temporarily displayed as part of a special sale, promotion or community event. For the purpose of this subsection, "temporarily" means no more than twenty (20) days in any calendar year.

SECTION 12-346 PERMITS

1. Permits required. Unless specifically exempted (See 12-505.1), a permit must be obtained from the code official for the erection and maintenance of all signs erected or maintained within the City and in accordance with the municipal code. Exemptions from the necessity of securing a permit, however, shall not be construed to relieve the owner of the sign involved from responsibility for its erection and maintenance in a safe manner and in a manner in accordance with all the other provisions of this ordinance.

2. Construction documents. Before any permit is granted for the erection of a sign or sign structure requiring such permit, construction documents shall be filed with the code official showing the dimensions, materials and required details of construction, which may include loads, stresses, anchorage and any other pertinent data. The permit application shall be accompanied by the written consent of the owner or lessee of the premises upon which the sign is to be erected and by engineering calculations signed and sealed by a registered design professional where required by the International Building Code.

3. Changes to signs. No sign shall be structurally altered, enlarged or relocated except in conformity to the provisions herein, nor until a proper permit, if required, has been secured. The changing or maintenance of moveable parts or components of an approved sign that is designed for such changes, or the changing of copy, business names, lettering, sign faces, colors, display and/or graphic matter, or the content of any sign shall not be deemed a structural alteration.

4. Permit fees. Permit fees to erect, alter or relocate a sign shall be in accordance with the fee adopted by the City of Fairview by resolution or ordinance duly enacted.

SECTION 12-347 SPECIFIC SIGN REQUIREMENTS

1. Identification signs.

1.1 Wall signs. Every single-family residence, multi-family residential complex, commercial or industrial building, and every permitted non-conforming commercial or industrial use or building located in a residential or agricultural zone may display wall signs on each street frontage subject to the limiting standards set forth:

TABLE 12-347.1.1

IDENTIFICATION SIGN STANDARDS FOR WALL SIGNS

LAND USE	AGGREGATE AREA (Square feet)
Single-family residential	2
Multi-family residential	25
Permitted non-conforming commercial or industrial use or building located in a residential or agricultural zone	50
Commercial & Industrial	1 sq. ft. of sign for each lineal foot of building frontage

1.2 Freestanding signs. In addition to any allowable wall signs, every single-family residential complex, commercial or industrial building, and every permitted non-conforming commercial or industrial use or building located in a residential or agricultural zone shall be permitted to display freestanding or combination signs per street frontage subject to the limiting standards set forth:

TABLE 12-347.1.2 IDENTIFICATION SIGN STANDARDS FOR FREESTANDING SIGNS

LAND USE	NUMBER OF SIGNS	HEIGHT (FEET)	AGGREGATE AREA (SQUARE FEET)	SPACING
Single-family residential	1 per subdivision entrance	6'	50'	1 per subdivision entrance
Multi-family residential	1 per subdivision entrance	6'	50'	1 each side of driveway entrance

Permitted	2	10'	100'	300'
Non-conforming commercial or industrial use or building located in a residential or agricultural zone				
Commercial & Industrial	unlimited	See Figs. 5 - 7	See Figs. 5 - 7	100'

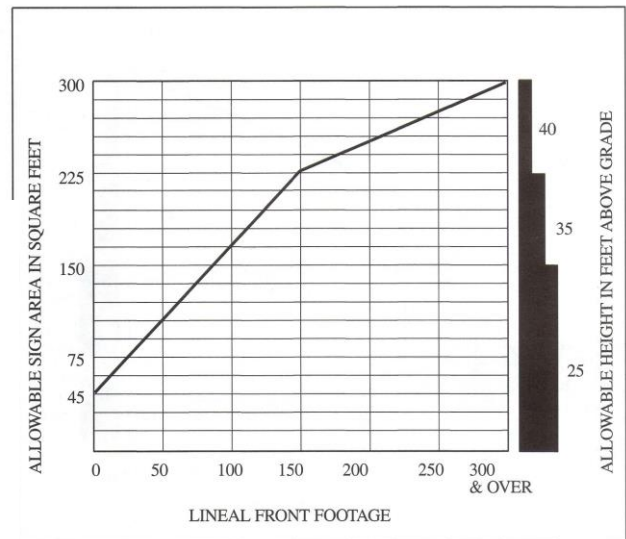
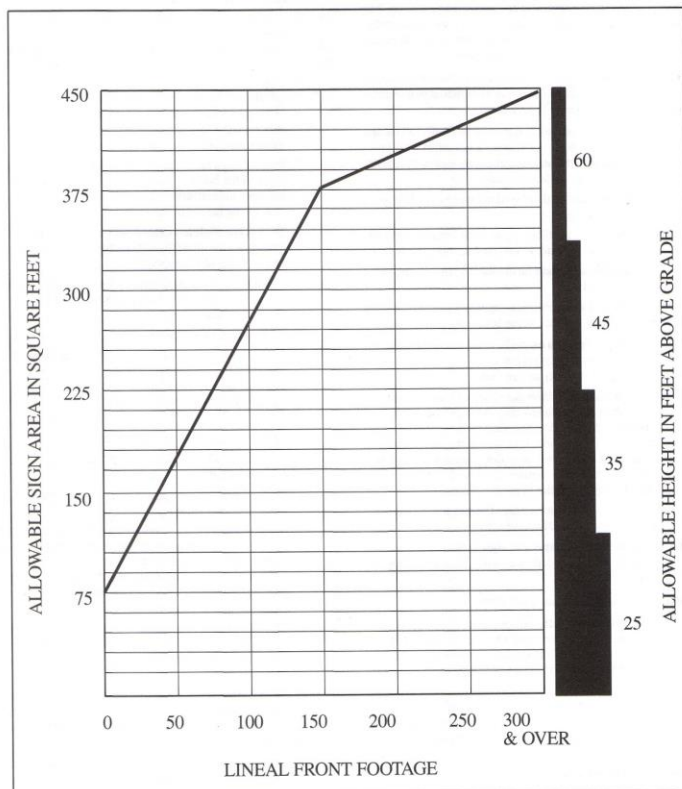
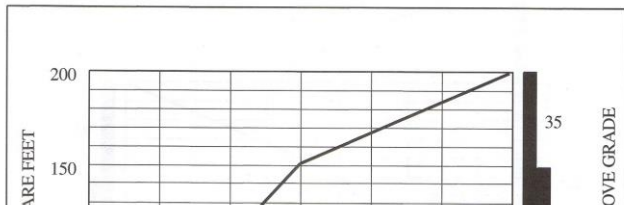


FIGURE 6

ON-PREMISES FREE-STANDING SIGNS
COMMERCIAL AND INDUSTRIAL ZONES
VEHICULAR SPEEDS SUBJECT TO POSTED

FIGURE 7

ON-PREMISES FREE-STANDING SIGNS
COMMERCIAL AND INDUSTRIAL ZONES
VEHICULAR SPEED SUBJECT TO POSTED
LIMITS ABOVE 55 MILES PER HOUR

3. Directional signs. No more than two directional signs shall be permitted per street entrance to any lot. There shall be no limit to the number of directional signs providing directional information interior to a lot. In residential zones, the maximum area for directional signs shall be 10 square feet. For all other zones, the maximum area for any directional sign visible from adjacent property or rights-of-way shall be 25 square feet. No more than 25 percent of the area of any directional sign shall be permitted to be devoted to business identification or logo, which area shall not be assessed as identification sign area.

1.4 Personal notice signs. Personal Notice signs shall be permitted on private property in all zoning districts, subject to the following limitations:

1. Such signs shall not exceed an area of 1 square foot.

2. Personal Notice signs may be permanently displayed with a limit of one sign per street frontage.

2. Temporary signs.

2.1 Real estate signs. Real estate signs shall be permitted in all zoning districts, subject to the following limitations:

1. Real estate signs located on a single residential lot shall be limited to one sign, not greater than 3 feet in height and 6 square feet in area.

2. Real estate signs advertising the sale of lots located within a subdivision shall be limited to one sign per entrance to the subdivision, and each sign shall be no greater than 50 square feet in area nor 6 feet in height. All signs permitted under this

section shall be removed within 10 days after sale of the last original lot.

3. Real estate signs advertising the sale or lease of space within commercial or industrial buildings shall be no greater than 50 square feet in area nor 6 feet in height, and shall be limited to one sign per street front.

4. Real estate signs advertising the sale or lease of vacant commercial or industrial land shall be limited to one sign per street front, and each sign shall be no greater than 10 feet in height, and 100 square feet in area.

5. Real estate signs shall be removed no later than 10 days after execution of a lease agreement in the event of a lease, or the closing of the sale in the event of a purchase.

2.2 Development and construction signs. Signs temporarily erected during construction to inform the public of the developer, contractors, architects, engineers, financing group or groups the nature of the project or anticipated completion dates, shall be permitted in all zoning districts, subject to the following limitations:

1. Such signs on a single residential lot shall be limited to one sign, not greater than 3 feet in height and 6 square feet in area.

2. Such signs for residential subdivision or on one of the lots to be built upon, and shall be no greater than 6 feet in height and 50 square feet in area.

3. Such signs for permitted non-conforming commercial or industrial use or building located in a residential or agricultural zone shall be limited to one sign, and shall be no greater than 6 feet in height and 50 square feet in area.

4. Such signs for commercial or industrial projects shall be limited to one sign per street front, not to exceed 10' feet in height and 100' square feet in area.

2.3 Special promotion, event and grand opening signs. Signs temporarily displayed to advertise special promotions, events and grand openings shall be permitted for permitted non-conforming commercial or industrial use or building located in a residential or agricultural zone, and for all commercial and industrial districts subject to the following limitations:

1. Such signs shall be limited to one sign per street front.

2. Such signs may be displayed for not more than 30 consecutive days in any 3-month period, and not more than 60 days in any calendar year. The signs shall be erected no more than 5 days prior to the event or grand opening, and shall be removed not more than 1 day after the event or grand opening.

3. The total area of all such signs shall not exceed 25 square feet in any single-family residential district, 50 square feet in any multifamily residential district and 50 square feet in any commercial or industrial district.

2.4 Special event signs in public ways. Signs advertising a special community event shall be allowed (with a permit) in or over public rights-of-way, subject to approval by the code official as to the size, location and method of erection. The code official may not approve any special event signage that would impair the safety and convenience of use of public rights-of-way, or obstruct traffic visibility.

2.5 Portable signs. Portable signs shall be permitted only in the commercial and industrial districts, as designated in this code, subject to the following limitations:

1. No more than one such sign may be displayed on any property, and shall not exceed a height of 5 feet nor an area of 32 square feet.

2. Such signs shall be displayed not more than 20 days in any calendar year.

3. Any electrical portable signs shall comply with the National Electrical Code (NEC), as adopted in this City.

4. No portable sign shall be displayed prior to obtaining a sign permit.

5. No portable sign shall obstruct traffic visibility.

2.6 Political signs. Political signs shall be permitted in all zoning districts, subject to the following limitations:

1. Such signs shall not exceed a height of 5 feet nor an area of 16 square feet.

2. Such signs for election candidates or ballot propositions shall be displayed only for a period of 60 days preceding the election and shall be removed within 10 days after the election, provided that signs promoting successful candidates or ballot

propositions in a primary election may remain displayed until not more than 10 days after the general election.

3. Such signs shall not be placed in any public right-of-way or obstruct traffic visibility.

2.7 For-sale signs. "For Sale" signs shall be permitted on private property in all zoning districts, subject to the following limitations:

1. Such signs shall not exceed an area of 1 square foot.

2. The display of "For Sale" signs shall be limited to one sign per street frontage.

3. Requirements for specific sign types.

3.1 Canopy and marquee signs.

1. The permanently affixed copy area of canopy or marquee

signs shall not exceed an area equal to 25 percent of the face area of the canopy, marquee or architectural projection upon which such sign is affixed or applied.

2. Graphic striping, patterns or color bands on the face of a building, canopy, marquee or architectural projection shall not be included in the computation of sign copy area.

3.2 Awning signs.

1. The copy area of awning signs shall not exceed an area equal to 25 percent of the background area of the awning or awning surface to which such sign is affixed or applied, or the permitted area for wall or fascia signs, whichever is less.

2. Neither the background color of an awning, nor any graphic treatment or embellishment thereto such as striping, patterns or valances, shall be included in the computation of sign copy area.

3.3 Projecting signs.

1. Projecting signs shall be permitted in lieu of freestanding signage on any street frontage limited to one sign per occupancy along any street frontage with public entrance to such occupancy, and shall be limited to the height of the building and an area not greater than .5' for each lineal foot of building frontage, except that no such sign shall exceed an area of 50 square feet.

2. No such sign shall extend vertically above the highest point of the building facade upon which it is mounted.

3. Such signs shall not extend over a public sidewalk in excess of the width of the sidewalk.

4. Such signs shall maintain a clear vertical distance above any public sidewalk of a minimum of 9 feet.

3.4 Under canopy signs.

1. Under canopy signs shall be limited to no more than one such sign per public entrance to any occupancy and shall be limited to an area not to exceed .1 (1/10) square foot for each 1 lineal foot of building frontage.

2. Such signs shall maintain a clear vertical distance above any sidewalk or pedestrian way a minimum of 8 feet.

3.5 Roof signs.

1. Roof signs shall be permitted in commercial and industrial districts only.

2. Such signs shall be limited in height to that of the roofline.

3. The sign area for roof signs shall be assessed against the aggregate permitted area for wall signs on the elevation of the building most closely parallel to the face of the sign.

3.6 Window signs. Window signs shall be permitted for any permitted non-conforming commercial or industrial use or building located in a residential or agricultural zone, and for all commercial and industrial districts, subject to the following limitations:

1. The aggregate area of all such signs shall not exceed 25 percent of the window area on which such signs are displayed. Window panels separated by muntins or mullions shall be considered as one continuous window area.

2. Window signs shall not be assessed against the sign area permitted for other sign types.

3.7 Menu Boards. Menu board signs shall not be permitted to exceed 50 square feet.

SECTION 12-348 SIGNS FOR DEVELOPMENT COMPLEXES

9.1 Master sign plan required. All landlord or single-owner controlled multi-occupancy development complexes on parcels exceeding 8 acres in size, such as shopping centers or planned industrial parks, shall submit to the code official a master sign plan prior to issuance of new sign permits. The master sign plan shall establish standards and criteria for all signs in the complex that require permits, and shall address, at a minimum, the following:

1. Proposed sign locations.
2. Materials.
3. Type of illumination.
4. Design of freestanding sign structures.
5. Size.
6. Quantity.
7. Uniform standards for nonbusiness signage, including directional and informational signs.

9.2 Development complex sign. In addition to the freestanding business identification signs otherwise allowed by this Article, every multiple-occupancy development complex shall be entitled to one freestanding sign per street front, at the maximum size permitted for business identification freestanding signs, to identify the development complex. No business identification shall be permitted on a development complex sign. Any freestanding sign otherwise permitted under this Article may identify the name of the development complex.

9.3 Compliance with master sign plan. All applications for sign permits for signage within a multiple-occupancy development complex shall comply with the master sign plan.

9.4 Amendments. Any amendments to a master sign plan must be signed and approved by the owner(s) within the development complex

Note: This article was adopted as Ordinance No. 2018-2.1 approved on February 20, 2018.

ARTICLE 4

SUBDIVISION REGULATIONS

DIVISION 1

GENERAL PROVISIONS

SECTION 12-401 PURPOSE.

A. The subdivision of land is the first step in the process of urban development. The arrangement of land parcels in the community for residential, commercial, and industrial uses and for streets, alleys, schools, parks, and other public purposes, will determine to a large degree the conditions of health, safety, economy, and amenity that prevail in the urban area. The quality of these conditions is of public interest. These regulations and standards for the subdivision and improvement of land for urban use are to make provision for adequate light, air, open spaces, drainage, transportation, public utilities and other needs, to insure the development and maintenance of a healthy, attractive and efficient community that provides for the conservation and protection of its human and natural resources.

B. These regulations are designed, intended, and should be administered in the following manner to:

1. Implement the general plan;
2. Provide neighborhood conservation and prevent the development of slums and blight;
3. Harmoniously relate the development of the various tracts of land to the existing community and facilitate the future development of adjoining tracts;
4. Provide that the cost of improvements which primarily benefit the tract of land being developed be borne by the owners or developers of the tract, and that the cost of improvements which primarily benefit the whole community be borne by the whole community;
5. Provide the best possible design for the tract;
6. Reconcile any differences of interests; and
7. Establish adequate and accurate records of land subdivision.

SECTION 12-402

AUTHORITY.

These subdivision regulations and minimum standards for land development are adopted by ordinance passed by the city council under the authority granted by Sections 44-101 et seq. and 45-104 of Title 11 of the Oklahoma Statutes.

SECTION 12-403

APPLICATION TO TYPES OF SUBDIVIDING.

These regulation and development standards shall apply to the following forms of land subdivision:

1. The division of land into two (2) or more tracts, lots, sites, or parcels, any part of which, when subdivided, shall contain less than ten (10) acres in area;
2. The division of land, previously subdivided or platted, into tracts, lots, sites or parcels, of less than ten (10) acres in area;
3. The dedication, vacation or reservation of any public or private easement through any tract of land regardless of the area involved, including those for use by public and private utility companies; and
4. The dedication or vacation of any street or alley through any tract of land regardless of the area involved.

SECTION 12-404

DEFINITIONS.

For the purpose of these regulations, certain terms used herein are defined as follows:

1. "Alley" means a minor right-of-way dedicated to public use, which gives a secondary means of vehicular access to the back or side of properties otherwise abutting a street, and which may be used for public utility purposes;
2. "Block" means a parcel of land, intended to be used for urban purposes, which is entirely surrounded by public streets, highways, railroad rights-of-way, public walks, parks or greenstrips, rural land or drainage channels or a combination thereof;
3. "Building line" or "setback line" means a line or lines designating the area outside of which buildings may not be erected;
4. "City" means the City of Fairview, Oklahoma;

5. "City council" means the Fairview city council;
6. "Easement" means a grant by the property owner to the public, a corporation, or persons, of the use of a strip of land for specific purposes;
7. "General plan" means the comprehensive development plan for the city which has been officially adopted to provide long-range development policies for the area subject to the urbanization in the foreseeable future and which includes, among other things, the plan for land use, land subdivision, circulation and community facilities;
8. "Lot" means a subdivision of a block or other parcel intended as a unit for the transfer of ownership or for development;
9. "Lot, corner" means a lot located at the intersection of and abutting on two (2) or more streets;
10. "Lot, double frontage" means a lot which runs through a block from street to street and which has two (2) non-intersecting sides, abutting on two (2) or more streets;
11. "Lot, reverse frontage" means a double-frontage lot which is to be developed with the rear yard abutting a major street and with the primary means of ingress provided on a minor street;
12. "Planning commission" means the Fairview planning commission;
13. "Plat, preliminary" means a map of a proposed land subdivision showing the character and proposed layout of the tract in sufficient detail to indicate the suitability of the proposed subdivision of land;
14. "Plat, final" means a map of a land subdivision prepared in a form suitable for filing of record with necessary affidavits, dedications and acceptances, and with complete bearings and dimensions of all lines defining lots and blocks, streets and alleys, public areas and other dimensions of land;
15. "Street" means any public or private right-of-way which affords the primary means of access to abutting property;
16. "Street, major" means an arterial street which is designated on the major street plan;
17. "Street, minor" means a street whose primary purpose is to

provide access to adjacent properties and which is designed so that its use by arterial traffic will be discouraged;

18. "Street, collector" means a minor street which collects traffic from other minor streets and serves as the most direct route to a major street or a community facility;

19. "Street, cul-de-sac" means a minor street having one end open to vehicular traffic and having one closed end terminated by a turnaround;

20. "Street, frontage or service" means a minor street auxiliary to and located on the side of a major street for service to abutting properties and adjacent areas and for control of access;

21. "Subdivider" means any person, firm, partnership, corporation or other entity, acting as a unit, subdividing or proposing to subdivide land as herein defined; and

22. "Subdivision" means the division or re-division of land into two (2) or more lots, tracts, sites or parcels for the purpose of transfer of ownership or for development, or the dedication or vacation of a public or private right-of-way easement.

SECTION 12-405 GENERAL PROCEDURE FOR PLAT APPROVAL, RECORDING, FILING.

A. For all cases of subdividing within the scope of these regulations, a plat of the land in question shall be drawn and submitted to the planning commission and city council for their approval or disapproval, as provided hereafter in these regulations.

B. No plat or other land subdivision instrument shall be filed in the office of the county clerk until it shall have been approved by the planning commission and by the city council as hereinafter set forth. All final plats shall be filed within two (2) years of date of approval by the planning commission, and no lots shall be sold from any plat until recorded. Failure to record the plat within two (2) years of the date of planning commission or city council approval, whichever is the later, shall void all approvals thereto.

C. Each plat submitted for preliminary or final approval shall be placed on the agenda of the planning commission only after fulfilling the appropriate requirements of these regulations. However, a plat not meeting all of the requirements may be submitted providing the subdivider presents with the plat a written request for specific exceptions and explains the reasons therefor.

D. To defray partially the costs of notification and administration procedures there shall be paid to the city clerk at the time of submission of the preliminary plat a fee in the following amount: Five Dollars (\$5.00) plus One Dollar (\$1.00) per lot for the first fifty (50) lots, plus ten cents (\$.10) for each additional lot. Where only a portion of an approved preliminary plat is submitted for final approval, a final plat of the remaining area may be submitted at any time within five (5) years of the date of preliminary approval without payment of an additional filing fee by the subdivider, if the final plat for the additional area conforms substantially with the approved preliminary plat.

E. Notwithstanding the provisions contain in this section to the contrary, unless otherwise required under this Chapter, the City Council's review and approval shall not be required for the granting of a lot split.

F. Exceptions to Regulations; Lot Splits. Whenever there is a tract or previously subdivided parcel of land, under single ownership, which is to be re-subdivided into three (3) or fewer lots, the proposed subdivision may be excepted from the procedural requirements of these Regulations (i.e., Preliminary and Final Plats are not required); however, this shall not constitute an exception from the design and improvement requirements contained in this Article. These exceptions, or "Lot Splits," shall be permitted under the following provisions:

1. An accurate survey (in a Final Plat format) of the proposed tract, and the resubdivision thereof, prepared by a land surveyor registered in the State of Oklahoma or at the option of the City Manager and in lieu of such requirement, an accurate metes and bounds description of the proposed tract, shall be submitted to the Planning Commission;
2. The Planning Commission shall review the proposed "Lot Split" to insure compliance with all design and improvement requirements of these Regulations.
3. Upon approval, the Planning Commission Chairman shall certify the survey as a Final Plat by signing said document.
4. Upon denial, the Planning Commission Chairman shall submit the reasons for denial, in writing, to the applicant.
5. Whenever a deviation is required from improvement standards, or a street or other element is to be dedicated, the City Council shall have final approval and acceptance rights; for all other "Lot Splits", the action of the Planning Commission shall be

final, although the applicant may elect to appeal to the City Council.

6. A tract of land which has been subject to "Lot Splits" over any period of time involving more than five (5) lots, shall not be allowed further use of the "Lot Split" exception; said tract shall be subject to the procedures contained herein for the platting of land.

Note: This Section 12-405 was approved as Ordinance No. 2018-7 approved on July 9, 2018; subsection F.7 was deleted by the editor of the municipal code as a state law prevents this procedure.

DIVISION 2

DESIGN

SECTION 12-410 URBAN DESIGN PRINCIPLES.

The quality of design of the urban area is dependent on the quality of design of the individual subdivisions that compose it. Good community design requires the coordination of the efforts of each subdivider and developer of land within the urban area. Therefore, the design of each subdivision shall be prepared in accordance with the principles established by the general plan for land use, circulation, community facilities and public utility services and in accordance with the following general principles:

1. It is intended that the Fairview urban area should be designed as a group of integrated residential neighborhoods and appropriate commercial and industrial and public facilities. The neighborhood, as a planning unit, is intended as an area principally for residential use, and of a size that can be served by one elementary school. Space for religious, recreational, educational and shopping facilities to serve the residents of the neighborhood should be provided and designed as an integral part of each neighborhood;

2. The size of lots and blocks and other areas for residential, commercial, industrial and public uses should be designed to provide adequate air, light, open space, landscaping, and off-street parking and loading facilities;

3. The arrangements of lots and blocks and the street system should be designed to make the most advantageous use of topography and natural physical features. Tree masses and large individual trees should be preserved. The system of sidewalks and roadways and the lot layout should be designed to take advantage of the visual

qualities of the area;

4. Circulation within the urban area shall be provided in accordance with the following design criteria:

a. Each subdivision shall provide for the continuation of all arterial streets and highways as shown on the major street plan. Arterial streets should be located on the perimeter of the residential neighborhood;

b. Minor streets should be designed to provide access to each parcel of land within the residential neighborhood and within industrial areas, and in a manner that will discourage use by through traffic. They should be planned so that future urban expansion will not require the conversion of minor streets to arterial routes;

c. Collector streets should be designed to provide a direct route from other minor streets to the major street system;

d. Ingress and egress to residential properties should be provided only to minor streets; and

e. Pedestrian ways should be separated from roadways used by vehicular traffic. Sidewalks should be designed to provide all residential building sites with direct access to all neighborhood facilities, including the elementary school, parks and playgrounds, churches and shopping centers; and

5. Minimum standards for development are contained in the zoning regulations, the building code and in these regulations. However, the general plan expresses policies which are intended to achieve optimum quality of development in the urban area. If only the minimum standards are followed, as expressed by the various ordinances regulating land development, a standardization of development will occur. This will produce a monotonous urban setting. Subdivision design should be of a quality to carry out the purpose and spirit of the policies expressed in the general plan and in these regulations rather than be limited to the minimum standards required herein.

SECTION 12-411 STREETS.

The arrangement, character, extent, width, grade, and location of all streets shall conform to all of the elements of the general plan and shall be designed in accordance with the following provisions:

1. Major streets shall be planned to conform with the major street plan;

2. Whenever a subdivision abuts or contains an existing or proposed major street, the planning commission may require service streets, reverse frontage with screen planting contained in a non-access reservation along the rear property line, deep lots, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of arterial and local traffic;

3. Minor streets shall be laid out so that their use by arterial traffic will be discouraged;

4. Where a subdivision borders on or contains a railroad right-of-way or limited access highway right-of-way, the planning commission may require a street approximately parallel to and on each side of such right-of-way at a distance suitable for the appropriate use of the intervening land. Such distances also shall be determined with due regard for the requirements of approach grades and future grade separation structures;

5. Reserve strips controlling access to streets shall be prohibited except where their control is placed in the city under conditions approved by the planning commission;

6. Where the plat to be submitted includes only part of the tract owned or intended for development by the subdivider, a tentative plan of a proposed future tract system for the unsubdivided portion may be required by the subdivider;

7. When a tract is subdivided into larger than normal building lots or parcels, such lots or parcels shall be arranged to permit the logical location and opening of future streets and appropriate resubdivision, with provision for adequate utility easement;

8. Street jogs with centerline offsets of less than one hundred twenty-five (125) feet should be avoided;

9. Street right-of-way widths shall be in accordance with the major street plan and, where not designated therein, shall be not less than the following:

a. Major Streets

Primary 100 feet;
Secondary 50 feet;

b. Minor Streets

Collector	60	feet;
Minor	60	feet;
Cul-de-sac	50	feet.

10. The paved width of all streets shall be adequate to serve the existing and future estimated traffic load for the facility. However, the paved width for any secondary street or culde-sac shall be a minimum of thirty (30) feet and shall be constructed in one of the following manners:

a. With a six (6) inch concrete curb, thirty (30) inch concrete gutter, and with six (6) inches of asphalt stabilized base with a double bituminous surface; or

b. With a six (6) inch concrete curb and thirty (30) inch concrete gutter with six (6) inches of Portland cement surface;

11. Lane widths for all streets shall be as follows:

a. All major streets shall have lanes for traffic movement of not less than eleven (11) feet or more than twelve (12) feet in width, and lanes for parallel parking or emergency stopping of not less than ten (10) feet in width; and

b. All minor streets shall have lanes for traffic movement of not less than ten (10) feet or more than twelve (12) feet in width and a lane for parallel parking of not less than eight (8) feet in width. Streets should be developed in accordance with the general standards given in Figure 1. This figure is included for the purpose of illustration and is not to be considered a mandatory design standard;

12. A cul-de-sac should not exceed five hundred (500) feet in length, measured from the entrance to the center of the turnaround, and if more than one hundred fifty (150) feet in length shall be provided with a turnaround having a radius of not less than fifty (50) feet at the property line and not less than forty (40) feet at the curb line. There shall be provided in the center of the turnaround an unpaved island, improved with grass and landscaping that will not interfere with sight distance, which has a radius of not less than twelve (12) feet, or more than sixteen (16) feet;

13. Half streets shall be prohibited except where essential to the reasonable development of the subdivision in conformity with the other requirements of these regulations; and provided that the planning commission finds it will be practical to obtain the

dedication of the other half of the street easement when the adjoining property is subdivided. Wherever a half street is adjacent to a tract to be subdivided, the other half of the street shall be platted within such tract.

14. The arrangements of streets shall be such as to cause no hardship in the subdividing of adjacent properties. The planning commission may require the dedication of street rights-of-way to facilitate the development of adjoining properties; and

15. No street names shall be used which will duplicate or be confused with the names of existing streets. Street names shall be subject to the approval of the planning commission.

SECTION 12-412 STANDARD STREETS IN E-1 ESTATE RESIDENTIAL
SUBDIVISIONS.

A. An E-1 Estate Residential subdivision street is defined as follows:

1. The street will serve no more than twenty (20) lots;
2. All lots served by street shall be two (2) acres or more in size;
3. No public use other than emergency not any other major traffic generator will be served by the Street;
4. No commercial or industrial zones or uses will be served by the street;
5. The street will not be on a section line; and
6. The street will not connect with or be an outlet for any other subdivision.

B. The street right-of-way width for estate type streets shall be not less than sixty (60) feet. A cul-de-sac on estate type streets shall be on a right-of-way having a minimum radius of not less than fifty (50) feet.

C. Geometric design standards for estate type streets shall be the same as minor streets, subject to minor modifications as approved by city council when such modifications are fully documented as needed.

D. The minimum paved width of residential estate type streets shall be twenty (20) feet, with two (2) foot wide shoulders, and

constructed in accordance with standards as adopted by the city council.

E. A dead-end residential estate subdivision street shall not exceed one thousand three hundred (1,300) feet in length, measured from the centerline of the intersecting street to the end, and if more than five hundred (500) feet in length shall be provided with a circular turnaround (Cul-de-Sac) having a radius of not less than fifty (50) feet at the property line and not less than forty (40) feet radius of paved area.

F. The minimum standards required for total paving thickness shall be five (5) inches Portland cement concrete with two (2) inches of sand cushion. Where unusual soil conditions exist the city may require higher standards of paving for residential estate subdivision streets.

G. A maximum of twenty (20) acres will be allowed to drain to the street. This limit shall be controlled by street layout, diversion dikes, or other methods. Concentrated drainage will not be allowed to enter the street, however small the drainage area. Minimum culvert size will be eighteen (18) inches, State Highway Standard gauge, with a minimum of twelve (12) inches cover over the culvert.

H. Concrete curbs are optional, however, they may be required in areas near the urban limits, areas of intensified development, extensions of streets that have curbs, where conditions indicate that erosion of a side ditch may occur, where a side ditch would have a slope of less than fifty percent (0.5%), and other places deemed necessary by the city council.

I. The minimum ditch slope shall be fifty percent (0.5%). The maximum allowable ditch slope will be governed by the existing soil type, average velocity of flow in the ditch, and scour control devices. Ditches shall have a minimum bottom width of two (2) feet, and the bottom shall be a minimum of twelve (12) inches below the edge of the finished street surface. Maximum allowable side slopes will be 4:1 on the roadbed, and 2:1 on the back slope. No ditches will be required where the land drains away from the roadway, but the edge of the finished street surface shall be six (6) inches above the adjacent ground surface - with sodded road shoulder to slope from top edge of the roadway surfacing to natural grade not less than four (4) feet laterally from the surfacing.

J. A residential estate subdivision street as platted shall not be extended nor provide access to any other lots or subdivisions.

K. The city council may, at their discretion, require a screening easement to preclude further extension or access to a residential estate subdivision street.

L. These standards are considered the minimum acceptable in usual conditions. Compliance with additional requirements may be required by the city in unusual conditions where these standards are inadequate.

SECTION 12-413 ALLEYS.

A. Alleys shall be provided in commercial and industrial districts, except that the planning commission may waive this requirement where other definite and assured provision is made for service access, such as off-street loading, unloading, and parking consistent with and adequate for the uses proposed.

B. Alleys serving commercial and industrial areas shall be not less than thirty (30) feet in width.

C. Alleys may be required for residential areas, and when provided should be not less than twenty (20) feet in width.

D. Alley intersections and sharp changes in alignment should be avoided, but where necessary, corners shall be cut off sufficiently to permit safe vehicular movement.

E. Dead-end alleys should be avoided, but if necessary, shall be provided with adequate turnaround facilities at the dead end, as determined by the planning commission.

SECTION 12-414 EASEMENTS.

A. Where alleys are not provided and to facilitate underground installation, an easement for utilities at least ten (10) feet wide shall be provided along each side of a side line of lots or the rear line of lots where necessary to form a continuous right-of-way at least twenty (20) feet in width. If necessary for the extension of main water or sewer lines or similar utilities easements of greater width may be required along lot lines or across lots.

B. Utility easements shall connect with easements established in adjoining properties. These easements, when approved, shall not thereafter be changed without the approval of the city council by ordinance upon the recommendation of the planning commission.

C. Additional easements for pole guys should be provided at

the outside of turns. When possible, lot lines should be arranged to bisect the exterior angle so that pole guys will fall along the side lot lines.

D. Perimeter easements around the outside boundaries of a subdivision shall consist of a minimum of fifteen (15) feet in width, provided a ten (10) foot easement joined by additional ten (10) feet contiguous thereto from the adjoining landowner will be acceptable to the city.

E. Drainage easement for storm sewers may be required. Easements for open channel drainage may be required where the cost for the installation of storm sewers is considered to be prohibitive. These easements may be along the side lot lines, but usually the design should be such that the drainage will be carried along the rear of the lots. If open channel drainage is to be carried in the street right-of-way, additional right of way width shall be provided. When the drainage is carried down the rear lot lines, the easement shall be of adequate width for workers, with trucks if needed, to enter the easement and keep it cleaned out. The size and location of such easements for open channel drainage shall be determined by the city.

F. When a subdivision is traversed by a water course, drainage channel or stream which drains one hundred sixty (160) acres or more of land there shall be provided a right-of-way for drainage and public parks and public utility purposes, adequate to contain all the run off from a fifty (50) year maximum flood. The right-of-way shall include all of the land within the subdivision that has an elevation below the fifty (50) year maximum flood elevation which shall be calculated in accordance with and shall be adequate to provide for the drainage requirements of these regulations and any other regulations relating thereto.

G. Paragraph F of this section shall not be interpreted as prohibiting the reclaiming of lands subject to flooding by filling or other appropriate methods. Easements along streams in a subdivision shall be adequate along each side for the purpose of widening, deepening, sloping, improving or protecting the stream or for drainage park way or recreational use.

SECTION 12-415

PUBLIC AREAS AND OPEN SPACES.

A. The city council shall require that land be reserved for parks and playgrounds or other recreation purposes where property is being subdivided for residential development and that the reservations of land be located convenient to service the subdivision from which reservation was obtained. Each reservation

shall be of suitable size, dimension, topography and general character, and have adequate road access for the particular purposes envisioned by the city council. The area shall be shown and marked on the plat as "Reserved for Park and/or Recreation Purposes". The amount of land to be reserved is determined on the basis of either one acre per one hundred (100) dwelling units or five percent (5%) of the entire residential area being subdivided, including streets, whichever is larger. The plat shall not be given trial approval until these requirements are met. The dedication requirements for multi-family residential shall be based on the maximum number of dwelling units per acre to occupy the site as permitted by the zoning regulations.

B. The city council may require that the land to be dedicated for park and recreation purposes be located on the edge of the subdivision so that additional land may be added at a future date.

C. Existing features which would add value to residential development or the city as a whole, such as trees, watercourses, historic spots and similar irreplaceable assets, shall be preserved in the design of the subdivision. No trees shall be removed from any subdivision nor any change of grade of the land effected until approval of the preliminary plat has been granted. All trees on the plat required to be retained shall be preserved, and all trees where required, shall be welled and protected against change of grade. The preliminary plat shall show the number and location of existing trees as required by these regulations, and shall further indicate all those marked for retention.

D. Except as otherwise provided, public parks, playgrounds, school sites and other public areas and open spaces shall be provided in accordance with the requirements and standards set forth in the general plan in the ordinances relating thereto.

SECTION 12-416

WATER LINES, WATER AND SEWER CONNECTIONS.

A. Where an approved public water supply is reasonably accessible or procurable the subdivider shall connect with such water supply and make it available for each lot within the subdivided area. The final plat shall not receive approval until it is certified that there has been compliance with the regulations of the Oklahoma State Health Department.

B. In all new subdivisions for residential purposes submitted to the city, water lines to and within the subdivisions shall be constructed. The owners or developers of the subdivision shall provide all material for both trunk lines and for other water lines to and within the subdivision, including all fire hydrants with

valves. The city shall provide labor and ditching for the trunk and other water lines.

C. Where water line in excess of six (6) inches are required by the city, the city shall pay for the costs of material in the line in excess of a normal six (6) inch line.

D. In all cases where the water supply or sewage disposal systems will be connected to lines or mains owned or operated by the city, construction as to the facilities shall be made according to the plans, specifications and requirements and subject to the inspection, supervision and approval of the governing bodies, and of the State Health Department. Approval of the plans for any such water or sewer system by the above shall satisfy the requirements of these regulations with respect to water and sewer facilities.

SECTION 12-417 FIRE HYDRANTS.

Fire hydrants shall be installed by the subdivider as provided in Section 12-416 of this chapter. Fire hydrants complying with the specifications of the respective city or National Board of Fire Underwriters shall be installed.

SECTION 12-418 LIGHTING.

Provisions shall be made by the developer for adequate lighting of public streets within the proposed subdivision in accordance with standards and specifications of the city.

SECTION 12-419 OIL OR GAS WELLS.

A. Where there is found to be a producing oil or gas well which is in, or within one hundred fifty (150) feet of the boundaries of, the proposed subdivision, or an abandoned oil or gas well which is not adequately plugged according to the standards established by state law and the Oklahoma Corporation Commission and so certified by the corporation commission and which is outside the boundaries of a proposed subdivision but within one hundred fifty (150) feet thereof, there shall be a building setback line so placed on the plat so as to prevent the erection of building within one hundred fifty (150) feet of such wells.

B. Where there is found to be an abandoned oil or gas well which is not adequately plugged according to the standards established by the state law and the Oklahoma Corporation Commission, which well is within the boundaries of a proposed subdivision, the well shall be adequately plugged according to the standards and so certified by the Oklahoma Corporation Commission

before the plat of such addition is given final approval. In any event, a certificate or clearance shall be obtained from the Oklahoma Corporation Commission as to the existence of any wells reflected in their records.

SECTION 12-420 RESERVED.

SECTION 12-421 MODIFICATION; UNDUE HARDSHIP.

In any particular case where the developer can show by plan and written statement that, by reason of exceptional topographic or other physical conditions, literal compliance with any requirement of the regulation would cause practical difficulty or exceptional and undue hardship, the planning commission may modify such requirement to the extent deemed just and proper, so as to relieve such difficulty or hardship; provided such relief may be granted without detriment to the public interest and without impairing the intent and purpose of this regulation or the desirable general development of the neighborhood and the community in accordance with the general plan and the zoning regulations. Any modification thus granted shall be spread upon the minutes of the planning commission setting forth the reasons which, in the opinion of the planning commission, justified the modification.

SECTION 12-422 UNDERGROUND ELECTRICITY.

All final subdivision plats hereinafter accepted by the city shall contain provision for underground electrical wiring. The electrical lines shall be laid by the city at its cost. The Developer shall pay to the City the difference between the cost of materials to construct overhead electrical service and to construct underground electrical service as determined by the City.

SECTION 12-423 BLOCKS.

A. The lengths, widths, and shapes of blocks shall be determined with due regard for the following:

1. Provision for adequate building sites suitable to the special needs of the type of use contemplated;
2. Zoning requirements as to lot sizes and dimensions;
3. Needs for convenient access, circulation control and safety of street traffic; and
4. Limitations and opportunities of topography.

B. Blocks for residential use shall not be longer than one thousand eight hundred (1,800) feet, measured along the center line of the block. When a block exceeds six hundred (600) feet in length, the planning commission may require a dedicated easement not less than fifteen (15) feet in width and a paved crosswalk not less than four (4) feet in width to provide pedestrian access across the block.

C. Blocks used for residential purposes should be of sufficient width to allow for two (2) tiers of lots of appropriate depth. Blocks intended for business and industrial use should be of a width suitable for the intended use, with due allowance for off-street parking and loading facilities.

SECTION 12-424 LOTS.

The design standards for lots are as follows:

1. Residential lots shall be not less than fifty (50) feet in width at the front building line and shall abut a street a distance of not less than thirty-five (35) feet; except that a corner lot shall be not less than sixty (60) feet in width at the front building line;

2. Side lot lines should be approximately at right angles or radial to street lines;

3. The depth of residential lots should be not less than one hundred twenty (120) feet;

4. The area of residential lots shall be not less than six thousand (6,000) square feet;

5. In residential subdivisions where septic tank or individual sewage disposal devices are to be installed, the area of the lot shall be not less than twenty thousand (20,000) square feet and the width of the lot at the front building line shall be not less than one hundred (100) feet;

6. Lots are not required for subdivisions for commercial and industrial use, but when provided should be of appropriate size and arrangement to provide for adequate off-street parking and loading facilities based on the intended use; and

7. Double frontage and reverse frontage lots should be avoided except where they are needed to provide for the separation of development from traffic arteries or to overcome specific disadvantages of topography and orientation. A planting screen

easement of at least twenty (20) feet, shall be provided along the portion of the lots abutting such a traffic artery or other use where screening is required. There shall be no right-of-access across a planting screen easement.

SECTION 12-425 BUILDING LINES.

Building lines shall be provided for all residential subdivisions as follows:

1. A front building line shall be located not less than twenty-five (25) feet back from the street right-of-way line;

2. A side yard building line on the side of a corner lot abutting the street shall be located not less than twelve and one-half (12½) feet back of the street right-of-way when such lot is back to back with another corner lot, and not less than twenty (20) feet back of the street right-of-way line in every other case;

3. A side yard building line shall be provided not less than ten (10) feet back of a crosswalk right-of-way line on the side of a lot abutting a mid-block crosswalk; and

4. Restrictions requiring buildings to be located within the building lines shown on the plat shall be set forth on the plat or on a separate recorded instrument.

SECTION 12-426 NEIGHBORHOOD UNIT DEVELOPMENT.

Whenever a subdivision is developed as a neighborhood unit, wherein adequate park or playground area is provided, through traffic is cared for adequately and the majority of the minor streets are of the cul-de-sac or loop type, the planning commission may vary the requirements of this article in order to allow the subdivider more freedom in the arrangement of streets and lots, but at the same time protect the convenience, health, safety and welfare of the probable future residents of the subdivision as well as the character of the entire community. However, in no case shall the lot area be less than six thousand (6,000) square feet for detached single family dwellings.

DIVISION 3

IMPROVEMENTS

SECTION 12-430 GENERAL PROVISIONS.

All improvements shall be designed and installed in accordance

with the elements of the general plan and shall meet the minimum standards established by the ordinances and regulations relating thereto.

SECTION 12-431 PLAN PREPARATION.

Plans for the improvements herein required shall be prepared by the engineering department of Fairview or by a qualified engineer. Two (2) sets of prints of the proposed plans and specifications for all improvements shall be filed with the city clerk at the time of submission of the final plat. One set of "as built" plans and specifications, certified and signed by an engineer registered in the State of Oklahoma, shall be filed with the city clerk prior to the acceptance by the city council of any improvement installed by the subdivider.

SECTION 12-432 SURETY BOND.

In lieu of completion of the improvements herein required, the city council may require the subdivider to file a surety bond with the city clerk to insure the actual construction of such improvements according to the plans and specifications approved by the planning commission within a period of time not to exceed two (2) years from the date of approval of the final plat. Such bond shall be in the amount of one hundred percent (100%) of the estimated cost of the improvement as determined by the planning commission and with surety and conditions satisfactory to the city council. In any case, where the city council does not require a bond for the improvements required herein, no building shall be permitted on any lot or in any area in a subdivision where the proposed construction will produce runoff or require utility services that affect other areas or lots located within or outside the subdivision unless a bond, in the amount of one hundred percent (100%) of the estimated cost, is posted for the portion of the drainage or utility improvements that will protect the affected area.

SECTION 12-433 PERMANENT MARKERS.

Each lot and block corner shall be marked with iron pipes or pins not less than one-half ($\frac{1}{2}$) inch in diameter and not less than eighteen (18) inches long at least one inch below the finished grade. Each subdivision corner shall be marked with a permanent concrete marker capped with a non-corrosive metal plate, set not less than one inch below the finished grade. A plan of an acceptable marker is on file in the office of the city clerk and may be inspected by any interested person on request. (

SECTION 12-434

STREET IMPROVEMENTS.

The subdivider of any subdivision designed to be used for residential, commercial, industrial or other purposes, shall lay out, grade and otherwise improve all streets that are designated on the approved plat or that directly serve the subdivision in accordance with the street construction specifications of the city and in accordance with the following provisions:

1. The design of an improvement of an intersection of any new street with an existing state or federal highway shall be in accordance with the specifications of the Oklahoma State Highway Department, but in no case shall the standard be less than the applicable street construction specifications of the city;

2. Whenever a subdivision contains a major street that requires a street facility that is more costly than is required to serve the future occupants of the subdivision, the subdivider shall be required to pay only the portion of the cost of the major street that would equal the cost of an improvement required to serve only the subdivisions, as determined by the planning commission; and

3. All driveways which connect with public streets shall be constructed in accordance with "Standard Design of Driveway Entrances for Oklahoma Highways," as revised, and subsequent amendments thereto, as prepared by the Oklahoma State Highway Department.

SECTION 12-435

SIDEWALKS.

A plan for a system of sidewalks and walkways may be required to be prepared that will provide every lot within a residential or commercial subdivision, or portion thereof, with a direct sidewalk connection with all of the community facilities and commercial enterprises located within or adjacent to the subdivision, and in a manner that will provide convenient pedestrian circulation throughout the neighborhood or area in which the subdivision is located. The planning commission may require the construction of sidewalks to connect with existing or future proposed sidewalks in areas adjacent to the subdivision where such sidewalks are needed for pedestrian circulation. Sidewalks and walkways shall be constructed in the subdivision in accordance with the specifications governing sidewalk and walkway construction.

SECTION 12-436

WATER LINES.

Water lines and fire hydrants shall be installed in accordance with city policy and regulations.

SECTION 12-437

SANITARY SEWERS.

A. The subdivider shall install sanitary sewers whenever a sanitary sewer is reasonably accessible as determined by the planning commission. Sanitary sewers shall be installed in accordance with the specifications governing sanitary sewer construction which requires at a minimum a manhole every three hundred (300) feet and a pipe size of eight (8) inches.

B. Whenever a sanitary sewer is not reasonably accessible, septic tanks or other unit disposal systems may be used in accordance with the following provisions:

1. A lot for residential use on which a unit disposal system is located shall be not less than twenty thousand (20,000) square feet in area;

2. No portion of any unit disposal system shall be located closer than twenty (20) feet to the lot line of the lot on which the system is located; and

3. All unit disposal systems shall comply with the requirements of the state and county health departments.

C. When subdivisions contain five (5) acres or more, the planning commission may require the subdivider to install sanitary sewers, and a disposal system that is adequate to serve all of the lots within the subdivision.

SECTION 12-438

STORM SEWERS AND DRAINAGE.

Storm sewers and drainage shall be provided in accordance with the specifications contained in the ordinances and regulations relating thereto.

SECTION 12-439

MAINTENANCE AND SUPERVISION.

Where the subdivision contains sewers, sewage treatment plants, water supply systems, or other physical facilities necessary or desirable for the welfare of the area, or that are of common use or benefit which are not or cannot be satisfactorily maintained by an existing public agency, provision shall be made which is acceptable to the agency having jurisdiction over the location and maintenance and supervision of such facilities.

Division 4

PLAT PREPARATION AND APPROVAL PROCEDURE

SECTION 12-440 THE PRELIMINARY PLAT.

The subdivider shall prepare a preliminary plat for submission to the planning commission. Four (4) copies of the preliminary plat shall be submitted to the office of the city clerk not less than seven (7) days prior to the meeting at which it is to be considered.

SECTION 12-441 CERTIFICATION OF DESIGN.

The preliminary plat shall be accompanied by a statement signed by a qualified engineer preparing the plat certifying that he has, to the best of his ability, designed the subdivision in accordance with the general plan, with which he is completely familiar, and in accordance with the ordinances and regulations governing the subdivision of land, except where an exception is requested in writing and the reasons for which are clearly stated.

SECTION 12-442 CONTENTS OF THE PRELIMINARY PLAT.

The preliminary plat shall be drawn at a scale of one hundred (100) feet to one inch and shall contain or be accompanied by the following information:

1. The scale, north point and date;
2. The proposed name of the subdivision;
3. The name and address of the owner of record, the subdivider and of the registered engineer preparing the plat;
4. A key map showing the location of the proposed subdivision referenced to existing or proposed major streets and to government section lines, and including the boundaries and number of acres of the drainage area of which the proposed subdivision is a part;
5. The names, with location of intersecting boundary lines, of adjoining subdivisions, and the location of city limits, if falling within or immediately adjoining the tract;
6. The land contours with vertical intervals not greater than two (2) feet referenced to a United States Geological Survey or Coast and Geological Survey bench mark or monument;
7. The location of existing buildings, water, water courses,

and the location of dedicated streets at the point where they adjoin or are immediately adjacent to the subdivision, provided however, that actual measured distances shall not be required;

8. The length of the boundaries of the tract, measured to the nearest foot, and the proposed location, and width of streets, alleys, easements and setback lines and the approximate lot dimensions;

9. The location, approximate size and type of sanitary and storm sewers, water mains, culverts, power and natural gas lines and other surface and subsurface structures and pipe lines existing within or immediately adjacent to the proposed subdivision; and the location, layout, type and proposed size of the following structures and utilities:

- a. Water mains;
- b. Sanitary sewer mains, sub-mains and laterals;
- c. Storm sewers, culverts and drainage structures; and
- d. Street improvements;

10. The location of all drainage channels and subsurface drainage structures, and the proposed method of disposing of all runoff from the proposed subdivision, and the location and size of all drainage easements relating thereto, whether they are located within or outside of the proposed plat; and

11. The classification of every street within or adjacent to the subdivision in accordance with the intended use to the street based on the proposed design. This shall be done by placing the appropriate term, primary thoroughfare, secondary thoroughfare, collector, or minor street in parentheses, directly on each street.

SECTION 12-443

PLANNING COMMISSION ACTION.

The planning commission shall approve, approve conditionally, or disapprove the plat within sixty (60) days of the date of its submission by the applicant. If the preliminary plat is disapproved or approved conditionally, the reasons for such action shall be stated in writing, a copy of which shall be signed by the planning commission chairman and shall be attached to one copy of the plat and transmitted to the subdivider. Unless stipulation for additional time is agreed to by the subdivider, if no action be taken by the planning commission at the end of sixty (60) days after submission, the plat shall be deemed to have been approved. The reasons for

disapproval or conditional approval shall refer specifically to those parts of the general plan or specific regulations with which the plat does not conform. On conditionally approving a plat, the planning commission may require submission of a revised preliminary plat. If the plat conforms to all of the standards, or after the applicant and planning commission agree upon any revision which shall be filed with the planing commission on a revised copy, the subdivider may proceed with the laying out of streets and roads, the preparation of utility plans and with the preparation of a final plat.

SECTION 12-444 THE FINAL PLAT.

A final plat, neatly drawn in ink on tracing cloth, and three (3) dark line prints thereof, shall be submitted to the office of the city clerk not less than five (5) days before the planning commission meeting at which it is to be considered for final approval. At the same time, there shall be submitted two (2) sets of the proposed plans and specifications for all improvements and the proposed restrictions in final form; provided, however, the final plat may be approved subject to later submission of final improvement plans and specifications.

SECTION 12-445 TIME OF SUBMISSION.

The final plat of the proposed subdivision shall be submitted to the planning commission and city council for final approval within one year of the date on which the preliminary plat was approved. If not submitted for final approval within such time, the preliminary plat shall be considered as having been disapproved unless the planning commission agrees to an extension of time. The final plat shall be filed in the office of the county clerk within two (2) years after approval by the city council and planning commission, or if not filed within such time, the approval shall be considered as having been voided.

SECTION 12-446 DRAFTING.

The final plat shall be drawn at a scale of one hundred (100) feet to the inch from an accurate survey and on sheets whose dimensions are twenty-one (21) inches by thirty-three and one-half (33½) inches between border lines. On the first sheet of every plat there shall be a key map showing the location of the subdivision referenced to government survey section lines and major streets. If more than two (2) sheets are required for the plat, the key map shall show the number of the sheet for each area. A border of one-half (½) inch surrounding the sheet shall be left blank at the top, bottom, and right hand side, and a margin of two (2) inches at the

left side for binding purposes.

SECTION 12-447 CONTENTS OF THE FINAL PLAT.

The final plat shall show the following:

1. The location and description of all section corners and permanent survey monuments in or near the tract, to at least one of which the subdivision shall be referenced;

2. The length of all required lines dimensioned in feet and decimals thereof, and the value of all required true bearings and angles dimensioned in degrees and minutes, as hereafter specified;

3. The boundary lines of the land being subdivided fully dimensioned by lengths and bearings, and the location of boundary lines of adjoining lands, with the adjacent subdivisions identified by official names. Material which is not a part of the subdivision shall be shown in dashed or dotted lines;

4. The lines of all proposed streets fully dimensioned by lengths and bearings or angles;

5. The lines of all proposed alleys. Where the length or direction of an alley is not readily discernible from data given for lot and block lines, the length or bearing shall be given;

6. The widths, and names where appropriate, of all proposed streets and alleys, and of all adjacent streets, alleys and easements which shall be properly located;

7. The lines of all proposed lots fully dimensioned by lengths and bearings or angles, except that where a lot line meets a street line at right angles, the angle or bearing value may be omitted;

8. The outline of any property which is offered for dedication to public use fully dimensioned by lengths and bearings, with the area marked "Public";

9. The blocks numbered consecutively throughout the entire subdivision and the lots numbered consecutively through each block, with areas to be excluded from platted marked "Reserved" or "Not a Part";

10. The location of all building lines, set-back lines, and easements for public services or utilities and dimensions showing their locations;

11. The radii, arcs, points of tangency, points of intersection, and central angles for curvilinear streets and radii for all property returns;

12. The proper acknowledgments of owners and the consent by the mortgage to plat restrictions;

13. The following which shall be made and shown on the cloth tracing:

- a. Owner's certificate and dedication, signed
- b. Engineer's certificate of survey, signed and his seal;

c. Certificate for release of mortgage for any portion dedicated to the public;

d. Reference to any separate instruments, including restrictive covenants, filed in the office of the county clerk which directly affect the land being subdivided;

e. Certificate of planning commission approval;

f. Certificate of city council acceptance of ways, easements, and public land dedications;

g. Treasurer's certificate; and

h. Certificate of city clerk related to special assessments; and

14. A title which shall include:

- a. Name of the subdivision;
- b. Name of the city, county, and state; and
- c. Location and description of the subdivision referenced to section, range, and township.

SECTION 12-448

PLANNING COMMISSION ACTION.

A. The planning commission shall act upon the final plat within forty-five (45) days after it has been submitted for final approval. This approval and the date thereof shall be shown on the plat over the signature of the planning commission chairman or secretary member. Unless stipulation for additional time is agreed to by the subdivider and if no action is taken by the planning commission at the end of forty-five (45) days after a submission,

the plat shall be deemed to have been approved. A certification by the city clerk as to date of submission of plat for final approval and failure of planning commission to act thereon within such time shall be sufficient in lieu of written endorsement of approval.

B. If the final plat is disapproved, grounds for this refusal shall be stated in writing, a copy of which shall be transmitted with the tracing and prints to the applicant. The reasons for disapproval shall refer specifically to those parts of the general plan or ordinance or regulation with which the plat does not comply.

SECTION 12-449 CITY COUNCIL ACTION.

Before recording the final plat, it shall be submitted to the city council for approval and for acceptance of public ways and service and utility easements and land dedicated to public use. This approval of the plat shall be shown over the signature of the mayor of the city and attested to by the city clerk or his deputy. The disapproval of any plat or plan by the city council shall be deemed a refusal of the proposed dedication shown thereon.

SECTION 12-450 RECORDING OF PLAT.

After final approval of the plat and the affixing of all required signatures on the original tracing, the subdivider shall provide the city clerk with two (2) dark line prints thereof, and one contact reproducible cloth tracing. The applicant shall file the original tracing, one dark line print on cloth, and one contact reproducible cloth tracing or film with the county clerk.

DIVISION 5

ADMINISTRATION AND AMENDMENT

SECTION 12-460 VARIATIONS AND EXCEPTIONS.

Whenever the tract to be subdivided is of such unusual size or shape or is surrounded by such development or unusual conditions that the strict application of the requirements contained in these regulations would result in substantial hardship or inequity, the planning commission may vary or modify, except as otherwise indicated, such requirements of design, but not procedure or improvements, so that the subdivider may develop his property in a reasonable manner, but so, at the same time, the public welfare and interests of the city are protected and the general intent and spirit of these regulations preserved. Such modifications may be granted upon written request of the subdivider stating the reason or reasons for each modification and may be waived by three-fourths

(3/4) vote of the regular membership of the planning commission.

SECTION 12-461 ADMINISTRATION AND AMENDMENT.

The city council may, from time to time, adopt, amend and make public rules and regulations for the administration of these regulations to the end that the public be informed and that approval of plats be expedited. These regulations may be enlarged or amended by the city council after public hearing, due notice of which shall be given as required by law.

SECTION 12-462 VIOLATION AND PENALTY.

A. No building permit shall be issued for any new structure or change, improvement or alteration of any existing structure on any tract of land which does not comply with all of the provisions of these regulations.

B. A violation of these regulations shall be deemed a misdemeanor and shall be punishable by fine. Any person, firm or corporation who violates or refuses to comply with any of the provisions of these regulations shall be punished as provided in Section 1-108 of this code. Each day a violation is permitted to exist shall constitute a separate offense.

ARTICLE 5

FLOOD DAMAGE PREVENTION

STATUTORY AUTHORIZATION FINDINGS OF FACT STATEMENT OF PURPOSE AND METHODS

SECTION 12-501 STATUTORY AUTHORIZATION.

The Legislature of the State of Oklahoma has in 82 O.S. §§1601-1618, as amended, delegated the responsibility to local governmental units to adopt regulations designed to minimize flood losses. Therefore, the City Council of Fairview, Oklahoma does ordain as follows:

SECTION 12-502 FINDINGS OF FACT.

1. The flood hazard areas of the City of Fairview, Oklahoma, 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, floodproofed or otherwise protected from flood damage.

SECTION 12-503 STATEMENT OF PURPOSE.

It is the purpose of this Article to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

1. Protect human life and health;
2. Minimize expenditure of public money for costly flood control projects;
3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. Minimize prolonged business interruptions;
5. Minimize damage to public facilities and utilities such as water, and gas mains, electric, telephone, and sewer lines, streets and bridges located in floodplains;
6. Help maintain a stable tax base by providing for the sound use and development of floodprone areas in such a manner as to minimize future flood blight areas; and
7. Insure that potential buyers are notified that property is in a flood area.

SECTION 12-504 METHODS OF REDUCING FLOOD LOSSES.

In order to accomplish its purposes, this section uses the following methods:

1. Restrict or prohibit uses that are dangerous to health, safety or property in the times of flood, or in case of excessive increase 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 flood plains, 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 flood waters or which may increase flood hazards to other lands.

DIVISION 2

DEFINITIONS

SECTION 12-505 DEFINITIONS.

Unless specifically defined below, words, or phrases used in this Article shall be interpreted to give them the meaning they have in common usage and to give this Article its most reasonable application.

"Accessory Structure" means structures which are on the same parcel of property as the principle structure and the use of which is incidental to the use of the principle structure (such as garages and storage sheds).

"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, 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.

"Appeal" means a request for a review of the flood plain administrator's interpretation of this section or a request for a variance.

"Area of shallow flooding" means a designated AO or AH Zone in 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 flood plain 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 rate making has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones, A, AO, AH, A1-30, AE, A99, AR, Ar/A1-30, AR/AE, AR/AO, AR/AH or AR/A.

"Base Flood" means the flood having a one percent chance of being equaled or exceeded in any given year.

"Base Flood Elevation" means the flood having a one percent chance of being equaled or exceeded in any given year.

"Basement" means any area of the building have its floor sub-grade (below ground level) on all sides.

"Board" means the Oklahoma Water Resource Board.

"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, for insurance purposes, a non-basement building, which has its elevated floor, raised above ground level by foundation wall, posts, piers, pilings or columns.

"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 flood plain 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 or partial or complete inundation of normally dry land areas from:

- a. The overflow of inland or tidal waters;
- b. The unusual and rapid accumulation of runoff of surface waters from any source.

"Flood Elevation Study" means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

"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" see Flood Elevation Study.

"Floodplain Administrator" means a person accredited by the Board and designed by a floodplain board, to administer and implement laws and regulations relating to the management of the floodplains.

"Flood plain or flood-prone area" means any land area susceptible to being inundated by water from any source (See definition of flooding).

"Flood plain 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 flood plain management regulations.

"Flood plain management regulations" means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a flood plain 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 and 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.

"Historical structure" means any structure that is:

a. Listed individually in the national Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or

d. Individually listed on a local inventory or historic places in communities with historic preservation programs that have been certified either:

1. By an approved state program as determined by the Secretary of the Interior or;

2. Directly by the Secretary of the Interior in states without approved programs.

"Levee" 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 of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood Insurance Program regulations;

"Manufactured Home" means a structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle";

"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 the initial FIRM or after December 31, 1974, whichever is later, and includes any

subsequent improvements to such structures. For flood plain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a flood plain 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 minim, 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 flood plain management regulations adopted by a community.

"Recreational vehicle" means a vehicle which is (i) built on a single chassis; (ii) 400 square feet or less when measured at the largest horizontal projections; (iii) designed to be self-propelled or permanently towable by a light duty truck; and (iv) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

"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.

"Riverine" means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

"Special Flood Hazard Area" see Area of Special Flood Hazard.

"Start of construction" (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvements 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 a 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 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 land, that is principally above ground, as well as a manufactured home.

"Substantial damage" means of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

"Substantial improvement" 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 preformed. 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 will not preclude the structure's continued designation as a "historic structure".

"Variance" means a grant of relief by a community from the terms of a floodplain management regulation (For full requirements see Section 60.6 of the National Flood Insurance Program regulations).

"Violations" means the failure of a structure or other developments to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section 60.3(b)(5), (c)(4), (c)(10), or (d)(3) is presumed to be in violation until such time as that documentation is provided.

"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 flood plains of coastal or riverine areas.

DIVISION 3

GENERAL PROVISIONS

SECTION 12-506 LANDS TO WHICH THIS ARTICLE APPLIES.

This Article shall apply to all areas of special flood hazard within the jurisdiction of the City of Fairview, Oklahoma.

SECTION 12-507 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 City of Fairview", dated March 4, 1988, with accompanying Flood Insurance Rate Maps and Flood Boundary-Floodway Maps (FIRM and FBFM) and any revisions thereto, are hereby adopted by reference and declared to be a part of this Article.

SECTION 12-508 ESTABLISHMENT OF DEVELOPMENT PERMIT.

A Floodplain Development Permit shall be required to ensure conformance with the provisions of this Article.

SECTION 12-509 COMPLIANCE

No structure or land shall hereinafter be located, altered, or have its use changed without full compliance with the terms of this Article and other applicable provisions.

SECTION 12-510 ABROGATION AND GREATER RESTRICTIONS

This Article is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, whether this Article and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

SECTION 12-511 INTERPRETATION

In the interpretation and application of this Article, all provisions shall be (1) considered as minimum requirements; (2) liberally construed in favor of the governing body; (3) deemed neither to limit nor repeal any other powers granted under state statutes.

SECTION 12-512

WARNING AND DISCLAIMER OF LIABILITY.

The degree of flood protection required by this Article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by man-made or natural causes. This Article does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This Article shall not create liability on the part of the city or any officer or employee thereof for any flood damages that result from reliance on this Article or any administrative decision lawfully made thereunder.

DIVISION 4

ADMINISTRATION

SECTION 12-513

DESIGNATION OF ADMINISTRATOR

The city manager or his designee is hereby appointed the flood plain administrator to administer and implement the provisions of this chapter and other appropriate sections of 44CFR (National Flood Insurance Program Regulations) pertaining to flood plain management.

Note: Designee added to this section by Ordinance No. 2014-03 approved by the City Council on April 15, 2014.

SECTION 12-514
ADMINISTRATOR.

DUTIES & RESPONSIBILITIES OF THE FLOODPLAIN

Duties and responsibilities of the flood plain 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 chapter;
2. Review permit applications to determine whether proposed building site will be reasonably safe from flooding;
3. Review, approve or deny all applications for development permits required by adoption of this code;
4. Review permits for proposed development to assure that all necessary permits have been obtained from those federal, state or local governmental agencies, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334, from which prior approval is required;

5. Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation;

6. Notify, in riverine situations, adjacent communities and the Oklahoma Water Resources Board prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency;

7. Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained;

8. When base flood elevation data has not been provided in accordance with Section 12-506, obtain review, and reasonably utilize any base flood elevation data available from a federal, state, or other source, in order to administer the provisions of Sections 12-512 through 12-514 of this code; and

9. When a regulatory flood way has not been designated, the flood plain 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 water surface elevation of the base flood by more than 1 foot, provided that the community first completes all of the provisions required by Section 65.12.

11. Become accredited by the Board in accordance with Title 82 O.S. §§ 1601-1618, as amended.

12. After a disaster or other type of damage occurrence to structures in the {name of community}, determine if the residential & non-residential structures & manufactured homes have been substantially damaged and enforce the substantial improvement requirement.

SECTION 12-515 PERMIT PROCEDURES

1. Application for a Floodplain Development Permit shall be presented to the Floodplain Administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:

(a) Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;

(b) Elevation in relation to mean sea level to which any nonresidential structure shall be elevated;

(c) A FEMA Elevation Certificate from a registered professional engineer or licensed surveyor that the structure shall meet the elevation criteria of Division 5, Section 12-518(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 Division 4, Section 12-514 (B)(1);

2. Approval or denial of a Floodplain Development Permit by the Floodplain Administrator shall be based on all of the provisions of this Article and the following relevant factors:

(a) The danger to life and property due to flooding or erosion damage;

(b) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(c) The danger that materials may be swept onto other lands to the injury of others;

(d) The compatibility of the proposed use with existing and anticipated development;

(e) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(f) The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;

(g) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;

(h) The necessity to the facility of a waterfront location, where applicable;

(i) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.

SECTION 12-516 VARIANCE PROCEDURES

1. The Appeal Board, as established by the community, shall hear and render judgment on requests for variances from the requirements of this Article.

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 Article.

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 Article.

6. Variances may be issued for new construction and substantial improvements to be erected on a lot of 1/2 acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in Section 12-515.2 of this Article have been fully considered. As the lot size increases beyond the 1/2 acre, the technical justification required for issuing the variance increases.

7. Upon consideration of the factors noted above and the intent of this Article, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this Section 12-503.

8. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

9. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

10. Prerequisites for granting variances:

(a) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(b) Variances shall only be issued upon: (i) showing a good and sufficient cause; (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(c) Any application to which a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

11. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that (i) the criteria outlined in Division 4, Section 12-517 (1)-(9) 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.

12. Any person seeking a variance shall file a petition with the floodplain board, accompanied by a filing fee of Twenty-five

Dollars (\$25.00).

13. A copy of any variance issued shall be sent to the OWRB within in fifteen (15) days of issuance.

DIVISION 5

PROVISIONS FOR FLOOD HAZARD REDUCTION

SECTION 12-517 GENERAL STANDARDS

In all areas of special flood hazards the following provisions are required for all new construction and substantial improvements:

(1) All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

(2) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;

(3) All new construction or substantial improvements shall be constructed with materials resistant to flood damage;

(4) All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

(5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and,

(7) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

SECTION 12-518 SPECIFIC STANDARDS

In all areas of special flood hazards where base flood elevation data has been provided as set forth in (i) Division 3, Section 12-507, (ii) Division 4, Section 12-514(8), or (iii)

Division 5, Section 12-510 (3), the following provisions are required:

(1) Residential Construction - new construction and substantial improvement of any residential structure shall have the lowest floor (including basement), elevated at least one foot 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 Division 4, Section 12-515(1)A., is satisfied.

(2) Nonresidential Construction - new construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated at least one foot above the base flood level or together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification, which includes the specific elevation (in relation to mean sea level) to which such structures are flood proofed shall be maintained by the Floodplain Administrator.

(3) Enclosures - new construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

(a) A minimum of two openings on separate walls having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

(b) The bottom of all openings shall be no higher than 1 foot above grade.

(c) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic

entry and exit of floodwaters.

(4) Manufactured Homes -

(a) Require that all manufactured homes to be placed within Zone A on a community's FHBM or FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

(b) Require that manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the bottom of the I beam of the manufactured home is elevated at least one foot 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 either:

(i) The bottom of the I beam of the manufactured home is elevated at least to the base flood elevation, or

(ii) the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(5) Recreational Vehicles - Require that recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM either (i) be on the site for fewer than 180 consecutive days, or (ii) be fully licensed and ready for highway use, or (iii) meet the permit requirements of Division 4, Section 12-515(1), 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.

4. Accessory Structure

(a) Structure is low valued and represents a minimal investment.

(b) Structure shall be small and not exceed 600 square feet in size.

(c) Structure shall be unfinished on the interior.

(d) Structure can be used only for parking and limited storage.

(e) Structure shall not be used for human habitation (including work, sleeping, living, cooking, or restroom areas).

(f) Service facilities such as electrical and heating equipment must be elevated to or above the BFE or flood proofed.

(g) Structure is constructed and placed on building site so as to offer the minimum resistance to the flow of floodwaters.

(h) Structure is designed to have low flood damage potential i.e. constructed with flood resistance materials.

(i) Structure is firmly anchored to prevent flotation, collapse, and lateral movement.

(j) Floodway requirements must be met in the construction of the structure.

(k) Openings to relieve hydrostatic pressure during a flood shall be provided below the BFE.

(l) Structure is to be located so as not to cause damage to adjacent and nearby structures

SECTION 12-519 STANDARDS FOR SUBDIVISION PROPOSALS

(1) All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with Division 1, Section 12-502, Section 12-503 and Section 12-504 of

this Article.

(2) All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet Floodplain Development Permit requirements of Division 3, Section 12-508, Division 4, Section 12-515 and Division 5 of this Article.

(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 Division 3, Section 12-507 or Division 4, Section 12-514(e) of this Article.

(4) All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.

(5) All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

SECTION 12-520 STANDARDS FOR AREAS OF SHALLOW FLOODING (AO/AH ZONES)

Located within the areas of special flood hazard established in Division 3, Section 12-507, are areas designated as shallow flooding. These areas have special flood hazards associated with flood depths of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

(1) All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated to or above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least 2 feet if no depth number is specified), or

(2) All new construction and substantial improvements of non-residential structures;

(a) Have the lowest floor (including basement) elevated to or above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is

specified), or

(b) together with attendant utility and sanitary facilities be designed so that below the base specified flood depth in an AO Zone, or below the Base Flood Elevation in an AH Zone, level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.

(3) A registered professional engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Section, as proposed in Division 4, Section 12-515 are satisfied.

(4) Require within Zones AH or AO adequate drainage paths around structures on slopes, to guide flood waters around and away from proposed structures.

DIVISION 6

PENALTIES FOR NON COMPLIANCE

SECTION 12-521 PENALTIES FOR NON COMPLIANCE

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this court order and other applicable regulations. Violation of the provisions of this court order by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this court order or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$ 200 or imprisoned for not more than three (3) 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 Fairview from taking such other lawful action as is necessary to prevent or remedy any violation.

Note: Article amended by Ordinance 2009-4 approved on October 20, 2009.

ARTICLE 6

WIRELESS COMMUNICATION TOWERS AND ANTENNAS

Section 12-601

PURPOSE

The purpose of this Article is to establish general guidelines for the siting of wireless communications towers and antennas. The goal of this section is to:

1. Protect residential areas and land uses from potential adverse impacts of towers and antennas;
2. Require the location of towers in nonresidential areas;
3. Minimize the total number of towers throughout the community;
4. Strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single use towers;
5. Encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal;
6. Encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscaping, and innovative camouflaging techniques;
7. Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently;
8. Consider the public health and safety of communication towers; and
9. Avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures. In furtherance of these goals, the City shall give due consideration to the master plan, zoning map, existing uses, and environmentally sensitive areas in approving sites for the location of towers and antennas.

Section 12-602

DEFINITIONS

As used in this Article, the following terms shall have the

meanings set forth below:

ALTERNATIVE TOWER STRUCTURE shall mean manmade trees, clock towers, bell steeples, light poles and similar alternative design mounted structures that camouflage or conceal the presence of antennas or towers.

ANTENNA shall mean any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.

BACKHAUL NETWORK shall mean the lines that connect a provider's towers/cell sites to one or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.

FAA shall mean the Federal Aviation Administration.

FCC shall mean the Federal Communications Commission.

HEIGHT shall mean when referring to a tower or other structure, the distance measured from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna.

PREEXISTING TOWERS AND PREEXISTING ANTENNAS shall mean any tower or antenna for which a building permit or special use permit has been properly issued prior to the effective date hereof, including permitted towers or antennas that have not yet been constructed so long as such approval is current and not expired.

TOWER shall mean any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers, alternative tower structures, and the like. The term includes the structure and any support thereto.

Section 12-603

APPLICABILITY

1. New Towers and Antennas: All new towers or antennas in the city shall be subject to these regulations, except as provided in subsections 2 through 4, inclusive, of this section.

Notwithstanding any other provision in this Article to the contrary, no new tower or antenna shall be erected or constructed on any real property zoned R-1 Single Family Residential Zoning District, R-2 Restricted Residential Zoning District or R-3 General Residential Zoning District.

2. Amateur Radio Station Operators/Receive Only Antennas: This section shall not govern any tower, or the installation of any antenna, that is under seventy feet (70') in height and is owned and operated by a federally licensed amateur radio station operator or is used exclusively for receive only antennas.

3. Preexisting Towers or Antennas: Preexisting towers and preexisting antennas shall not be required to meet the requirements of this section, other than the requirements of the Section 12-604.6 and 7.

4. AM Array: For purposes of implementing this section, an AM array, consisting of one or more tower units and supporting ground system which functions as one AM broadcasting antenna, shall be considered one tower. Measurements for setbacks and separation distances shall be measured from the outer perimeter of the towers included in the AM array. Additional tower units may be added within the perimeter of the AM array by right.

5. Guyed Towers: Guyed towers shall not be allowed within the city limits unless there is substantial evidence showing no other alternative is feasible.

Section 12-604

GENERAL REQUIREMENTS

1. Principal Or Accessory Use: Antennas and towers may be considered either principal or accessory uses. A different existing use of an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot, provided it meets required setback distances.

2. Lot Size: For purposes of determining whether the installation of a tower or antenna complies with district development regulations, including, but not limited to, setback requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lot.

3. Inventory Of Existing Sites: Each applicant for an antenna and/or tower shall provide to the zoning officer an inventory of its existing towers, antennas, or sites approved for towers or antennas, that are either within the jurisdiction of the city or within one

mile of the border thereof, including specific information about the location, height, and design of each tower. The zoning officer may share such information with other applicants applying for administrative approvals or special use permits under this Article or other organizations seeking to locate antennas within the jurisdiction of the city; provided, however, that the zoning officer is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

4. Aesthetics: Towers and antennas shall meet the following requirements.

a. Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.

b. At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.

c. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

5. Lighting: Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.

6. State or Federal Requirements: All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then towers and antennas governed by this section shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.

7. Building Codes Safety Standards: To ensure the structural integrity of towers, the owner of a tower shall ensure that it is

maintained in compliance with standards contained in applicable state or local building codes and the applicable standards for towers that are published by the electronic industries association, as amended from time to time. If, upon inspection, the city concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then, upon notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said thirty (30) days shall constitute grounds for the removal of the tower or antenna at the owner's expense.

8. Measurement: For purposes of measurement, tower setbacks and separation distance shall be calculated and applied to facilities located in the city irrespective of municipal and county jurisdictional boundaries.

9. Not Essential Services: Towers and antennas shall be regulated and permitted pursuant to this Article and shall not be regulated or permitted as essential services, public utilities, or private utilities.

10. Franchises: Owners and/or operators of towers or antennas shall certify that all franchises required by law for the construction and/or operation of a wireless communication system in the city have been obtained and shall file a copy of all required franchises with the zoning officer.

11. Public Notice: For purposes of this Article, any special use request, variance request, or appeal of an administratively approved use or special use shall require public notice to all abutting property owners and all property owners of properties that are located within the corresponding separation distance listed in Section 12-606.2.e.(2), Table 2, in addition to any notice otherwise required by the zoning ordinance.

12. Signs: No signs shall be allowed on an antenna or tower.

13. Buildings and Support Equipment: Buildings and support equipment associated with antennas or towers shall comply with the requirements of Section 12-607 of this Article.

14. Multiple Antenna/Tower Plan: The city encourages the users of towers and antennas to submit a single application for approval of multiple towers and/or antenna sites. Applications for approval of multiple sites shall be given priority in the review process.

Section 12-605

PERMITTED USES

1. General: The uses listed in this Section are deemed to be permitted uses and shall not require administrative approval or a special use permit.

2. Permitted Uses: The following uses are retroactively and specifically permitted: antennas or towers located on property owned, leased, or otherwise controlled by the city, provided a license or lease authorizing such antenna or tower has been approved by the city; provided however, upon the effective date of this section, and prior to the approval of such license or lease by the City Council, at least ten (10) days' notice of the date and time of the public meeting at which the license or lease will be considered by the City Council shall be conspicuously posted on the real property upon which the tower is proposed to be set prior to the holding of such public meeting.

Section 12-605

ADMINISTRATIVELY APPROVED USES

1. General: The following provisions shall govern the issuance of administrative approvals for towers and antennas:

a. The zoning officer may administratively approve the uses listed in this section.

b. Each applicant for administrative approval shall apply to the zoning officer providing the information set forth in Section 12-606 2a and 2c and a nonrefundable fee in such amount as set by resolution of the City Council from time to time to reimburse the city for the costs of reviewing the application.

c. The zoning officer shall review the application for administrative approval and determine if the proposed use complies with Section 12-606, 2d and 2e of this section.

d. The zoning officer shall respond to each application by either approving or denying said application.

e. In connection with any such administrative approval, the zoning officer may, in order to encourage shared use, administratively waive any separation distances between towers in Section 12-606.2e by up to fifty percent (50%).

f. In connection with any such administrative approval, the zoning officer may, in order to encourage the use of monopoles, administratively allow the reconstruction of an existing tower to monopole construction.

g. If an administrative approval is denied, the applicant shall file an application for a special use permit pursuant to Section 12-606 prior to filing any appeal that may be available under this Article.

2. List of Administratively Approved Uses: The following uses may be approved by the zoning officer after conducting an administrative review:

a. Locating a tower or antenna, including the placement of additional buildings or other supporting equipment used in connection with said tower or antenna, in any district zoned industrial or C-2 general commercial.

b. Locating antennas on existing structures or towers consistent with the terms of Section 12-605A.2b(1) and Section 12-605A.2b(2) below:

(1) Antennas on Existing Structures: Any antenna which is not attached to a tower may be approved by the zoning officer as an accessory use to any commercial, industrial, professional, or institutional structure, provided:

(A) The antenna does not extend more than thirty feet (30') above the highest point of the structure;

(B) The antenna complies with all applicable FCC and FAA regulations; and

(C) The antenna complies with all applicable building codes.

(2) Antennas On Existing Towers: An antenna which is attached to an existing tower may be approved by the zoning officer and, to minimize adverse visual impacts associated with the proliferation and clustering of towers, collocation of antennas by more than one antenna on existing towers shall take precedence over the construction of new towers, provided such collocation is accomplished in a manner consistent with the following:

(A) A tower which is modified or reconstructed to accommodate the collocation of an additional antenna shall be of the same tower type as the existing tower, unless the zoning officer allows reconstruction as a monopole.

(B) Height:

i. An existing tower may be modified or rebuilt to a taller height, not to exceed thirty feet (30') over the tower's existing

height, to accommodate the collocation of an additional antenna.

ii. The height change referred to in Section 12-605A.2b(2)(C)i below may only occur one time per communication tower.

iii. The additional height referred to in Section 12-605A.2b(2)(C)i below shall not require an additional distance separation as set forth in Section 12-606. The tower's pre-modification height shall be used to calculate such distance separations.

(C) On Site Location:

i. A tower which is being rebuilt to accommodate the collocation of an additional antenna may be moved on the site within fifty feet (50') of its existing location, provided it continues to satisfy setback requirements.

ii. After the tower is rebuilt to accommodate collocation, only one tower may remain on the site.

iii. A relocated on site tower shall be measured from the new tower location for purposes of calculating separation distances between towers pursuant to Section 12-606.2e.

iv. The on-site relocation of a tower which comes within the separation distances to residential units or residentially zoned lands as established in Section 12-606.2e of this section shall only be permitted when approved by the zoning officer.

c. New towers in nonresidential zoning districts. Locating any new tower in a nonresidential zoning district other than industrial or heavy commercial, provided a licensed professional engineer certifies the tower can in conformity with the goals set forth in Section 12-601 and the requirements of Section 12-604; the tower meets the setback requirements in Section 12-606.2d and separation distances in subsection Section 12-606.2e; and the tower meets the following height and usage criteria:

(1) For a single user, up to ninety feet (90') in height;

(2) For two (2) users, up to one hundred twenty feet (120') in height; and

(3) For three (3) users or more, up to two hundred feet (200') in height.

d. Locating any alternative tower structure in a zoning district other than industrial or heavy commercial that in the judgment of the zoning officer is in conformity with the goals set forth in Section 12-601.

e. Installing a cable microcell network through the use of multiple low powered transmitters/receivers attached to existing wireline systems, such as conventional cable or telephone wires, or similar technology that does not require the use of towers.

Section 12-606 SPECIAL USE PERMITS

1. General: The following provisions shall govern the issuance of special use permits for towers or antennas by the planning commission:

a. If the tower or antenna is not a permitted use under Section 12-605 or permitted to be approved administratively pursuant to Section 12-605A, then a special use permit shall be required for the construction of a tower or the placement of an antenna in all zoning districts.

b. Applications for special use permits under this section shall be subject to the procedures and requirements of this Article, except as modified in this section.

c. In granting a special use permit, the planning commission may impose conditions to the extent the planning commission concludes such conditions are necessary to minimize any adverse effect of the proposed tower on adjoining properties.

d. Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer.

e. An applicant for a special use permit shall submit the information described in this section and a nonrefundable fee as set by resolution of the board of commissioners from time to time to reimburse city for the costs of reviewing the application.

2. Towers:

a. Information Required: Applicants for a special use permit for a tower shall submit the following information in addition to any other required information:

(1) A scaled site plan clearly indicating the location, type and height of the proposed tower, on site land uses and zoning, adjacent land uses and zoning (including when adjacent to other

municipalities), master plan classification of the site and all properties within the applicable separation distances set forth in Section 12-606.2e, adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and any other structures, topography, parking, and other information deemed by the zoning officer to be necessary to assess compliance with this Article.

(2) Legal description of the parent tract and leased parcel (if applicable).

(3) The setback distance between the proposed tower and the nearest residential unit, platted residentially zoned properties and unplatted residentially zoned properties.

(4) The separation distance from other towers described in the inventory of existing sites submitted pursuant to Section 12-604.3 shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), if known.

(5) A landscape plan showing specific landscape materials.

(6) Method of fencing, and finished color and, if applicable, the method of camouflage and illumination.

(7) A description of compliance with Sections 12-604.3, 4, 5, 6, 7, 10, 12, and 13, Section 12-606.2d and 2e and all applicable federal, state or local laws.

(8) A notarized statement by the applicant as to whether construction of the tower will accommodate collocation of additional antennas for future users.

(9) Identification of the entities providing the backhaul network for the tower(s) described in the application and other cellular sites owned or operated by the applicant in the municipality.

(10) A description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of proposed new tower.

(11) A description of the feasible location(s) of future towers or antennas within the city based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower is erected.

b. Factors Considered In Granting Special Use Permits For Towers: In addition to any standards for consideration of special use permit applications, the planning commission shall consider the following factors in determining whether to issue a special use permit, although the planning commission may waive or reduce the burden on the applicant of one or more of these criteria if the planning commission concludes that the goals of this section are better served thereby:

- (1) Height of the proposed tower;
- (2) Proximity of the tower to residential structure and residential district boundaries;
- (3) Nature of uses on adjacent and nearby properties;
- (4) Surrounding topography;
- (5) Surrounding tree coverage and foliage;
- (6) Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
- (7) Proposed ingress and egress; and
- (8) Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures, as discussed in Section 6062c.

c. Availability of Suitable Existing Towers, Other Structures, or Alternative Technology.

- (1) No existing towers or structures are located within the geographic area which meet applicants engineering requirements.
- (2) Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
- (3) Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
- (4) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.

(5) The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.

(6) The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.

(7) The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable microcell network using multiple low power transmitters/receivers attached to a wireline system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.

d. Setbacks: The following setback requirements shall apply to all towers for which a special use permit is required; provided, however, that the planning commission may reduce the standard setback requirements if the goals of this section would be better served thereby:

(1) Towers must be set back a distance equal to at least seventy-five percent (75%) of the height of the tower from any adjoining lot line.

(2) Accessory buildings must satisfy the minimum zoning district setback requirements.

e. Separation: The following separation requirements shall apply to all towers and antennas for which special use permit is required; provided, however, that the planning commission may reduce the standard requirements if the goals of this section would be better served thereby.

(1) Separation from off-site uses/designated areas.

(A) Tower separation shall be measured from the base of the tower to the lot line of the off-site used and/or designated areas as specified in table 1, except as otherwise provided in table 1.

(B) Separation requirements for towers shall comply with the minimum standards established in table 1.

TABLE 1. SEPARATION DISTANCES

<u>Off Site Use/Designated Area</u>	<u>Separation Distance</u>

Single-family or duplex residential units ¹ of tower, whichever is greater	200 feet or 300 percent height

Vacant single-family or duplex residentially zoned land which is either platted or has preliminary subdivision plan approval which is not expired	200 feet or 300 percent Height of tower ² , whichever is greater

Vacant unplatted residentially zoned height lands ³	100 feet or 100 percent Of tower, whichever is greater

Existing multi-family residential units greater than duplex units	100 feet of 100 percent Height of tower, whichever is greater

Non-residentially zoned lands or nonresidential uses	None-only setbacks apply

¹Includes modular homes and mobile homes used for living purposes.

²Separation measured form base of tower to closest building setback line.

³Includes any unplatted residential use properties without a valid preliminary subdivision plan or valid development plan approval and any multi-family residentially zoned land greater than duplex.

(2) Separation distances between towers.

(A) Separation distances between towers shall be applicable for and measured between the proposed tower and preexisting towers. The separation distances shall be measured by drawing or following a straight line between the base of the existing tower and the proposed base, pursuant to a site plan, of the proposed tower. The separation distances (listed in linear feet) shall be as shown in table 2.

(B) Table 2:

TABLE 2. EXISTING TOWERS - TYPES

Monopole 75 Feet in Height Lattice	Monopole less than 75 feet Or Height	Monopole Greater than 75 feet in height

Lattice		5,000	1,500
Guyed	NA	NA	NA
Monopole	75	1,500	1,500
Feet in height			
Or greater			
Monopoles less	750	NA	750
Than 75 feet			
In height			

f. Security Fencing: Towers shall be enclosed by security fencing not less than six feet (6') in height and shall also be equipped with an appropriate anti-climbing device; provided however, that the planning commission may waive such requirement, as it deems appropriate.

g. Landscaping: The following requirements shall govern the landscaping surrounding towers for which a special use permit is required; provided however, that the planning commission may waive such requirements if the goals of this section would be better served thereby.

(1) Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from property used for residences. The standard buffer shall consist of a landscaped strip at least four feet (4') wide outside the perimeter of the compound.

(2) In locations where the visual impact of the tower would be minimal, the landscaping requirements may be reduced.

(3) Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer.

Section 12-607

BUILDINGS OR OTHER EQUIPMENT STORAGE

1. Antennas Mounted On Structures Or Rooftops: Equipment storage buildings or cabinets shall comply with all applicable building codes.

2. Antennas Mounted On Utility Poles Or Light Poles: The equipment cabinet or structure used in association with the following:

a. Residential Districts: In residential districts, the

equipment cabinet or structure may be located:

(1) In a front or side yard, provided the cabinet or structure is no greater than four feet (4') in height and the cabinet/structure is located a minimum of three feet (3') from all lot lines. The cabinet/structure shall be screened by an evergreen hedge with an ultimate height of at least forty-two inches (42") to forty-eight inches (48") and a planted height of at least thirty six inches (36").

(2) In a rear yard, provided the cabinet or structure is no greater than eight feet (8') in height. The cabinet or structure shall be screened by an evergreen hedge with an ultimate height of eight feet (8') and a planted height of at least thirty-six inches (36").

b. Commercial or Industrial Districts: In commercial or industrial districts the equipment cabinet or structure shall be no greater than eight feet (8') in height. The structure or cabinet shall be screened by an evergreen hedge with an ultimate height of eight feet (8') and a planted height of at least thirty-six inches (36"). In all other instances, structures or cabinets shall be screened from view of all residential properties which abut or are directly across the street from the structure or cabinet by a solid fence six feet (6') in height or an evergreen hedge with an ultimate height of eight feet (8') and a planted height of at least thirty-six inches (36").

3. Antennas Located On Towers: The related unmanned equipment structure shall be located in accordance with the minimum yard requirements of the zoning district in which located.

4. Modification of Building Size Requirements: The requirements of Sections 12-607.1 through 3 may be modified by the zoning officer in the case of administratively approved uses or by the planning commission in the case of uses permitted by special use to encourage collocation.

Section 12-608

REMOVAL OF ABANDONED ANTENNAS AND TOWERS

Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within ninety (90) days of receipt of notice from the city notifying the owner of such abandonment. Failure to remove abandoned antenna or tower within ninety (90) days shall be grounds to remove the tower or antenna at the owner's expense and/or a fine not to exceed two hundred dollars (\$200.00) per offense. If there are two (2) or more

users of a single tower, then this provision shall not become effective until all users cease using the tower.

Section 12-609

NONCONFORMING USES

1. Not Deemed Expansion of Nonconforming Use: Towers that are constructed, and antennas that are installed, in accordance with the provisions of this section shall not be deemed to constitute the expansion of a nonconforming use or structure.

2. Preexisting Towers: Preexisting towers shall be allowed to continue their usage as they presently exist. Routine maintenance (including replacement with a new tower of like construction and height) shall be permitted on such preexisting towers. New construction other than routine maintenance on a preexisting tower shall comply with the requirements of this Article.

3. Rebuilding Damaged or Destroyed Nonconforming Towers or Antennas: Notwithstanding Section 12-608, bona fide nonconforming towers or antennas that are damaged or destroyed may be rebuilt without having to first obtain administrative approval or a special use permit and without having to meet the separation requirements specified in subsection Section 12-606.2d and 2e. The type, height, and location of the tower on site shall be of the same type and intensity as the original facility approval. Building permits to rebuild the facility shall comply with the current applicable building codes and shall be obtained within ninety (90) days from the date the facility is damaged or destroyed. If no permit is obtained or if said permit expires, the tower or antenna shall be deemed abandoned as specified in this section.

Note: Article 6 was adopted by Ordinance No. 2017-04.4.3 approved on April 4, 2017.

ARTICLE 7

CAPITAL IMPROVEMENT PLANNING COMMITTEE - FUNCTION AND DUTIES

Section 12-701 CAPITAL IMPROVEMENT PLANNING COMMITTEE - FUNCTION AND DUTIES

A. There is hereby created a Local Capital Improvements Planning Committee, (hereinafter the "Committee"), for the City, in compliance with the provisions of the Oklahoma Capital Improvements Planning Act (62 O.S., 1992 Supplement, Section 901, et seq., hereinafter the "Act").

B. The Committee shall consist of at least three (3) but not more than ten (10) voting members, to be appointed by the Mayor, subject to the confirmation of the City Council. All members must be residents of the City, and shall serve without salary.

C. The terms and removal procedure for the members of the Committee shall be the same as for the members of the planning commission.

D. The Committee has the general responsibility to assist the City in planning for the future development, growth and improvement of the City and Major County, Oklahoma, and in preparing, adopting, implementing and annually amending the Local Capital Improvements Plan, (hereinafter the "Plan"), and its related programs, consistent with the goals, guidelines and other provisions of the Act.

E. The Committee shall also:

1. Prepare the City's Plan;
2. Make recommendations to the City Council regarding the adoption of the Plan;
3. Serve in an ongoing advisory capacity to the City Council regarding implementation of the Plan, particularly in the Annual Update phase of the planning of the process;
4. Conduct public hearings and solicit and encourage participation, as required by and in accordance with, applicable provisions of the Act;
5. Take such other actions as may be necessary to carry out the City's Capital Improvements Planning process, consistent with local ordinances and policy and State Law requirements, including the capacity to recommend agreements with other area jurisdictions, in order to carry out the purposes of the Capital Improvements Planning process; and
6. Maintain a working relationship with Northern Oklahoma Development Authority (hereinafter "NODA") in order to ensure that the statutory requirements for integrating the City's Plan into the NODA Regional Capital Improvement Plan, are fully met each year to the benefit of the City and the State of Oklahoma.

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CHAPTER 13. PUBLIC SAFETY

ARTICLE 1

FIRE PREVENTION

Section 13-101 INTERNATIONAL FIRE CODE ADOPTED .

That a certain document is on file in the Office of the City Clerk of the City of Fairview, Oklahoma, being marked and designated as the International Fire Code 2015 Edition, its appendices and annual amendments thereof, as published by the International Code Board, be and is hereby adopted as the Fire Code for the City of Fairview, State of Oklahoma, regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such structures as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said International Fire Code on file in the office of the City Clerk of the City of Fairview, Oklahoma, are hereby referred to, adopted, and made a part hereof, as if fully set out in this ordinance, with the additions, insertions, deletions and changes, if any, prescribed in Section 5-102 of this Article. The following sections of the International Fire Code 2015 Edition are hereby revised:

1. § 100.1, insert the City of Fairview, State of Oklahoma.

2. §105.5 is repealed and replaced by the following provision:

A. A building permit properly issued shall be valid for a period of 180 days from the date of issuance.

B. A building permit may be extended for a period of thirty (30) days, provided that written application for extension of time is made and filed with the City Clerk prior to the expiration of the original permit or subsequent extension of time, and justifiable cause as demonstrated by the applicant for extension of time.

C. 1612.3, insert the City of Fairview, State of Oklahoma.

D. 1612.3, insert October 16, 2012.

E. 3410.2, insert October 16, 2012.

Note: Amended by Ordinance No. 2012-5 approved on October 16, 2012.

Section 13-102 ENFORCEMENT.

A. The Fire Code shall be enforced by the fire department of the city, under the supervision of the chief of the fire department.

B. The chief of the fire department may detail such members of the fire department or inspectors as may from time to time be necessary.

C. The fire chief shall issue all permits required by this section except as otherwise provided.

Section 13-103 DEFINITION.

Wherever the word "municipality" is used in the Fire Prevention Code hereby adopted, it is held to mean the city.

Section 13-104 LIMITS FOR STORAGE OF FLAMMABLE LIQUIDS, BULK STORAGE OF LIQUEFIED PETROLEUM GASES, EXPLOSIVES AND BLASTING AGENTS; OUTSIDE STORAGE OF CYLINDERS CONTAINING LIQUEFIED PETROLEUM GASES; SUITABLE BARRIERS OR ENCLOSURES REQUIRED; EXCEPTIONS.

A. Except as otherwise provided or permitted in this municipal code, for purpose of the fire prevention code, the bulk storage of:

1. flammable liquids in outside aboveground tanks,
2. new bulk plants for flammable liquids,
3. liquefied petroleum gas ("LPG"), and
4. explosive and blasting agents,

are prohibited within the city limits.

Bulk storage of LPG shall mean any container or tank with a capacity greater than 100 lbs. Provided however, the sale or lease of tanks containing LPG may occur in properly zoned commercial and industrial properties, but only pursuant to subsection B. This

prohibition shall not govern deliveries of flammable liquids or LPG or such fuels under transport. All above ground storage tanks in place on the effective date of this section are grandfathered so long as such above ground tanks are adequately maintained and do not adversely affect the health, safety and welfare of the community as determined by the Fire Chief.

B. Any person, firm, corporation or entity owning, leasing or in possession and control of any real property on which sets any outside display or storage of any cylinder or cylinders containing LPG, which outside display sets in a location whereby a vehicle could impact such cylinder or cylinders, shall erect suitable barriers or enclosures.

C. Notwithstanding the provisions of this code and consistent with protection of the health, safety and welfare of the community, the Fire Chief may issue a permit for the installation of an outside aboveground tank(s) constituting bulk storage within the city limits if:

1. The specifications for the outside aboveground tank(s) are in conformance and compliance with NFPA 30 & 30A.

2. The outside aboveground tank(s) have been approved by and carry a seal certifying approval by UL 2085.

3. The outside aboveground tank(s) are placed in a location(s) deemed suitable and safe by the Fire Chief.

4. Any other requirement deemed necessary by the Fire Chief to protect the public safety.

Section 13-105 MODIFICATIONS.

The City Manager, with the approval of the city council, shall have power to modify any of the provisions of the code hereby adopted in his own discretion or upon application in writing by the owner or lessee, or his duly authorized agent, when there are practical difficulties in the way of carrying out the letter of the code, provided that the spirit of the code shall be observed, public safety secured, and substantial justice done. The particulars of such modification when granted or allowed and the decision of the mayor and council thereon is entered upon the records of the council, and for applications requesting change, a signed copy is furnished the applicant.

Section 13-106 NEW MATERIALS, PROCESSES, OR OCCUPANCIES WHICH MAY REQUIRE PERMITS.

The City Manager, the chief of the fire department, and one person appointed by the mayor with approval of the council shall act as a committee to determine and specify, after giving affected persons an opportunity to be heard, any new materials, processes, or occupancies, which shall require permits, in addition to those now enumerated in the code. The fire chief shall post such list in a conspicuous place in his office, and distribute copies thereof to interested persons.

Section 13-107 APPEALS.

Whenever the chief of the fire department or the City Manager shall disapprove an application or refuse to grant a permit applied for, or when it is claimed that the provisions of the code do not apply or that the true intent and meaning of the code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the chief of the fire department to the city council within thirty (30) days from the date of the decision appealed.

ARTICLE 2

FIRE DEPARTMENT AND SERVICE

DIVISION 1

FIRE SERVICES

Section 13-201 FIRE DEPARTMENT.

A. There is a fire department, the head of which is the chief of the fire department.

B. It is the duty of the fire department, among others, to extinguish fires; to rescue persons endangered by fire; to resuscitate, and to administer first aid to, persons injured in or about burning structures, or elsewhere in case of an emergency; to promote fire prevention; and unless otherwise provided, to enforce all ordinances relating to fires, fire prevention and safety of persons from fire in public and private buildings.

C. The term "volunteer firefighter" means one who is enrolled as a member of the volunteer fire department of the city and who serves in that capacity without receiving a regular salary. The size of the volunteer fire department of the city is composed of not less than twelve (12) nor more than twenty-five (25) members.

State Law Reference: Fire departments generally, 11 O.S. Section 29-101 et seq.; Volunteer fire departments, provisions and requirements, 11 O.S. Section 29-201 et seq.

Section 13-202 DUTIES OF THE FIRE CHIEF.

The chief is the administrative head of the department, appointed by the City Manager and subject to the laws of the state, ordinances of the city, and the rules and regulations adopted in this chapter. The full-time firefighter employee shall be eligible for appointment as the Fire Chief. The chief shall have the following powers and duties, and he may assign duties to other members of the department:

1. The chief shall be responsible for the general condition and efficient operation of the department, the training of members, and the performance of all other duties imposed upon him. He shall have supervision and control of the fire department, subject to the supervision and control of the City Manager;

2. The chief may inspect or cause to be inspected by members of the department, the fire hydrants, cistern and other sources of water supply at least twice a year;

3. The chief shall maintain a library or file of publications on fire prevention and fire protection and shall make use of it to the best advantage of all members;

4. The chief shall make every effort to attend all fires and direct the officers and members in the performance of their duties;

5. The chief shall see that the citizens are kept informed on fire hazards in the community and on the activities of the department;

6. The chief shall see that each fire is carefully investigated to determine its cause, and in the case of suspicion of incendiarism or arson, shall notify proper authorities and secure and preserve all possible evidence for future use in the case of suspicious incendiarism;

7. The chief is authorized to enter any building or premise in the city at any reasonable hour for the purposes of making inspections and to serve written notice to immediately correct any hazards that may be found;

8. The chief shall see that complete records are kept of all fires, inspections, apparatus and equipment, personnel and other

information of the department and shall make reports to the city council as it may require. The chief shall keep the city council informed regarding the fire department and its needs;

9. The Chief or his designee shall report to the council on at least a quarterly basis on fire department activities; and

10. The Chief shall file the appropriate activity report forms with the Office of the State Fire Marshal in Oklahoma City on an annual basis. The activity report forms shall be designed by the State Fire Marshal and shall include, but not be limited to, the amount of property and vehicle fire loss, types of fires, inspections and investigations. The report shall include notification of all fire-related civilian deaths and injuries in the respective jurisdiction and of fire fighter deaths in the line of duty and of fire fighter injuries in the line of duty requiring the services of a hospital or physician or both.

Section 13-203 DUTIES OF THE ASSISTANT CHIEF

In the absence of the fire chief, the assistant chief on duty shall command the department and be held responsible therefor in all respects with the full powers and responsibilities of the chief. Other Fairview Fire Officers as deemed necessary shall be appointed by the City Manager after consultation with the Fire Chief.

Section 13-204 COMPANY OFFICERS.

Company officers of the volunteer department are appointed by the City Manager after consultation with the Fire Chief based upon the following criteria:

1. Knowledge of fire fighting;
2. Leadership ability; and
3. Knowledge of firefighting equipment.

Such officer shall be charged with the duty to arrange for and manage any or all social functions sponsored by the department.

Section 13-205 THE SECRETARY-TREASURER.

One member elected by the members of the volunteer fire department is a secretary-treasurer. His duties shall consist of the following:

1. Calling the roll at the opening of each meeting;

2. Keeping the minutes of each meeting;
3. Collecting any money due the department by the members.

Section 13-206 NEW MEMBERS.

New members of the volunteer department are on probation for one year after their appointment. Upon completion of their probation period, new volunteer members must be approved by the majority of the volunteer members of the fire department and appointed by the City Manager.

Section 13-207 BYLAWS.

The by-laws of the department shall include, but not be limited to the following:

1. All volunteer fire department members are required, when notified, to respond to alarms of fire and other emergencies;
2. A member is required to be present at all regular meetings, called meetings and schools presented for the benefit of the firefighters;
3. At least one regular business meeting of the members shall be held each month;
4. Any member having two (2) unexcused absences in succession or three (3) unexcused absences in a period of three (3) months will be expelled from the fire department roll;
5. Any member leaving the city for an extended period of time is required to notify the chief;
6. Any member refusing to attend training classes provided for members of the department will be expelled from the rolls;
7. Any member of the fire department shall be expelled from the rolls for the following offenses:
 - a. Conduct unbecoming a firefighter;
 - b. Any act of insubordination;
 - c. Neglect of duty;
 - d. Any violation of rules and regulations governing the fire

department;

- e. Conviction of a felony; or
- f. By majority vote of the members of the company and approval of the City Manager.

Section 13-208 RULES AND REGULATIONS.

The city council, by motion or resolution, may adopt and change regulations relating to the fire department, its organizations, operation and compensation.

Section 13-209 USE OF FIRE EQUIPMENT; INVENTORY AND REPAIR.

A. No person shall use any fire apparatus or equipment for any private purpose, nor shall any person willfully and without proper authority take away or conceal any article used in any way by the department. No person shall enter any place where the fire apparatus is housed or handle any apparatus or equipment belonging to the department unless accompanied by, or having the special permission of, an officer or authorized member of the department.

B. The chief shall prepare and keep a complete inventory of all property belonging to the fire department, and shall at the expiration of the term turn over such inventory and all such property to his successor, together with all books, records, reports and data of the department.

Section 13-210 CONTRACTS AUTHORIZED OUTSIDE CITY LIMITS.

The city is hereby authorized and empowered to enter into contracts or agreements with individuals, firms, private corporations or associations, or political subdivisions of the state for fire protection outside the corporate limits of the city, and to contract to provide fire protection jointly with other organizations and municipal subdivisions of the state.

Section 13-211 CONTRACT TERMS, FEES FOR SERVICE.

Any contract entered into by the city with an individual owner, firm, private corporation, or association, for outside aid, or mutual aid for fire protection, shall provide for the payment by the owner, firm, private corporation, or association, or political subdivision to the city for such fire apparatus and personnel at the rate per call as set by the city council.

Section 13-212 AUTHORITY TO ANSWER CALLS.

The fire department of the city is hereby authorized and directed to answer all outside calls outside the corporate city limits in the discretion of the fire chief. The fire department may not answer such outside calls if, in the opinion of the fire chief, it is inexpedient to do so on account of another fire in the city, broken apparatus, impassable or dangerous highways, or other physical conditions.

Section 13-213 FIREFIGHTERS SERVING IN REGULAR LINE OF DUTY.

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

Section 13-214 DEPARTMENT CONSIDERED AGENT OF STATE.

The fire department of the city answering any fire alarm, or call, or performing any fire prevention services outside the corporate limits of the city is considered as an agent of the state, and acting solely and alone in a governmental capacity, and the municipality shall not be liable in damages for any act of commission, omission, or negligence while answering or returning from any fire, or reported fire, or doing any fire prevention work under and by the virtue of Sections 13-210 to 13-214 of this code.

ARTICLE 3

POLICE DEPARTMENT

Section 13-301 POLICE DEPARTMENT, CREATED.

There is a police department, the head of which is the chief of police, appointed by the City Manager for an indefinite term and removable by the City Manager. The chief of police is an officer of the city, and has supervision and control of the police department.

State Law Reference: Police department and duties, 11 O.S.
Section 34-101 et seq.

Section 13-302 DUTIES.

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

Section 13-303 POLICE OFFICERS.

Police officers shall perform such duties as are required of them by the chief of police, city ordinances, federal, state and county regulations and any other actions required in the maintenance of good order and public peace. Employees or officers deemed necessary shall be appointed by the City Manager after consultation with the chief of police.

Section 13-304 EMERGENCY DUTIES IN OTHER CITIES.

A. Approval is hereby given for service of members of the regular police department of this city as police officers of any other city or town, in an emergency situation, in the state, not more than one hundred (100) miles distant from this city, when such service is requested by the mayor or chief of police of the city or town.

B. Requests for service under this Section are made by writing or by telephone, or other means of communications, to the mayor who, if he determines that the request can be granted consistently with the continuance of the proper police protection to the inhabitants of this city, and after consultation with the marshal, shall direct the chief of police to furnish the number of officers requested and to arrange their transportation to the requesting municipality.

Section 13-305 AUXILIARY/RESERVE FORCE CREATED; PROCEDURES

A. There is hereby established an auxiliary/reserve police force for the city.

B. Members of the auxiliary/reserve police force shall be appointed or relieved at the discretion of the chief of police and shall serve as police officers during the actual discharge of official duties.

C. Members of the auxiliary/reserve police force shall serve at the discretion of the chief of police and may be called into active service at any time the chief of police considers it necessary to have additional police officers to preserve the peace and enforce the law.

D. Members of the auxiliary/reserve police force may serve without compensation. Uniforms may be provided to the auxiliary/reserve police officers at the discretion of the chief of police.

E. Auxiliary/reserve police officers must comply with the minimum standards established by the Oklahoma Law Enforcement Council. The chief of police shall establish qualifications and standards for members of the auxiliary/reserve police force and shall establish rules and regulations governing auxiliary/reserve police officers.

F. The chief of police may establish minimum physical, mental and moral standards as used by regular police department.

ARTICLE 4

RESERVED

ARTICLE 5

DEPARTMENT OF EMERGENCY MANAGEMENT

Section 13-501 Emergency Management Director.

1. The Office of Emergency Management Director is hereby created, to be appointed by the City Manager. Such person may be a volunteer or a part or full-time position. Such person shall have the minimum qualifications as provided under Tit. 63, Section 683.11 of the Oklahoma Statutes, or as such section is hereafter amended.

2. The Director of Emergency Management shall be executive head of the Department of Emergency Management and shall be responsible for carrying out the Emergency Management Program of the City of Fairview, Oklahoma.

3. The Emergency Management Director shall have the responsibility to:

A. Form an organization to prepare and implement an Emergency Management Program;

B. Form committees to perfect such an organization;

C. Appoint the chairmen of such committees;

D. Cooperate with other governmental emergency management agencies; and

E. Formulate plans, gathers or assigns a designee to gather information and maintain records for the Emergency Management Department, FEMA and Oklahoma Emergency Management.

4. The Emergency Management Director may be reimbursed for expenses incurred in the performance of his/her duties, provided such expenses are at 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 Emergency Management Director, after authorization from the City Manager, shall have the authority to enforce all regulations relating to emergency management, for the purpose of protecting the residents of the City of Fairview, Oklahoma.

Section 13-502 Emergency Management Department.

1. There is hereby established a Emergency Management Department under the executive branch of government, which shall consist of a Emergency Management Director.

2. The purpose of said Department shall be to be prepared for, and function in the event of, emergencies endangering the lives and property of the people of the City of Fairview, Oklahoma, and to perform all functions necessary and incident to the protection of the lives, health and property of the citizens of said community.

Section 13-503. Definitions.

1. Emergency Management. The term "Emergency Management" 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 Fairview, 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 sewers 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 Fairview, Oklahoma. Such emergency shall be deemed to exist only when the Mayor shall so declare any 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 Council 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 Fairview, 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 13-304 Liability.

1. Neither the City of Fairview, Oklahoma, nor any officer or member of the Emergency Management Organization provided for in this Article, shall be liable for personal injury or property damage sustained by any person appointed or acting as a volunteer Emergency Management worker or member of any agency engaged in Emergency Management 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 13-305 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 Fairview, Oklahoma, any services, equipment, supplies, materials or funds by

way of gift, grant or loan, for purposes of Emergency Management, the City Manager may accept such offer and may authorize the Emergency Management Director to receive the same, subject to the terms of the offer and the rules and regulations, if any, of the agency making the offer.

ARTICLE 6

UNCLAIMED PROPERTY

Section 13-601 DELIVERY TO CHIEF OF POLICE REQUIRED; RECORDS.

All personal property which comes into the possession of any police officer, which has been found or stolen or taken off the person or out of the possession of any prisoner or person suspected of or charged with being a criminal, and which is not known to belong to some person laying claim thereto, shall be, by the officer securing possession thereof, delivered into the charge of the chief of police. The chief shall, in a permanent record book kept for that purpose, make a record sufficient to identify the property, with the date and circumstances of the receipt thereof and the name of the person from whom it was taken and the place where it was found. The record shall also disclose the subsequent disposal thereof, giving the date of sale, name and address of the purchaser, and the amount for which it was sold.

State Law Reference: Disposition of personal property by police chief, procedures, application to destroy, 11 O.S. Section Sec. 34-104; Uniform unclaimed property disposition act, 60 O.S. Section 655; relating to finders of lost goods, 15 O.S. Section 511 et seq.; disposal of stolen or embezzled property coming into hands of police officers, 22 O.S. Section 1321, et seq.; disposal of liquor and gambling equipment seized by police officers, 22 O.S. Section 1261 et seq.; alcoholic beverages seized in violation of law, 37 O.S. Section 539.

Section 13-602 DISPOSITION OF PERSONAL PROPERTY, GENERAL PROCEDURES.

A. The Chief of Police is authorized to dispose of personal property or money or legal tender as provided in this Section, which has come into his possession in any manner if:

1. The owner of the personal property or money or legal tender is unknown or has not claimed the property;

2. The property or money or legal tender has been in the custody of the chief of police for at least six (6) months; and

3. The property or money or legal tender or any part thereof is no longer needed to be held as evidence or for any other purpose in connection with any litigation.

B. The Chief of Police shall file an application in the Noble County District requesting the authority of the court to conduct a sale of such personal property which has a fair market value of more than its face value. The Chief of Police shall attach to the application a list describing such property including any identifying numbers and marks, the date the property came into the possession of the Chief of Police, and the name of the owner and the person in last possession, if different and the address of such person, if known. The court shall set the application for hearing not less than ten (10) days nor more than twenty (20) days after filing of the application.

C. In any instance where the property has an actual or apparent value of more than Twenty-five Dollars (\$25.00), at least ten (10) days prior to the date of the hearing, notice of the hearing shall be sent by certified mail to each owner at the address as listed in the application. If the owner of any property with an actual or apparent value exceeding Five Hundred Dollars (\$500.00) is unable to be served notice by certified mail, notice shall be provided by one publication in a newspaper of general circulation in the county where the property is in custody. Said notice shall contain a brief description of the property of said owner and the place and date of the hearing. The notice shall be posted at the assigned place for the posting of municipal notices, and at two other public places in the municipality.

D. If no owner appears and establishes ownership to the property at the hearing, the court shall enter an order authorizing the Chief of Police to donate the property having value of less than Five Hundred Dollars (\$500.00) to a not-for-profit corporation as defined in Title 18 of the Oklahoma Statutes for use by needy families or to sell the personal property for cash to the highest bidder, after at least five (5) days' notice of the sale has been published. The Chief of Police shall make a return of the donation or sale and the order of the court confirming the donation or sale shall vest title to the property in the recipient or purchaser. After payment of court costs and other expenses, the remainder of money received from the sale of the personal property shall be deposited in the municipal general fund.

E. All money or legal tender which has come into the possession of the Chief of Police pursuant to the circumstances provided for in subsection A of this Section shall be transferred by the Chief of Police to the municipal clerk for deposit in the municipal general

fund. Prior to any such transfer, the Chief of Police shall file an application in the district court requesting the court to enter an order authorizing the Chief of Police to transfer the money for deposit in the municipal general fund. The application shall describe the money or legal tender, the date the same came into the possession of the Chief of Police, and the name of the owner and the address of the owner, if known. Upon filing the application which may be joined with an application as described in subsection B of this Section, a hearing shall be set not less than ten (10) days nor more than twenty (20) days from the filing of the application. Notice of the hearing shall be given as provided for in subsection C of this Section. The notice shall state that upon failure of anyone to appear to prove ownership to the money or legal tender, the court shall order the same to be deposited in the municipal general fund. The notice may be combined with a notice to sell personal property as provided for in subsection B of this Section. If no one appears to claim and prove ownership to the money or legal tender at the hearing, the court shall order the same to be transferred to the municipal general fund as provided in this subsection.

F. The provisions of this Section shall not apply to any dangerous or deadly weapons, narcotic or poisonous drugs, explosives, or any property of any kind or character, which the possession of is prohibited by law. By order of the trial court, any such property filed as an exhibit or held by the municipality shall be destroyed or sold or disposed of, pursuant to the conditions prescribed in such order.

G. The municipality is hereby authorized to establish a procedure for the registration of "lost and found" property. Such procedure shall give the finder of any property the option of relinquishing any future claim to found property at the time its possession is surrendered to the police or other agent of the municipality, or of retaining possession of the property after registering its description and the finders identity with the police department or other agent of the municipality. Only property in which the finder relinquishes any future claim to its ownership will be stored in municipal police property rooms.

H. An amount not greater than 25% of the money or legal tender deposited in the municipal general fund as provided in subsection D or E of this Section may be paid as a finders fee for services rendered to any person who found the unclaimed personal property or money or legal tender and delivered it to, or registered it with, the Chief of Police or other agent of the municipality. All such fees must be first authorized by the City Manager.

State Law Reference: Similar provisions 11 O.S. Section 34-104.

Section 13-603 SEIZED PROPERTY RELATED TO GAMBLING, REPORT AND DISPOSITION.

A. If any personal property used for the purpose of violating any of the gambling laws of this state, shall be seized by any officer or person with or without a search warrant, such officer or person is hereby required within five (5) days of the seizure to make a written report under oath and file the same with the county clerk, which report shall in detail state the name of the officer or person making the seizure, the place where seized and an inventory of the property or articles so taken into possession. Within five (5) days after seizing such property, the officer shall deliver the property to the sheriff of the county and take the sheriff's receipt therefor, in duplicate, and the sheriff shall retain the same and all thereof until the same shall be destroyed pursuant to the orders of the court.

B. In computing time, five (5) days, Sundays and holidays shall be excluded and not counted.

C. A duplicate copy of the receipt shall be filed with the county clerk, who shall keep a record of same. However, the sheriff and his deputies shall be required to make the affidavit and issue the receipt and otherwise comply with the provisions of this Section. The sheriff shall be liable on his bond for the safe keeping of all such property so turned over to him under the provisions of this Section.

State Law Reference: Similar provisions, 22 O.S. Section 1261.

Section 13-604 SEIZED PROPERTY RELATED TO ALCOHOLIC BEVERAGES, DISPOSITION.

If the city police officers seize:

A. Any apparatus, equipment, vehicle or instrumentality used for, or intended for use in manufacturing or transporting any alcoholic beverages in violation of the state alcoholic beverage control laws; or

B. Any alcoholic beverages possessed, sold, transported, manufactured, kept or stored in violation of the state alcoholic beverage control laws, and if the court finds from a preponderance of the evidence that the property seized was lawfully subject to seizure, then the court shall render judgment accordingly and order

the property forfeited to the city in which the seizure of the property took place. Such seized property shall be sold by the police chief, after giving ten (10) days notice by one publication in a legal newspaper of the county at least ten (10) days before such sale. Appeal from such an order may be taken as in civil cases. When such property is sold under the provisions of this Section, the proceeds thereof shall be distributed as follows:

1. First, to the payment of the costs of the case in which the order of forfeiture was made and the actual expenses of preserving the property; and

2. Second, the remainder shall be deposited with the city.

State Law Reference: Similar provisions, 37 O.S. Section 539.

Section 13-605 PROPERTY OF DECEASED PERSONS.

The personal property of a deceased person shall be delivered only to the next of kin of such person or to the legally appointed representative of his estate. If the personal property is claimed by the legally appointed representative of the estate of the deceased, a certified copy of the order of the district court appointing such person shall be deemed sufficient authority to support the claim. If the personal property is claimed by the next of kin, the claimant shall furnish an affidavit or the effect that he is the person entitled to possession of the property; the affidavit shall be deemed sufficient authority to support the claim. If personal property of a deceased person remains unclaimed for a period of ninety (90) days, it shall be disposed of in the appropriate manner provided in this article.

Section 13-606 NOTICE OF SALE.

Ten (10) days before the sale of nonessential city stock or property, the police chief or his designee, shall cause to be posted in at least four (4) public places in the city (one of which shall be the main bulletin board in city hall) notices of the time, place and manner of the sale, and a general description of the property to be sold. The police chief or his designee shall also cause at least one published notice to be given in a newspaper of general delivery within the city. This notice shall include information as to the time, place, and manner of the sale, and a general description of the property to be sold.

Section 13-607 LIBRARY BOOK DISPOSITION.

- A. All books withdrawn from the collection of the public

library which are obsolete, as duplicates of titles no longer popular, have been replaced by better more comprehensive or updated editions, or because they are badly worn, regardless of whether the book was obtained through city funds or through donations, shall be disposed of by placement in a prominent place within the main library or branch. These books shall be those in usable condition and shall be priced as determined by the librarian. Books will be sold for cash only.

B. Monies collected for these books shall be deposited in the general fund. Books that are badly worn and cannot be sold or books which have not been sold within sixty (60) days shall be forwarded to the recreation and supply director for disposition as described within.

C. In addition to the above, the librarian may from time to time sell books at book fairs or art festivals which are held throughout the year within the city limits.

Section 13-608 EXCHANGE OF UNCLAIMED OR CONFISCATED WEAPONS.

A. Unclaimed or confiscated weapons which have been in the possession of the police department for one hundred twenty (120) days or more may be traded by the chief of police, with the approval of the police chief or his designee, for new weapons for use by the police department. The unclaimed or confiscated weapons may only be traded to such gun dealers who have complied with applicable state and federal regulations concerning firearms and, in the opinion of the police chief or his designee, are reputable.

B. In trading such unclaimed or confiscated weapons, the chief of police shall, with the approval of the police chief or his designee, advertise for bids for such trade. Such advertisement for bids shall be done in accordance with prevailing and established bid procedure as formulated by the purchasing entity of the city. In no case may the fair market value of the weapons received in such trade exceed Two Thousand Dollars (\$2,000.00), unless such trade is accomplished pursuant to formal bid procedure.

C. The value of such unclaimed and confiscated weapons as hereinabove discussed shall in all cases be determined by their fair market value of the new weapons received in such trade.

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CHAPTER 14. STREETS, SIDEWALKS AND PUBLIC WORKS

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CHAPTER 14. STREETS, SIDEWALKS AND PUBLIC WORKS

ARTICLE 1

USE AND CONSTRUCTION OF STREETS

SECTION 14-101 TREES AND SHRUBBERY TO BE TRIMMED.

A. The owner of any premises abutting on any street of this City shall trim all trees and shrubbery growing, between the sidewalks and the roadway, of any such street, and all trees and shrubbery growing on any part of the premises adjacent to the sidewalks or any street or alley, in such manner that the boughs or limbs thereof shall not obstruct free and convenient passage and travel along the streets, sidewalks, and 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 hereinafter required of the owner. Such trees and shrubbery shall be trimmed so that the lowest branches or foliage shall not be lower than ten (10) feet above the roadway of a street or alley, nor lower than eight (8) feet above the sidewalk.

B. Any owner or occupant who shall fail, refuse or neglect to trim trees and shrubbery as provided in Section A of this section, after receiving five (5) days' notice from the City Manager to do so, shall be guilty of an offense. Every day that the owner or occupant shall fail, refuse or neglect to trim the trees or shrubbery, after the expiration of the five (5) days' notice, shall be a separate offense.

SECTION 14-102 UNLAWFUL TO INJURE TREES AND SHRUBBERY.

It is unlawful for any person to injure any tree or shrubbery on a street or alley in the City; provided that this shall not prohibit the lawful and proper care and removal of such trees and shrubbery.

SECTION 14-103 UNLAWFUL TO OBSTRUCT SIDEWALKS, PARKWAYS, STREETS, AND ALLEYS WITH MERCHANDISE.

It is unlawful for any person, firm or corporation to place upon or permit to be placed upon the sidewalks, parkways, streets and alleys of the City any goods, wares, articles of merchandise or any other obstruction, and leave the same thereon; or to use the same as a place to carry on a business or trade.

SECTION 14-104 UNLAWFUL TO OBSTRUCT UNDULY SIDEWALKS AND STREETS.

It is unlawful for any person, firm or corporation to use or obstruct the sidewalks of the City in any manner so as to interfere unduly with pedestrian traffic thereon, or to use or obstruct the streets and alleys of the City in any manner so as to interfere unduly with lawful traffic and parking thereon.

SECTION 14-105 UNLAWFUL TO PLAY ON STREETS.

It is unlawful for any person to play on the main-traveled portion of the streets and alleys of the City, except as may be authorized by ordinance.

SECTION 14-106 WATER FROM FILLING STATIONS AND OTHER BUSINESSES.

It is unlawful for any owner or operator of a filling station or other place of business, or any agent or employee thereof, to cause or allow water, grease, mud or other fluid to flow or drain into, upon, over or across any sidewalk, parking, street, alley or other public way.

SECTION 14-107 OWNER OR OCCUPANT NOT TO PERMIT SIDEWALK OR SIDEWALK AREA TO BECOME A HAZARD.

It is unlawful for the owner or occupant of property abutting upon a sidewalk area to permit the sidewalk or sidewalk area adjacent to the property to become a hazard to persons using the sidewalk, or sidewalk area.

SECTION 14-108 NOTICE; PENALTY.

If any property owner, occupant or agent of such property shall fail or refuse to repair or clean off the sidewalk abutting or adjacent to the property owned or occupied by him within seventy-two (72) hours after notice served on him by any police officer, health officer, or any other agent of the City, the property owner or occupant or agent so failing or refusing after notice so to do, to repair or clean off such sidewalk, shall be deemed guilty of an offense.

SECTION 14-109 NO OBSTRUCTIONS TO INTERFERE WITH DRAINAGE.

It is unlawful for any person, firm, or corporation to obstruct any street, sidewalk, or alley, by placing any approach driveway or other obstruction or substance whatever that will obstruct or prevent the natural flow of water, into the storm sewers or drains,

or dam the same so as to back any water upon the streets, alleys, sidewalks, or gutter.

SECTION 14-110 INJURY; DRIVING OVER CURBING AND CROSSINGS.

Any person who shall willfully or wantonly cut or break or remove, or in any manner displace any curbing, guttering, or who shall recklessly or intentionally, drive any vehicle loaded with asphalt materials, lumber or building materials, or any kind, into or on the curbing, or concrete guttering of any paved street, shall be guilty of an offense.

SECTION 14-111 OWNER OF VEHICLE RESPONSIBLE FOR DAMAGE TO STREET.

The owner, driver, operator or mover of any vehicle over any street or alley of the City and specifically vehicles of a load weight in excess of passenger automobiles and light delivery trucks, shall be responsible for all damages which streets or alleys may sustain as a result of the use thereof by such vehicles. This shall not be applicable to deterioration caused by normal vehicular use of such streets and alleys. The amount of such damage may be recovered in an action in the court of proper jurisdiction in the name of the City.

SECTION 14-112 WHEN SIDEWALKS MAY BE OBSTRUCTED.

It is unlawful for an owner or occupant of premises abutting on a sidewalk in the City to store on the sidewalk, goods, wares and merchandise unless a space of at least six (6) feet in width, is left clear for passage of traffic or pedestrians. Such goods, wares and merchandise may not be stored or displayed on the sidewalk in such a manner that vehicles parking at the curb could be damaged thereby. Such goods, wares and merchandise must be removed by the owner or occupant of the premises at least once during each twenty-four (24) hour period.

SECTION 14-113 INSECTS AND WORMS.

Each owner, agent, or occupant in front of or on whose lots shade trees have been planted or are growing shall use every reasonable precaution to protect the same from insects and worms.

SECTION 14-114 PERMIT TO STRING WIRES.

A. It is unlawful and an offense for any person to trim, cut or otherwise mutilate any shade or ornamental tree on any street, parking, or other public place in the City for the purpose of stringing wires or cables along or across the parkings or other

public places, without first obtaining a permit therefor in writing from the City, which shall be filed with the City Clerk.

B. Whenever any telephone, telegraph, or electric light and power company or any other person with authority to use the streets for such purposes, desires to string any wires or cables along or across any of the street parking, or other public place, such person shall make application to the City. If the City Manager determines that it is necessary for the proper stringing of the wires to trim or cut any such trees, and the same can be done without serious injury to the trees, he shall issue his written permit, stating the nature and extent of such trimming or cutting, which shall be filed with the City Clerk as heretofore provided. All such trimming or cutting shall be done under the direct supervision and control of the City Manager some competent person designated by him.

SECTION 14-115 PARKING OF TRUCKS, TRAILERS, COMMERCIAL VEHICLES, BUSES, RECREATIONAL VEHICLES ON CITY STREETS

A. No truck, trailer, commercial vehicle, bus, recreational vehicle or other vehicle weighing more than 1 ½ ton GVW or having more than two (2) axles shall park on any street or street right-of-way within any residential area at any time, except for the immediate loading or unloading of persons or materials, and only then when not in violation of any other provision of the chapter.

B. No tractor-trailer rigs (semi-trailers) shall be parked or stored on the street, street right-of-way, yard or driveway within any residential area.

C. No tractors or semi-trailers shall be parked or stored on the street or street right-of-way within any commercial or industrial area, except if parked or stored on driveways or other hard-surfaced areas.

SECTION 14-116 CITY TO MAINTAIN TREES ON PORTION OF MAIN STREET

The City shall maintain the trees located immediately adjacent to both sides of Main Street, between Walnut Street and Central Street. Such trees shall be trimmed so that the lowest branches or foliage shall not be lower than ten (10) feet above the roadway of Main Street, nor lower than eight (8) feet above the sidewalks. The purpose of this section is: 1) to provide an aesthetically pleasing appearance to downtown Fairview in order to promote tourism development which is hereby legislatively determined to be a public purpose by the City Council, and 2) to ensure that the branches of such trees do not adversely affect the City's electric distribution system and drivers of vehicles and pedestrians on the sidewalks.

Note: This section was added by Ordinance No. 2013-08 approved by the City Council on November 5, 2013.

ARTICLE 2

EXCAVATING OR CUTTING STREETS AND ALLEYS

SECTION 14-201 NOTIFICATION TO CITY.

Before beginning any boring, cutting or excavation under, across or through any street or alley, the party about to perform the same shall notify, in writing, the City that such boring, cutting or excavation is intended to be done, the location thereof, and the necessity of such boring, cutting or excavation. Such written notification must be made prior to commencement of any such boring, cutting or excavation.

SECTION 14-202 FEE TO BE PAID TO CITY.

Any person who shall hereafter bore, cut or excavate under, across or through the surface of any street or alley in the City shall obtain a permit from the City Clerk, upon payment of the fee set by the City and upon approval of the City Manager, prior to the commencement of any such cutting, boring or excavation.

SECTION 14-203 SECURITY BOND.

Prior to commencement of any boring, cutting or excavation of any street or alley the party to perform the same shall post with the City Clerk a good and sufficient surety or indemnity bond, payable to the City in the amount set by the Council. Such bond shall be to protect and save the City harmless from any and all damages caused by any such boring, cutting or excavation.

SECTION 14-204 TO FILL EXCAVATION, APPROVAL BY CITY.

A. After the installation, replacement or repair of any utility line or other line, the party making such bore, cut or excavation shall fill the bore, cut or excavation and tamp the earth or other fill material as specified by the City, subject to the rules and regulations as may be prescribed by the City Council. The party making any such bore, cut or excavation shall replace any paving, whether asphalt, concrete or a combination, damaged, destroyed or removed in like manner as existed prior to such bore, cut or excavation.

B. The following specifications apply to the fill:

1. A suitable soil stabilizer shall be used as part of the reconstruction process;

2. All soils treated with the stabilizer and routinely compacted shall attain unconfined compressive strengths greater than the same soils which are untreated and compacted to ninety-five percent (95%) of the maximum laboratory dry density;

3. Treated soils should attain a field California Bearing Ratio (CBR) of forty (40) or greater, when used in accordance with manufacturer's instructions;

4. Treated soils shall gain in compressive strength and maintain their size and shape when subjected to damp environments;

5. Treated soils should attain sufficient strength to allow for repaving, removal or any traffic control devices, and provide for the return to normal traffic on any site where the stabilizer is used within two (2) hours or less of the final compaction lift, when used in accordance with manufacturer's instructions;

6. Treatment of soil will create less than 10 degrees F. exothermic reaction so as to prevent possible damage to pipe or other underground conduits, plant or animal life. The stabilizer shall not pose a threat of thermal injury to workers, nor will it cause the ground to expand after compaction which would prevent immediate repaving;

7. The stabilizer shall be environmentally safe and shall not exceed EPA standards for ingestion or inhalation, or cause hazards to work crews or the environment;

8. The stabilizer will be non-corrosive to underground pipe and other conduits;

9. The ratio of stabilizer to soil shall not be less than twenty-five (25) pounds per cubic yard of soil; and

C. Upon completion of all restoration work the City Manager shall examine the location to determine if such filling, tamping or paving complies with the standards set forth by the rules and regulations of the City Council, and endorse upon the permit his acceptance or rejection of the restoration. If such restoration does not comply with the standards set by the City Council, the City may cause proper and necessary repairs at the sole cost of party to whom the permit was issued.

D. It is the City Manager's discretion as to the repair and replacement of streets and alleys, either being trenched or bored.

ARTICLE 3

RIGHTS-OF-WAY OCCUPANCY MANAGEMENT

Section 14-300

INTENT, PURPOSE AND SCOPE

A. In order to provide for the public health, safety and welfare of the citizens of the City of Fairview, as well as to ensure the structural integrity of the City's streets and related infrastructures; to minimize the disruption to the traveling public; and to ensure costs incurred by the City to acquire, maintain, and manage the Rights-of-Way are properly allocated among the various users of the Rights-of-Way, the City hereby establishes standards for authorizing and managing the placement of Facilities in Rights-of-Way; performing installation, maintenance, and other work in the Rights-of-Way; and appropriately recovering costs incurred by the City related to such activities.

B. It is the intent of this Article to charge those persons that own, manage, operate or control the Facilities located in the Rights-of-Way a fee based upon the proportion of Facilities they have in the Rights-of-Way to the amount of costs the City of Fairview incurs in acquiring and maintaining the Rights-of-Way. It is not the intent of this Article to prohibit those persons that own, manage, operate or control the Facilities in the Rights-of-Way from passing the fees they pay pursuant to this Article along to their customers and others.

C. It is the intent of this Article that all trunks, mainlines, area or system-wide Facilities, unless otherwise authorized by permit, franchise or otherwise, shall only be located within the Rights-of-Way of Arterial Streets as defined by this Article. It is intended that local or individual distribution lines directly attaching to individual customer service lines shall be located in the Rights-of-Way of Collector and Local Streets.

D. This Article shall not apply to any ownership, operation or maintenance of the plants, systems and facilities or upon the Rights-of-Way of the City which is performed and carried out in accordance with the terms and provisions of the grant or franchises between the City and an authorized Franchise Holder or Public Service Franchise.

For the purposes of this Article, the following terms, phrases, words, and abbreviations shall have the meanings given herein, unless otherwise expressly stated.

A. City means the City of Fairview.

B. Emergency means a condition that poses a clear and immediate danger to life or health, of a significant loss of property, or requires immediate repair or replacement in order to restore service to the public or a customer.

C. Excavate means to dig into, around or under, or in any way remove or physically disturb or penetrate any part of the Rights-of-Way, including but not limited to boring, blasting, pushing, and drilling holes for the installation of poles or conduit.

D. Facility or Facilities means all or any part of a collective system of tangible things including but not limited to pipelines, conduits, copper or fiber optic cabling, pedestals, guy wires, anchors, vaults, junction boxes, utility poles and electrical wiring, that is partly or entirely located in the rights-of-way and is used for the transmission of goods or services, including but not limited to natural gas, steam, chilled or potable water, electricity, cable television or telecommunications service, regardless of whether the services are provided for a fee, or provided to the general public, to a limited group of private users, or solely for the benefit of the owner of the system.

E. Franchise holder means a holder of a voter approved public service franchise.

F. Obstruct means to place any tangible object or material in the Rights-of-Way in a manner that stops, hinders, disrupts or otherwise interferes with free and open passage over a specific area or part of the Rights-of-Way.

G. Occupant means any person to whom a ROW Construction Permit has been issued for the purposes of placing, owning, operating or managing Facilities in the Rights-of-Way.

H. Occupancy Permit Fee shall be the fee that covers an apportioned share of the costs to the City of acquiring and maintaining the Rights-of-Way.

I. Person means any natural or corporate person, business

association or other business entity including but not limited to a partnership, a sole proprietorship, a political subdivision, a public or private agency or authority of any kind, a utility, a successor or assign of any of the foregoing, or any other legal entity, but not the City.

J. Public Service Franchise means the authorization granted by the City, and approved by a vote of the people, giving the grantee and nonexclusive right to provide, through public Facilities maintained or operated upon, across, beneath, or over any rights-of-way in the City, any general public service, including heat, light, power, refrigeration, steam, or telecommunications service or cable television, within a defined franchise area.

K. Rights-of-Way (ROW) Construction Permit means an authorization to excavate in or obstruct Rights-of-way at a specific place and time, for the purposes of installing, constructing or maintaining Facilities within a specified portion of the Right-of-Way.

L. Rights-of-Way or ROW means the surface, the air space above ground, and the area below the surface of any public street, highway, parkway, lane, path, alley, sidewalk, boulevard, drive, bridge, tunnel, adjacent easement or similar property in which the City now or hereafter holds a property interest and/or a maintenance responsibility which, consistent with the purposes for which it was dedicated, may be used for the purpose of constructing, installing, operating and maintaining Facilities of any kind, including but not limited to conduits, pipelines, cables, utility poles, junction boxes and duct banks. Rights-of-Way does not include buildings, parks or other property owned or leased by the City, its trusts, or authorities, but does include all Arterial, Collector and Local Street Rights-of-Way.

M. Traveling Surface means that portion of the Arterial Rights-of-Way, paved with either asphalt or concrete, or other material designed to support vehicular traffic, lying between those portions of the Arterial Rights-of-Way that are unpaved.

Section 14-302 ADMINISTRATION

A. General. The City Manager shall be responsible for the administration and enforcement of this Article, and his responsibilities shall include:

1. The administration of the registration of ROW Occupants, issuance of Permits, calculation of ROW Occupancy Permit Fees, maintenance of Facilities information, administration records and

all other duties related to the maintenance of records on ROW Occupants; and

2. The administration and enforcement of matters related to Rights-of-Way Construction Permits and the enforcement of engineering standards as outlined in this Article.

B. City Clerk. The City Clerk shall be the primary City official responsible for administration of all insurance requirements and collection activities provided for in this Article.

C. Public Works Director. All installations placed on poles in the right of way shall be coordinated by the City Manager with the Public Works Director and the Public Works Director shall have the final authority with respect to such installations.

Section 14-303 AUTHORITY TO OCCUPY THE RIGHTS-OF-WAY

A. General. Any person subject to this Article wishing to construct, install, operate or maintain any Facilities in the Rights-of-Way shall first obtain proper authorization, as described in this section.

B. Right-of-Way Construction permits. No person shall obstruct the Traveling surface or construct new Facilities or do maintenance work of Facilities or cut the pavement or put Facilities under the pavement or any new pole installation of any defined Rights-of-Way without first obtaining a Rights-of-Way Construction Permit pursuant to Section 14-304. This section does not apply to any governmental unit or entity engaged in the official act of maintaining any element of its transportation system, including but not limited to the State of Oklahoma, the City of Fairview, or the U.S. Government.

Section 14-304 RIGHTS-OF-WAY CONSTRUCTION PERMITS

A. Permit Requirement. To apply for a Rights-of-Way Construction Permit, an applicant shall furnish the following:

1. Name of the owner or operator of the Facility; and
2. Dates of the construction activity, the proposed start and stop times and any proposal to temporarily reopen any roadway for any "peak hour" period; and
3. The names of any known subcontractors working on the proposed project under the applicant's responsibility and authority; and

4. Proof of payment of all money due the City for Rights-of-Way Construction and Occupancy Permit fees, and any invoiced cost, loss, damage, or expense suffered by the City as a result of the applicant's prior construction activity including but not limited to any emergency action taken by the City; and

5. Evidence that the applicant has obtained the insurance coverage required by Section 14-307 of this Article; and

6. A traffic control plan in compliance with Section 14-306 of this Article; and

7. A list of the applicant's emergency providers, including the name of the company, local contact person, mailing and e-mail address, 24-hour emergency phone number, and pager or fax number.

8. Detailed Engineering plans. The plans shall show the location and area of the proposed project, the locations of all existing and proposed equipment and Facilities, the height and/or depth of the proposed equipment and existing Facilities, and the spatial relationship with any adjacent infrastructure, rights-of-way line, easement, utility, and/or other physical features.

B. Application Fee. Applicants shall be required to pay a non-refundable application fee of One Hundred Fifty Dollars (\$150.00), which shall be paid to the City Clerk.

C. Permit Terms and Conditions. Each Rights-of-Way Construction Permit shall describe the general location of the permitted project, the size of the obstructed area, the duration of the permit, which shall be based on the amount of time estimated for completion of the permitted activity, and any special conditions or other information deemed relevant by the City Manager. A Rights-of-Way Construction Permit shall be issued or denied within ten (10) days of submission of a completed application and payment of all required fees. In the event of denial, the City Manager shall advise the applicant of all steps necessary to secure approval of the permit.

D. Emergency Permits.

1. An Emergency Rights-of-Way Construction Permit is available for projects. Any emergency excavation required to maintain the safety and well-being of the general public should be commenced without delay. Notification must be provided to the City Manager within two hours of the commencement of the project. This notification shall consist of the following:

a. Anticipated date, duration, start and stop time, location

(site address if possible) including nearest cross street; and

b. Size of the obstruction and work area less any normal traffic control in advance; and

c. Applicant's company name; and

d. Facility owner's name; and

e. Local contact information; and

f. General description of the type of construction activity and/or Facilities installed.

2. Persons holding an Emergency ROW Construction Permit shall notify the City Manager upon the completion of the project. All persons, including Franchisees, engaged in an activity within the Arterial Rights-of-Way not specifically exempt in this section, must notify the City Manager that an obstruction will occur.

E. Permit Conditions. The Applicant shall adhere to the following requirements:

1. All current engineering requirements and construction standards as described in Section 14-306 of this Article; and

2. All current Rights-of-Way Construction Permits shall be maintained on each work site. All Rights-of-Way Construction Permits shall be presented upon request to any representative of the City Manager; and

3. Excavation projects are subject to the requirements of Section 14-306 of this Article; and

4. All restoration work required of any roadway pavement by any permit holder shall be performed by the Occupant's paving contractor, who shall be bonded in accordance with the City's Engineering Standards and Specifications. Upon completion of the work and the subsequent removal of the obstruction, the Occupant shall be obligated to notify the City Manager that the obstruction has been removed.

F. Failure to Apply. Any person that fails to comply with this section shall be precluded from obtaining any Rights-of-Way Construction Permit or performing any further construction within the City's Arterial Rights-of-Way for up to twelve (12) months from the date of notification, in addition to any monetary penalty imposed pursuant to Section 14-320 of this Article.

Section 14-305

OCCUPANCY PERMIT FEES

A. Except as provided in this section, every ROW Occupant shall pay an annual Permit Fee as set by Resolution to reimburse the City for the cost of acquiring, maintaining, and managing the Arterial Rights-of-Way. The Permit Fee shall be computed in accordance with this section.

1. The Permit Fee shall be computed by multiplying the Occupant's pro rata share of the burden on the Arterial Rights-of-Way. This pro rata share shall be equivalent to the linear feet occupied in the Arterial Rights-of-Way, and shall be calculated as follows: For each linear foot of space less than 1 foot wide the Fee shall be fifty cents (\$.50); for each linear foot of space more than one foot but less than 2 feet wide the Fee shall be One Dollar (\$1.00); for all installations exceeding 2 feet in width, the Fee shall be Two Dollars (\$2.00). The minimum Fee shall be One Hundred Dollars (\$100.00) for each manhole, junction box and any other fixtures.

2. The Occupancy Permit Fee will be reviewed annually and adjusted based on the increase or decrease of the CPI-Urban Users Index. The purpose of this review is to examine whether the Fee is under or over recovering costs associated with ROW use.

Section 14-306

ENGINEERING STANDARDS

A. Allocation of Space in the Rights-of-Way. The City Manager shall have the power to establish reasonable limitations on the placement of new or additional Facilities within specific congested segments of the Rights-of-Way if there is insufficient space to accommodate all of the requests of ROW Occupants. In making such decisions, the City Manager shall strive to the extent possible to accommodate all existing and potential users of the Rights-of-Way, but shall be guided primarily by considerations of the public interest, the public's needs for the particular utility service, the width and physical condition of the Rights-of-Way, the protection of existing Facilities in the Rights-of-Way, and future City plans for public improvements and development projects which have been determined to be in the public's interest.

B. Overhead/Underground Policy. Facilities may be installed above ground in areas where existing utility Facilities are above ground and shall, unless otherwise approved by the City Manager, be installed underground in areas where existing Facilities are installed underground, subject to all applicable safety codes. The City encourages the sharing of underground and overhead Facilities. Leasing of excess space in ducts, conduits and on poles is a matter

between interested parties; however, lessees of such physical Facilities must still comply with the terms of this Article, unless otherwise expressly exempted by the City Manager. Underground Facilities shall be placed in such a manner so they can be located by the owner of the Facilities or his representative.

C. Location Criteria.

1. Corridors. The City Manager shall assign specific corridors within the Rights-of-Way, or any particular segment thereof as may be necessary, for each type of facility that is now or as the City Manager concludes may in the future be located within the Rights-of-Way. The City Manager shall establish an ideal cross section identifying the lateral and vertical position of each class of potential user. ROW Permittee's shall have the right to occupy only one corridor or section of each Rights-of-Way within the vertical zone established for the applicable class of user, as established by the City Manager. Additional corridors in the same portion of the Rights-of-Way may be granted only upon consideration of future utility uses and a demonstration by the requesting party that its current corridor does not afford sufficient space to install its Facilities. All permits issued by the City Manager or involving the installation or replacement of equipment shall be reviewed as to the proper corridor for the Facility.

2. Interference. A ROW Occupant shall not place any fixtures or equipment where the same will interfere with any existing Facility. A ROW Occupant shall locate its lines and equipment in such a manner as not to interfere unnecessarily with the usual traffic patterns (vehicular or pedestrian) or with the rights or reasonable convenience of owners of property that abuts any Rights-of-Way.

D. Construction Standards.

1. Depth. Unless agreed to in writing in advance by the City Manager, the depth of installed Facilities shall be, at a minimum, as follows:

a. Twenty-four inches (24") in soil,

b. Twenty-four inches (24") below a projected slope from the flowline of a ditch at a Three (3) horizontal and one (1) vertical slope,

c. Forty-eight inches (48") under a roadway measured from the surface of said roadway to the top of the installation,

d. Forty-eight inches (48") under a storm water or creek channel design flowline; and,

e. Cross under all water and natural gas lines at a depth of Twenty-four inches (24").

2. Backfilling/Testing. Excavations shall be promptly backfilled according to standards on file with the City Manager and the earth shall be restored to original grade to assure no hazard to vehicular, animal or pedestrian traffic. The permittee shall perform all necessary compaction tests in accordance with the latest design and construction specifications approved and disseminated by the City Manager setting forth requirements for backfill and paving cut repairs (e.g., standard concrete pavement cut and repair; standard asphalt pavement cut and repair, etc.). All test reports shall be submitted to the City Manager.

3. Replacement. The replacement of any sidewalk, any driving surface, and the base of any roadway shall comply with Engineering Standards, pursuant to engineering plates on file with the City Manager and may require additional removal to the nearest joint in all directions.

4. Trenching. A ROW Occupant shall not proceed with additional trench work exceeding a maximum of five hundred (500) feet of open trench without the approval of the City Manager.

5. Crossings. All underground crossings of paved roadways and storm water and creek channels shall be made by a bore method approved by the City Manager. Voids and all holes shall be properly grouted. Crossings shall be at approximately right angles to the roadway and in no case shall any facility be placed in any culvert or drainage pipe or within ten (10) feet of a culvert or storm sewer.

6. Erosion. Erosion prevention measures shall be incorporated into all work within the public way as recommended by the City Manager. All gutters, ditches, and other drainage features shall be maintained free and unobstructed of sediment, dirt and debris. The handling, grading, excavating, or moving of excess construction materials or the movement or cleaning of construction vehicles or equipment shall be conducted in such a manner that materials and washout will not be deposited into catch basins, gutters, ditches, or areas where runoff may carry materials into any public or private storm water system.

E. Dimension and Location Criteria. Maximum dimensions and location of associated, aboveground equipment, including but not

limited to junction boxes, duct banks, electric generators, repeaters, antennas, satellite dishes or equipment cabinets, shall meet the following criteria:

1. Associated equipment shall not be installed in such a manner so as to obstruct the view of drivers upon or entering a public street. Equipment, excluding poles, exceeding a height of twenty (20) inches shall not be placed within any intersection sight-distance triangle.

2. No equipment, including poles, cables, and guy wires, shall be placed so as to obstruct, block, obscure, or otherwise interfere with any traffic control device, fire hydrant, wheelchair ramp, or other safety device. Locations with existing or potential traffic signals shall have the overhead vehicle signal face display zones kept clear from wires and cables below a height of twenty-two (22) feet above the pavement grade. Power lines which require a ten (10) foot separation from other Facilities shall be suspended no lower than thirty-two (32) feet above the pavement grade around intersections with existing or potential traffic signals. This minimum clearance shall not be violated by sagging due to cable elongation.

3. No equipment, including poles and guy wires, shall be placed so as to obstruct the flow of pedestrian traffic, and in no case result in less than four (3) feet of clear sidewalk, without the approval of the City Manager.

F. Traffic Control and Safety.

1. Any Person occupying any portion of Rights-of-Way shall erect a barrier around the perimeter of any excavation and provide any and all traffic control devices, signs, and lights appropriate to the level of complexity of the activity, in order to protect, warn, and guide the public (vehicular and pedestrian) through the work zone. The manner and use of these devices shall be described within a traffic control plan in accordance with the Uniform Manual of Traffic Control Devices and approved by the Director of Traffic Engineering as provided for in this Article.

2. All Occupants shall implement each traffic control plan which shall be in compliance at all times with applicable city, state and federal requirements and maintain all devices in good repair. Occupants with open excavations awaiting final restoration shall maintain all devices until the Department of Public Works notifies the permittee in writing that the City or the Occupant's contractor is assuming responsibility for traffic control for the paving cut restoration.

G. As-Built Plans. Preliminary plans shall be submitted for each new construction project at the time of application for a Rights-of-Way Construction Permit. After completion of construction on each project, final as-built construction and acquisition Facility maps shall be submitted to the City Manager. Such as-built maps shall be based upon post-construction inspections to verify location.

Section 14-307

INSURANCE

A. Insurance Required. Each Occupant shall furnish an owner's protective policy, with the City as the named insured, issued by the same insurance company as the issuer of the Occupant's liability coverage in the amounts set forth below:

Comprehensive General Liability:

(other than automobile)

Personal injury, each person	\$100,000.00
Property damage, each person	\$100,000.00
Aggregate amount, each occurrence	\$1,000,000.00

Automobiles and Truck Liability:

(owned, hired and non-owned)

Personal injury, each person	\$100,000.00
Property damage, each person	\$100,000.00
Aggregate amount, each accident	\$1,000,000.00
Workers' Compensation Insurance	Statutory Amount

A certificate of self-insurance may be presented to the City of Fairview in lieu of the forgoing insurance requirements.

B. Endorsement. All insurance policies and certificates maintained pursuant to this Article shall contain the following endorsement:

"It is hereby understood and agreed that this insurance coverage may not be canceled by the insurance company nor the intention not to renew be stated by the insurance company until thirty (30) days after receipt by the City Clerk, by Certified Mail, Return Receipt Requested, of a written notice of such intention to cancel or not to renew."

C. Qualifications of Sureties. All insurance policies required to be maintained by a ROW Occupant shall be with sureties qualified to do business in the state of Oklahoma, with an A-1 or better rating of insurance by Best's Key Rating Guide, Property/Casualty Edition, and in a form approved by the City Attorney.

D. Approval. All policies of insurance, indemnification agreements and bonds executed to the City of Fairview shall be with the City Clerk who shall ascertain whether the surety is authorized to do business in the state of Oklahoma, then submitted to the City Attorney for approval as to form.

E. Prior Notice of Policy Cancellation. All liability insurance policies provide that any cancellation or reduction in coverage shall not be effective unless thirty (30) days' prior written notice thereof has been given to the City Clerk. No Occupant shall cancel any required insurance policy without submission of proof that it has obtained alternative insurance satisfactory to the City Clerk that complies with this Article.

Section 14-308

INDEMNIFICATION

A. Each Occupant shall, at its sole cost and expense, indemnify, hold harmless, and defend the City, its elected and appointed officials, officers, boards, commissions, commissioners, agents, employees, and volunteers against any and all claims, suits, causes of action (whether frivolous or otherwise), proceedings, and judgments for damages or equitable relief arising out of the installation, construction, maintenance, or operation of Facilities by the Occupant; the conduct of the Occupant's business in the City; or in any way arising out of the Occupant's enjoyment or exercise of the privileges granted by the City or applicable law, regardless of whether the act or omission complained of is authorized, allowed, or prohibited by the City, other applicable law, or the terms of any grant to occupy the Rights-of-Way.

B. Each Occupant shall indemnify and hold harmless the City, and its elected and appointed officers, officials, boards, commissions, commissioners, employees, agents, and volunteers from and against any and all claims, demands, suits, or causes of action (whether frivolous or otherwise) of any kind or nature, and the resulting losses, costs, expenses, reasonable attorneys' fees, liabilities, damages, orders, judgments, or decrees sustained by the City arising out of, or by reason of, or resulting from or of the acts, errors, or omissions of the Occupant, or its agents, independent contractors, or employees related to or in any way arising out of the construction, operation or repair of the Facilities in question.

C. The indemnity provision of this Section includes, but is not limited to, the City's reasonable attorneys' fees incurred in defending against any such action, claim, suit (whether frivolous or otherwise), or proceeding, as well as the reasonable value of any services rendered by the City Attorney, or City staff or employees.

D. Nothing in this Article shall be construed to waive any immunity the City enjoys under applicable law, or the Oklahoma Constitution.

E. Acceptance of the provisions of this section shall be a condition of all Rights-of-Way Construction Permits.

Section 14-309 NO LIMITS ON LIABILITY.

Neither the provisions of this Article nor any damages recovered by the City shall be construed to limit the liability of an Occupant for damages to the City, its elected and appointed officials, officers, boards, commissions, commissioners, agents, employees, volunteers and any other person or persons.

Section 14-310 RELOCATION OF EQUIPMENT AND FACILITIES

An Occupant shall promptly and at its own expense, with due regard for seasonal working conditions, permanently relocate its equipment and Facilities in the Rights-of-Way upon written notification by the City Manager. The City Manager shall forward a recommendation upon careful determination of the best interest of the health, safety, and welfare of the public regarding any such relocation. Such relocation shall include restoring the Rights-of-Way to the same condition it was in prior to said relocation, in accordance with the terms of this Article. An Occupant shall, within three months, at its own expense, protect, or modify any part of its Facility when required by the City by reason of traffic safety, public safety, road construction, change of street grade, installation of water, storm water, or sanitary pipes, traffic signal devices, or any other types of City improvement projects. The Public Work Director may recommend such actions in order to prevent interference by the Permittee's Facilities with: a present or future City use of the Arterial Rights-of-Way; or a capital improvement project funded and scheduled to be undertaken by the City; or an economic development project in which the City has an interest or investment. The City Manager may also recommend such actions: when the public health, safety and welfare require it; or when necessary to prevent interference with the safety and convenience of ordinary travel over the Rights-of-Way, both vehicular and pedestrian; or when aboveground equipment is located in such a manner as to create an obstruction to a driver's line of sight. The Occupant may for due cause make application to the City Manager for an extension to complete such relocation as required by this section.

The foregoing does not alter an Occupant's prior rights or obligations within an existing easement established prior to the

dedication of Rights-of-Way in establishing the party responsible for the expense of any required relocation of equipment.

Section 14-311

PRE-EXCAVATION LOCATION OF EQUIPMENT

Before an Occupant shall commence to excavate in a roadway, street, alley or other Rights-of-Way as defined in this Article, such Occupant, unless otherwise exempt by state statute, shall first notify all operators in the City who are on file with the county clerk as to having underground Facilities within the county, pursuant to the Underground Facilities Damage Prevention Act, 63 O.S.1991, §§ 142.1, *et seq.*, as supplemented; said notice shall be either directly or by notice to the statutory "Okie" One-call notification center. Each Occupant served with notice in accordance with 63 O.S.1991, § 142.6, shall locate and mark or otherwise provide the location of the underground Facilities of the operator in such a manner as to enable the excavator to determine the precise location of the underground Facilities in advance of excavation. In any event, should the excavator in the course of excavation discover and damage an unmarked utility, the City of Fairview shall be indemnified from liability for any damage that should occur due to the failure on the part of either the excavator or the Occupant.

Section 14-312

DAMAGE TO OTHER FACILITIES

A. Damage to Other Facilities. Each Occupant shall comply fully with the Underground Facilities Damage Prevention Act, 63 O.S.1991, §§ 142.1, *et seq.*, as supplemented.

Section 14-313

ABANDONED AND UNUSABLE FACILITIES

A. Discontinuing Operations. An Occupant that has determined to discontinue its operations in the City must either:

1. Obtain the consent of the City to transfer ownership control of its Facilities pursuant to Section 14-317 and ensure that the new owner or controlling entity has applied for registration prior to closing; or

2. Submit to the City, within ninety (90) days of the planned date for discontinuance of operation, a proposal and instruments for transferring ownership of its Facilities to the City. If a Permittee proceeds under this clause, the City may at its option:

a. Purchase the Facilities; or,

b. Require the Permittee, at its own expense, to remove the Facilities.

B. Abandonment. Facilities of an Occupant who fails to comply with the preceding paragraph and which, for twelve (12) months, remains unused, shall be deemed to be abandoned. Abandoned Facilities are deemed to be a nuisance. Upon thirty (30) days' notice to the occupant, the City may exercise any remedies or rights it has at law or in equity, including but not limited to:

1. Abating the nuisance;
2. Taking possession of the Facilities and restoring them to a useable condition;
3. Requiring removal of the Facilities at the expense of the Occupant; or
4. Removing abandoned Facilities in any Rights-of-Way in conjunction with a proposed construction project.

Section 14-314 RESERVATION OF REGULATORY AND POLICE POWERS

No provision of this Article, nor any action taken by the City pursuant to this Article, shall be deemed to surrender, waive, impair, or lessen the lawful powers and rights to regulate the use or occupancy of the Rights-of-Way that now or may be hereafter vested in the City under the Constitution and statutes of the state of Oklahoma of the City of Fairview. By accepting a Rights-of-Way Construction Permit an Occupant is deemed to acknowledge that its rights are subject to the regulatory and police powers of the City as exist under applicable law to adopt and enforce general Articles necessary for the safety and welfare of the public and is deemed to agree to comply with all applicable general laws and Articles enacted by the City, pursuant to such powers. Unless otherwise expressly provided by a Rights-of-Way Construction Permit, any conflict between the provisions of any such authorization and any other present or future lawful exercise of the City's regulatory or police powers shall be resolved in favor of the City.

Section 14-315 APPEALS

An appeal may be taken to the City Council by any person aggrieved, where it is alleged there is an error in any order, requirement, decision or determination made by any person in the enforcement of this Code. The appeal must be presented upon written request to the City Clerk or his/her designee.

Section 14-316

REVOCATION

If a regulatory body or a court of competent jurisdiction should determine by a final, non-appealable order that any franchise, permit, right or registration issued under this Article or any portion of this Article is illegal or unenforceable, then any such franchise, permit, right or registration granted or deemed to exist hereunder shall be considered as a revocable permit with a mutual right of either party to terminate without cause upon giving sixty (60) days' written notice to the other. The requirements and conditions of such a revocable permit shall be the same requirements and conditions as set forth in the franchise, permit, right or registration, respectively, except for conditions relating to the term of the permit and the right of termination. If a franchise, permit, right or registration shall be considered a revocable permit as provided herein, the permittee must acknowledge the authority of the City Council to issue such revocable permit and the power to revoke it.

Section 14-317

TRANSFERS

A. Notification Required. No Transfer shall occur without prior notice to the City Manager. Notice of the Transfer must meet the requirements of Section 14-313, as applicable, and provide complete information on the proposed transaction, including the legal, financial, technical and other pertinent qualifications of the transferee as deemed necessary by the City Manager.

B. No Waiver or Release. A transfer of a Rights-of-Way Construction Permit shall not constitute a waiver or release of any of the rights of the City.

Section 14-318

EXEMPTIONS

This Article applies, to the greatest extent permissible under applicable law, to all ROW Occupants. If, on the effective date of this Article, a person holds a Franchise, or has prior rights under a contract, and the terms of this Article conflict with or impose additional requirements or obligations not contained in the franchise or contract, that person is exempted from such terms of this Article and the terms of the Franchise shall control, to the extent required by the Franchise or contract and applicable law.

Section 14-319

ENFORCEMENT

A. Remedies for Violations. If a ROW Occupant violates any provision of this Article, the City Attorney may, after providing notice to the Occupant at the address provided in the Permit and a

hearing in which the Occupant may appear and be heard, take one or more of the following actions:

1. Impose liquidated damages in the amount, if any, provided in the Rights-of-Way Construction Permit, whether per day, incident, or other measure of violation. Payment of liquidated damages by the Occupant does not relieve the Occupant of its obligation to meet the requirements of this Article;

2. Impose penalties pursuant to Section 14-320;

3. Reduce the duration of the Rights-of-Way Construction Permit on any basis the City determines is reasonable and affords the Occupant reasonable due process;

3. Revoke the Rights-of-Way Construction Permit pursuant to its terms or applicable law.

B. City Attorney's Discretion. In determining which remedy or remedies are appropriate under subsection 14-319A, the City Attorney shall consider the nature of the violation, the person or persons bearing the impact of the violation, the nature of the remedy required in order to prevent further violations, and any other matters the City Attorney determines are appropriate. In addition to or instead of these remedies, the City Attorney may seek legal or equitable relief from any court of competent jurisdiction.

C. Opportunity to Cure. Before initiating a remedy under this section, other than revocation of the Rights-of-Way Construction Permit, the City shall give the Occupant written notice of the violations claimed and at least twenty (20) working days to correct the violations.

Section 14-320

PENALTIES

The City Attorney shall have the authority to assess penalties against a ROW Occupant for failure to comply with the terms of its Rights-of-Way Construction Permit or any other portions of this Article. Any such assessment must be provided to the Occupant in writing with a Notice of Violation, and provide for a reasonable opportunity to cure the violation, provided that the violation is not a result of inclement weather. If the Occupant fails to remedy the deficiency by the end of the twenty (20) day period, the penalty amounts shall begin to accrue and shall continue to accrue until the date that the deficiency is corrected.

A. For effecting or attempting to effect a transfer without approval: \$100.00 per day for each violation for each day the

violation continues;

B. For failure to supply information, reports, or filings lawfully required under the terms of a ROW Construction Permit or applicable law or by the City: \$100 per day for each violation for each day the violation continues;

C. For failure to restore or repair damages to private property: \$300 per day, in addition to the cost of the restoration;

D. For any other violations of the City Code, Rights-of-Way Construction Permit, or other applicable law: \$200 per day for each violation for each day the violation continues;

E. For any other violations of the Fairview Municipal Code, Occupancy Permit, Rights of way Construction Permit, or other applicable law: \$200 per day for each violation for each day the violation continues.

Note: Article 3 approved as Ordinance No. 2017-04.4.2017 approved on April 4, 2017.

ARTICLE 34

DEVELOPER REIMBURSEMENT FOR UTILITY MAIN EXTENSIONS: PAYBACK OF COSTS FOR THE EXTENSION OF UTILITY MAIN CONSTRUCTION, INCLUDING THE PROVISION OF EXCESS CAPACITY IN SUCH NEW UTILITY MAINS

Section 14-401 DEVELOPER REIMBURSEMENT FOR UTILITY MAIN EXTENSIONS: PAYBACK OF COSTS FOR THE EXTENSION OF UTILITY MAIN CONSTRUCTION, INCLUDING THE PROVISION OF EXCESS CAPACITY IN SUCH NEW UTILITY MAINS.

A. The eligible costs for the extension of public utility mains constructed at the expense of a developer, including the provision of excess capacity in such public utility mains (water/sewer as defined herein), shall be recoverable by the developer as provided herein. Eligible recoverable public utility main extension or excess capacity costs include the developer's expense in constructing the public utility main, including all right-of-way/easement costs (both temporary and permanent) and costs for engineering, surveying, utility adjustments or relocation, excavation, backfill, sub-grade preparation, pavement repair, utility main construction and other amenities, as might be required, all of which costs are subject to the review and approval of the City Manager (hereinafter the "eligible costs"). The developer shall be paid 90% of the eligible costs reimbursed from third parties as provided herein, with the City retaining 10% as an

administrative fee. The City and the developer shall enter into a contract providing for the reimbursement of such costs by the City to the developer for such extension, including the provision of excess capacity, from third parties desiring to connect to such utility main as provided herein. The eligible costs as approved by the City Manager shall be attached to and made a part of such contract.

B. Any person, firm or corporation desiring to connect to any utility main subject to this section shall pay to the City a fee equal to the percentage that such person, firm or corporation's usage volume of such utility main relates to the total main's capacity X the eligible cost ("pro-rata share").

(Connector's usage volume/utility main capacity X eligible costs=pro-rata share)

The City's engineer shall make such determination at the time the person, firm or corporation makes application for a connection to the utility main or the City may make such determination by reference to the water and sewer tables attached to this ordinance, found in the files of the City Clerk and incorporated herein by reference. Such person firm or corporation shall pay their pro-rata share prior to approval of the connection. In the event a permit, tap, connection or permission is given or granted by the City to any third party to a utility main governed by the terms of this section, without the payment of such required pro-rata share, by negligent act or omission or otherwise, the City may, after at least ten (10) days written notice of such fact is given to such offending person, firm or corporation, disconnect such person, firm or corporation's water utility service until such pro-rata share is paid.

C. Only utility mains subject to this section and constructed after March 1, 2019, shall be subject to the pro-rata share payback program.

D. Each person, firm or corporation identified in subsection (b) and subject to the pro-rata share payback program shall pay their pro-rata share subject to an Inflation/deflation adjustment. Such adjustment shall be calculated using an inflation factor from the Engineering News Record Construction Cost Index. The inflation factor shall be a percentage increase or decrease applied to the pro-rata share that adjusts the amount due for these costs. The year that the utility main improvement is constructed shall constitute the base year. The latest available year before the new tap is made shall be the comparison year. The inflation factor will be calculated by dividing the base year index into the comparison year index times the pro-rata share. The value of the base factor in place at the time the City Council adopts the contract with a

developer will be applied to that project until all funds are paid back or the obligation expires, whichever occurs first.

E. Beginning at year sixteen (16) after the utility main is completed and accepted by the City and continuing through year twenty (20), the eligible costs shall decrease at a rate of twenty (20) percent of the eligible cost amount existing at the end of the fifteenth year until the eligible cost obligation is reduced to zero dollars (\$0.00) and thus terminates at the end of the twentieth year from the date of construction and acceptance of the utility main.

F. This ordinance shall not apply in the event that an easement or other contract approved or accepted by the City specifically provides for a different or no-cost requirement, or if the City Council declares an exception to the rule by a 3/4 vote of all the members of the City Council.

G. The City's sole responsibility to the developer shall be to reimburse funds received by it from third parties pursuant to the terms of this section. The City shall have no liability or indebtedness or other obligation whatsoever to the developer.

H. Any person, firm or corporation who deems himself aggrieved by the terms and conditions of this section shall have a right of appeal to the City Council. The City Council's decision shall be final in all respects.

I. For purpose of this section "public utility main" or "utility main" shall mean:

Six inches (6") or larger for water mains

Eight inches (8") or larger for sewer

mains

CHAPTER 15 TRAFFIC AND VEHICLES

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CHAPTER 15: TRAFFIC AND VEHICLES

ARTICLE 1

GENERAL PROVISIONS

Section 15-101 CITATION OF CHAPTER.

The chapter and all amendments hereto may be cited or referred to as the "Traffic Code, City of Fairview", and may so appear upon all official documents, records or instruments.

Section 15-102 TRAFFIC CODE CONTROLLING.

Except as specifically provided by law as set forth in this chapter, the traffic code shall be controlling and apply to the use of City streets, alleys, thoroughfares, parks parkways, public parking lots, school driveways, streets, parking lots, or any other public right-of-way or municipally-owned land, including streets and other ways that form the boundary line of the City, by pedestrians and by vehicles of every kind whether self-propelled or otherwise and whether moving or at rest.

Section 15-103 DEFINITIONS.

As used herein:

1. "Alley" means any narrow highway ordinarily located in the interior portion of platted blocks and ordinarily used for service or delivery purposes at the rear of stores, dwellings, or buildings;

2. "Ambulance" means a motor vehicle constructed, reconstructed or arranged for the purpose of transporting ill, sick, or injured persons;

3. "Bicycle" means a device propelled by human power upon which any person may ride, having two (2) tandem wheels;

4. "Bus" means every motor vehicle designed for carrying more than ten (10) passengers and used for the transportation of persons, and every motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation;

5. "Business district" means the territory contiguous to, and including a highway if there are buildings within six hundred (600) feet of the highway in use for businesses or industrial purposes, including but not limited to hotels, banks, or office buildings, railroad stations, and public buildings which occupy at

least three hundred (300) feet of frontage on one side or three hundred (300) feet collectively on both sides of the highway;

6. "Controlled access highway" means every highway, street or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same except at such points only and in such manner as may be determined by the public authority having jurisdiction over such highway, street or roadway;

7. "Commercial vehicles" means every vehicle designed, maintained, or used primarily for the transportation of property;

8. "Center lane" means any clearly marked center lane. If the center lane is not marked and no cars are parked on the roadway, then the center lane is equally distanced between the curbs or traveled portion of the roadway. In the event a vehicle or vehicles are parked on one side of the roadway only, then the center lane is equally distanced from the side of the parked vehicle or vehicles toward the street and curb on the opposite roadway. If vehicles be parked on each side of the roadway, then the center lane is equally distanced from the edges of the parked vehicles;

9. "Cross walk" means that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the street measured from the curbs; or in the absence of curbs from the edges of the traversable roadway. "Cross walk" also means any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface;

10. "Double park" means parking or stopping a vehicle on the roadway side of another vehicle already parked adjacent to the edge or curbing of the roadway;

11. "Driver or operator" means a person who drives or is in actual physical control of a vehicle;

12. "Emergency" means an unforeseeable occurrence of temporary duration causing or resulting in an abnormal increase in traffic volume, cessation or stoppage of traffic movement, or creation of conditions hazardous to normal traffic movement, including fire, storm, accident, riot, or spontaneous assembly of large numbers of pedestrians in such a manner as to impeded the flow of traffic;

13. "Emergency vehicle" means vehicles of the fire department, police vehicles and ambulances;

14. "Highway", see street;

15. "Intersection" means:

a. The area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadway of two (2) streets, which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different streets join at any other angle, may come in conflict; or

b. Where a street includes two (2) roadways thirty (30) feet or more apart, then every crossing of each roadway of such divided street by an intersection street, shall be regarded as a separate intersection. In the event such intersecting street also includes two (2) roadways thirty (30) feet or more apart, then every crossing of two (2) roadways of such streets shall be regarded as separate intersections;

16. "Laned roadway" means a roadway which is divided into two (2) or more clearly marked lanes for vehicular traffic;

17. "Limited access highway", see controlled access highway;

18. "Loading zone" means a space adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers or material. A freight curb loading zone is a loading zone for the exclusive use of vehicles during the loading or unloading of freight; a passenger curb loading zone is a loading zone for the exclusive use of vehicles during the loading or unloading of passengers;

19. "Limit lines" means boundaries of parking areas, loading zones and non-traffic areas and lines indicating the proper place for stopping where stops are required;

20. "Motor cycle, motor scooter, and motor bicycle" mean a motor vehicle, other than a tractor, having a seat or saddle for the use of the driver and designed to travel on no more than three (3) wheels in contact with the ground, but excluding a tractor;

21. "Motor vehicle" means every vehicle which is self-propelled;

22. "Official time" shall mean whenever certain hours are named herein they shall mean Central Standard Time, or Daylight Savings Time, as may be in current use in the City;

23. "Official traffic control device" means all signs, signals, markings, and devices not inconsistent with this ordinance, placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning, or guiding traffic;

24. "Park or parking" means the standing of a vehicle whether occupied or not, otherwise than temporarily for the purpose of, and while actually engaged in loading or unloading merchandise or passengers, providing such loading and unloading is an authorized place;

25. "Pedestrian" means any person a foot;

26. "Police officer" means every officer of the municipal police department, or any officer authorized to direct or regulate traffic, or to make arrests for violation of traffic regulations;

27. "Private road or roadway" means a way or place in private ownership or leading to property in private ownership and used for vehicular traffic by the owner and those having express or implied permission from the owner;

28. "Public parking lot" means a parking lot or right of way dedicated to the public use or owned by the state or a political subdivision thereof;

29. "Railroad" means a carrier of persons or property upon cars other than streetcars operated upon stationary rails;

30. "Railroad train" means a steam engine, electric or other motor, with or without cars coupled thereto, operated upon rails, except streetcars;

31. "Residence district" means the territory contiguous to and including a highway not comprising a business district;

32. "Right-of-way" means the right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under such circumstances of direction, speed and proximity as to give rise to danger of collision unless one grants precedence to the other;

33. "Roadway" means that portion of a street improved, designed, ordinarily used for vehicular travel, exclusive of the shoulders. In the event a street includes two (2) or more separate roadways, the term roadway, as used herein, shall refer to any such roadway, separately, but not to all such roadways, collectively;

34. "Safety zone" means the area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times, while set apart as a safety zone;

35. "School zone" means all streets or portions of streets immediately adjacent to a school, or school ground, where same is adjacent and for a distance of three hundred (300) feet in each direction;

36. "Sidewalk" means that portion of a street between the curblines or at lateral lines of the roadway and adjacent property lines, intended for the use of pedestrians;

37. "Stand" or "standing" means any stopping of a vehicle whether occupied or not;

38. "Stop", when required, shall mean the complete cessation from movement;

39. "Stop or stopping", when prohibited, means any halting even momentarily of a vehicle whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the direction of a police officer or traffic signal;

40. "Street or highway" means the entire width between the boundary liens of every way publicly maintained when any part thereof is opened to the use of the public for purposes of vehicular travel;

41. "Through street or highway" means a street, or boulevard or highway or portion thereof at the entrances to which:

a. Vehicular traffic from intersecting streets or highways is required by law to come to a full stop before entering or crossing; and

b. Stop signs are erected as provided in this part;

42. "Traffic" means pedestrians, ridden or herded animals, vehicles and other conveyances, either singularly or together, while using any highway or street for purpose of travel;

43. "Traffic control devices or signals" mean any device legally authorized and used for the purpose of regulating, warning or guiding traffic;

44. "Urban district" means the territory contiguous to and

including any street which is built up with structures devoted to business, industry, or dwelling houses situated at intervals of less than one hundred (100) feet for a distance of a quarter mile or more;

45. "U-turn" means a turn by which a vehicle reverses its course of travel on the same street; and

46. "Vehicle" means every device in, upon or by which any person or property is, or may be transported, or drawn, upon a highway or street, except devices moved by human power or used exclusively upon stationary rails or tracks.

State Law Reference: Definitions, state traffic code, 47 O.S. Section 1-101 et seq.

Section 15-104 ADOPTION OF STATE TRAFFIC CODE.

The provisions of the state motor vehicle code, Sections 1-101 et seq. of Title 47 of the Oklahoma Statutes, and the Rules of the Road, Sections 10-101 et seq. of Title 47 of the Oklahoma Statutes, are hereby adopted and incorporated herein by reference, and are enforceable by the City within the City limits as if set out at length herein.

State Law Reference: State rules of the road, 47 O.S. Section 10-101 et seq.; state motor vehicle code, 47 O.S. Section 1-101 et seq.

ARTICLE 2

ENFORCEMENT AND GENERAL PROVISIONS

Section 15-201 ENFORCEMENT OF TRAFFIC LAWS; ESTABLISHMENT OF TRAFFIC CONTROL DIVISIONS.

It is the duty of the officers of the police department or any officers that are assigned by the chief of police to enforce all street traffic laws of this City and all the state vehicle laws applicable to street traffic in this City. Officers of the department shall make arrests for traffic violations, investigate accidents, and cooperate with other officers in the administration of the traffic laws and in developing ways and means to improve traffic conditions, and to carry out those duties specially imposed upon the department by this part and any other traffic ordinances of this City. Officers may issue written notice to appear to any driver of a vehicle involved in an accident when, based on personal investigation, the officer has reasonable and probable grounds to

believe that the person has committed an offense under the provisions of the traffic code in connection with the accident.

Section 15-202 DIRECTION OF TRAFFIC BY HAND OR VOICE.

A. Officers of the police department or any officers designated by the chief of police are hereby authorized to direct traffic by voice, hand, or signal in conformance with traffic laws and ordinances. In the event of a fire or other emergency or to expedite traffic or to safeguard pedestrians, officers of the police department may direct traffic as conditions may require notwithstanding the provisions of the traffic laws and ordinances.

B. Officers of the fire department, when at the scene of a fire, or other emergency, may direct or assist the police in directing traffic in the immediate vicinity.

Section 15-203 DIRECTION OF TRAFFIC BY UNAUTHORIZED PERSONS.

No unauthorized person shall direct or attempt to direct traffic, except in case of emergency where no officer is present.

Section 15-204 OBEDIENCE TO POLICE AND FIRE OFFICIALS.

No person shall willfully fail or refuse to comply with any lawful order or direction of a police officer or fire department official.

Section 15-205 EMERGENCY AND EXPERIMENTAL REGULATIONS.

A. The City Manager, subject to any directions which the Council may give by motion or resolution, is empowered to adopt regulations necessary to make effective the provisions of the traffic ordinances of this City and to make temporary or experimental regulations to cover emergencies or special conditions. No such temporary or experimental regulation shall remain in effect for more than ninety (90) days.

B. The City Manager may have traffic control devices tested under actual conditions of traffic.

Section 15-206 PUSH CARTS, RIDING ANIMALS, OR DRIVING ANIMAL-DRAWN VEHICLES TO COMPLY WITH CODE.

Every person propelling any push cart or riding an animal upon a roadway, and every person driving any animal-drawn vehicle, shall be subject to the provisions of this chapter applicable to the driver of any vehicle, except those provisions of this chapter which

by their very nature can have no application.

State Law Reference: Similar provisions; 47 O.S. Section 11-104.

Section 15-207 USE OF COASTERS, ROLLER SKATES, AND SIMILAR DEVICES RESTRICTED.

No person upon roller skates, or riding in or by means of any coaster, toy vehicle, or similar device, shall go upon any roadway except while crossing a street on a crosswalk; and when so crossing, such person shall be subject to all of the duties applicable to pedestrians. This Section shall not apply upon any street while set aside as a play street as authorized by ordinances of this City.

Section 15-208 PUBLIC OFFICERS AND EMPLOYEES TO OBEY TRAFFIC REGULATIONS.

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, any state, county, City, or governmental unit or agency, as well as to other vehicles. It is unlawful for any such driver to violate any of the provisions of this chapter, except as otherwise permitted by state statute. This chapter shall not apply to the military forces of the United States and organizations of the National Guard when performing any military duty.

State Law Reference: Municipal drivers to obey state rules of the road, 47 O.S. Section 16-103.

Section 15-209 PERSONS WORKING ON STREETS, EXCEPTIONS.

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. All street or highway and public utility operations shall be protected by adequate warning signs, signals, devices, or flagpersons. The provisions of this chapter shall apply to any of the persons and vehicles exempted by this Section when traveling to and from such work.

Section 15-210 MAINTENANCE AND CONSTRUCTION ZONES.

A. City personnel or contractors, while repairing or improving the streets of the City, and City personnel and utility

companies, when installing, improving, or repairing lines or other utility facilities in the streets, are hereby authorized as necessary, subject to control by the City Council, to close any street or section thereof to traffic during such repair, maintenance, or construction. In exercising this authority, the appropriate personnel, contractor or utility company shall erect or cause to be erected proper control devices and barricades to warn and notify the public that the street has been closed to traffic.

B. When any street has been closed to traffic under the provisions of Subsection A of this Section and traffic control devices or barricades have been erected, it is unlawful for any person to drive any vehicle through, under, over, or around such traffic control devices or barricades, or otherwise to enter the closed area.

The provision of this subsection shall not apply to persons entering the closed area or zone for the protection of lives or property. Persons having their places of residence or places of business within the closed area may travel, when possible to do so, through the area at their own risk.

C. Whenever construction, repair or maintenance of any street or utility line or facility is being performed under traffic, the City personnel, contractor, or utility company concerned shall erect, or cause to be erected, traffic control devices to warn and guide the public. Every person using the street shall obey all signs, signals, markings, flagpersons, or other traffic control devices which are placed to regulate, control, and guide traffic through the construction or maintenance area.

Section 15-211 AUTHORIZED EMERGENCY VEHICLES.

A. The driver of an authorized emergency vehicle, when responding to an emergency call or when in the pursuit of an actual or suspected violator of the law or ordinance or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this Section, but subject to the conditions stated in this Section.

B. The driver of an authorized emergency vehicle may do any of the following when in pursuit of an actual or suspected violator of the law or ordinance or when responding to but not returning from a fire alarm:

1. Park or stand, irrespective of the provisions of this chapter;

2. Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;

3. Exceed the maximum speed limits so long as life or property is not endangered; or

4. Disregard regulations governing direction of movement or turning in specific directions.

C. The exemptions granted in this Section to an authorized emergency vehicle shall apply only when the driver of any such vehicle is making use of audible and visual signals as required by law, except that an authorized emergency vehicle operated as a police vehicle need not be equipped with or display a red light visible from in front of the vehicle.

D. The provisions of this Section shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others.

State Law Reference: Emergency vehicle driving rules, 47 O.S. Section 11-106.

Section 15-212 OPERATION OF VEHICLES ON APPROACH OF AUTHORIZED EMERGENCY VEHICLES.

A. Upon the immediate approach of an authorized emergency vehicle making use of audible and visual signals meeting the requirements of the laws of this state, or of a police vehicle properly and lawfully making use of an audible signal only, the driver of every other vehicle shall yield the right of way and shall immediately drive to a position parallel to, and as close as possible to, the right-hand edge or curb of the roadway clear of any intersection, and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer.

B. This Section shall not operate to relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway.

State Law Reference: Authorized emergency vehicles and their equipment, 47 O.S. Section 11-106, 11-405, and 12-218; approach of emergency vehicles, 47 O.S. Section 11-405.

Section 15-213

FOLLOWING EMERGENCY VEHICLES PROHIBITED.

The driver of any vehicle other than the one on official business shall not follow any police vehicle, ambulance, civil defense vehicle, fire apparatus, or other emergency vehicle traveling in response to an emergency call or request closer than five hundred (500) feet, or drive into or park such vehicle within the block where the emergency vehicle has stopped in answer to an emergency call.

State Law Reference: Similar provisions, 47 O.S. Section 11-1108(a).

Section 15-214

CROSSING FIRE HOSE.

No vehicle shall be driven over any unprotected hose of a fire department used at any fire or alarm of fire, without the consent of the fire department official in command.

State Law Reference: Similar provisions 47 O.S. Section 11-1109.

Section 15-215

POSSESSION OF VALID DRIVER'S LICENSE REQUIRED.

A. No person shall operate any motor vehicle on the highways without having in his possession at all times, when operating such motor vehicle, an unrevoked or unsuspended operator's or chauffeur's license as required by the laws of the state, unless such person is specifically exempted from such laws by the provisions thereof. No person charged with violating this Section shall be convicted if he produces in court an operator's or chauffeur's license issued to him and valid at the time of his arrest.

B. No person shall operate a motor vehicle in any manner in violation of any restriction that may be imposed in a restricted license issued to him.

State Law Reference: Driver's licenses, 47 O.S. Section 6-101.

Section 15-216

OPERATION OF VEHICLE ON INVALID LICENSE PROHIBITED.

A. No person shall operate a motor vehicle when his privilege to do so is canceled, suspended, revoked or denied. Any person convicted of violating this Section shall be punished as provided in Section 1-108 of this code. Each act of driving on the streets or highways as prohibited by this Section shall constitute a separate offense.

B. It is unlawful for any person:

1. To lend one's own license or identification card to any other person or knowingly permit the use thereof by another.

2. To display or cause or permit to be displayed or to possess a license or identification card issued to oneself which bears altered information concerning the date of birth, expiration date, sex, height, eye color, weight or license or card number.

3. To permit any unlawful use of a license or identification card issued to oneself, or

4. To add to, delete from, alter, or deface the required information on a driver license or identification card.

Note: Subsection B added by Ordinance 2006-10.

Section 15-217 UNLAWFUL TO OPERATE VEHICLE WITHOUT STATE
VEHICLE LICENSE.

It is unlawful to operate a vehicle of any kind upon a street of the City without a state vehicle license as may be required by law or to fail to display the state vehicle license as may be required by law.

Section 15-218 PERMITTING UNAUTHORIZED PERSON TO DRIVE
PROHIBITED.

No person shall authorize or knowingly permit any vehicle owned by him or under his control to be driven upon any highway by any person who is not authorized under the provisions of the laws of the state to operate such vehicle.

Section 15-219 ACCIDENTS, DUTY TO STOP, LEAVING SCENE OF
ACCIDENT.

A. The driver of any vehicle involved in an accident resulting in injury to, or death of, any person shall immediately stop such vehicle at the scene of the accident, or as close thereto as possible and shall then forthwith return to, and in every event shall remain at the scene of the accident until he has fulfilled the requirements of Subsections C and D hereof. Every such stop shall be made without obstructing traffic more than is necessary.

B. The driver of any vehicle involved in an accident resulting only in damage to a vehicle, which is driven or attended by any person, shall immediately stop such vehicle at the scene of the

accident, or as close thereto as possible, and shall forthwith return to, and in every event shall remain at the scene of the accident until he has fulfilled the requirements of Subsection C hereof. Every such stop shall be made without obstructing traffic more than is necessary.

C. The driver of any vehicle involved in an accident shall give his correct name and address and the registration number of the vehicle he is driving; and shall exhibit his operator's or chauffeur's license to the person struck, or the driver, or person injured in the accident reasonable assistance. If the driver does not have any operator's or chauffeur's license in his possession, he shall exhibit other valid evidence of identification to the occupants of a vehicle, or to the person collided with.

D. The driver shall upon request and if available exhibit his operator's or chauffeur's license and his security verification form, to the person struck or the driver or occupant of or person attending any vehicle collided with, and shall render to any person injured in such accident reasonable assistance, including the carrying of the person to a physician, surgeon or hospital for medical or surgical treatment if it is apparent that such treatment is necessary or if such carrying is requested by the injured person.

E. Any driver of any vehicle involved in an accident who is cited for any traffic offense where said accident resulted in the immediate death of any person shall submit to drug and alcohol testing as soon as practicable after such accident occurs. The traffic offense violation shall constitute probable cause for purposes of 47 O.S. Section 752 and the procedures found in Section 752 shall be followed to determine the presence of alcohol or controlled dangerous substances within the driver's blood system.

F. Any person failing to stop or to comply with any of the requirements of this Section shall be guilty of a misdemeanor and upon conviction thereof shall be punished as provided in Section 1-108 of this code.

State Law Reference: Similar provisions, accident reports, 47 O.S. Section 6-303.

Section 15-220 DUTY OF STRIKING UNATTENDED VEHICLES, FIXTURES.

A. The driver of any vehicle which collides with a vehicle which is unattended shall immediately stop, and shall then and there either locate and notify the operator or owner of the vehicle, of the correct name and address of the driver and the owner of the vehicle striking the unattended vehicle, or shall leave in a conspicuous

place in or on the vehicle struck a written notice giving the correct name and address of the driver and of the owner of the vehicle doing the striking, and shall provide the same information to an officer having jurisdiction.

B. The driver of any vehicle involved in an accident resulting in damage to fixtures legally upon or adjacent to a street shall take reasonable steps to locate and notify the owner or person in charge of such property, of the fact, and of his name and address, and of the registration number of the vehicle he is driving, and shall exhibit his operator's or chauffeur's license, if the operator's or chauffeur's license is in his possession at that time, and the driver shall make report of such accident when and as required by law.

Section 15-221 REPORTING ACCIDENTS.

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 in which it is apparent that damage to one vehicle or to the property is in excess of Three Hundred Dollars (\$300.00) shall, as soon as practicable, report such accident to a police officer or to the police department unless settlement of the collision has been made within six (6) months after the date of the accident. If a driver makes out a written report of the accident in the office of the police department as soon as practicable after the accident, which report is to be forwarded to the State Department of Public Safety in accordance with state law, the driver shall be deemed to be in compliance with this Section.

State Law Reference: Similar provisions, 47 O.S. Section 10-108.

Section 15-222 ISSUANCE OF CITATION TAGS.

A. Police officers are hereby authorized to give notice to persons violating provisions of this article 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, among other things, shall bear 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 the time as may be specified thereon.

B. Nothing in this Section shall be construed to abridge the power of the police officer to arrest any violator and take him into custody.

C. The chief of police may require that the police officers use citation tags furnished by the City and that such tags are serially numbered, and may regulate the use and handling of the citation tags.

Section 15-223 WHEN COPIES OF CITATIONS SHALL BE DEEMED A LAWFUL COMPLAINT.

In the event that form of citation provided herein includes information and is sworn to, then such citation, when filed with the municipal court, shall be deemed to be a lawful complaint for the purpose of prosecution under this chapter.

Section 15-224 FAILURE TO COMPLY WITH TRAFFIC CITATIONS ATTACHED TO PARKED VEHICLE.

If a violator of the restrictions on stopping, standing, or parking under the traffic laws or ordinances does not appear in response to a traffic citation affixed to such motor vehicle within a period of days as specified on the citation, the clerk of the municipal court may send to the owner of the motor vehicle to which the traffic citation was affixed a letter informing him of the violation and warning him that in the event such letter is disregarded for the specified period of days, a warrant of arrest may be issued. On any occasion where two (2) or more such traffic citations have been affixed on the same motor vehicle and the traffic citations have been disregarded, a warrant of arrest may be issued without sending the letter provided in this Section.

Section 15-225 PRESUMPTION IN REFERENCE TO ILLEGAL PARKING.

A. 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 law or regulation, together with the proof that the defendant named in the complaint was at the time of the parking the registered owner of the vehicle, shall constitute in evidence a prima facie presumption that the registered owner of the vehicle was the person who parked or placed the vehicle at the point where, and for the time during which, the violation occurred.

B. The presumption in Subsection A of this Section shall apply only when the procedure as prescribed in this Section has been followed.

Section 15-226 ILLEGAL CANCELLATION OF TRAFFIC CITATIONS.

It is unlawful for any person to cancel or solicit the

cancellation of any traffic citation in any manner other than is provided by this chapter.

Section 15-227 COURT RECORDS; ABSTRACT TO BE SENT TO STATE DEPARTMENT OF PUBLIC SAFETY.

A. The municipal judge shall keep a record of every traffic citation deposited with or presented to the court and shall keep a record of every official action by the court or its traffic violations bureau in reference thereto, including but not limited to a record of every conviction, forfeiture of bail, judgment of acquittal, and the amount of fine or forfeiture.

B. Within ten (10) days after the conviction or forfeiture of bail of a person upon a charge of violating any provision of this chapter or other law regulating the operation of vehicle on highways, the municipal judge or clerk of the court in which the conviction was had or bail was forfeited shall prepare and immediately forward to the State Department of Public Safety a certified abstract of the court's record of the case. An abstract need not be made of any conviction involving the illegal parking or standing of a vehicle.

C. The municipal judge or court clerk shall not make such a report of a conviction involving speeding if the speed limit is not exceeded by more than ten (10) miles per hour.

D. The abstract must be made upon a form furnished by the State Department of Public Safety and shall include the name and address of the party charged, the number of his operator's or chauffeur's license, the registration number of the vehicle involved, the nature of the offense, the date of hearing, the plea, the judgement, whether bail was forfeited, and the amount of the fine or forfeiture.

Section 15-228 INSURANCE OR CERTIFICATE REQUIRED.

A. The owner of a motor vehicle registered in this state and operating the 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 issued by the State Department of Public Safety which shall be produced by any driver thereof upon request for inspection by any law enforcement officer and, in case of collision, the form shall be shown upon request to any person affected by the collision.

B. The following shall not be required to carry an owner's or operator's security verification form or an equivalent form from the department during operation of the vehicle and shall not be required

to surrender such form for vehicle registration purposes:

1. Any vehicle owned or leased by the federal or state government, or any agency or political subdivision thereof;

2. Any vehicle bearing the name, symbol or logo of the business, corporation or utility on the exterior and which is in compliance with the Compulsory Insurance Law according to records of the Department of Public Safety and which reflect a deposit, bond, self-insurance, or fleet policy;

3. Any vehicle authorized for operation, under a permit number issued by the Interstate Commerce Commission, or the Oklahoma Corporation Commission;

4. Any licensed taxicab; and

5. Any vehicle owned by a licensed motor vehicle dealer.

C. For the purpose of this Section, the following terms shall have the meanings respectively ascribed to them in this Section:

1. "Owner's Policy" means an owner's policy of liability insurance which:

a. Shall designate by explicit description or by appropriate reference all vehicle with respect to which coverage is thereby to be granted;

b. Shall insure the person named therein and insure any other person, except as provided in Subparagraph C of this paragraph, using an insured vehicle with the express or implied permission of the named insured, against loss from the liability imposed by law for damages arising out of the ownership, maintenance, operation or use of such vehicle;

c. May provide for exclusions from coverage in accordance with existing laws; and

d. Shall be issued by an authorized carrier providing coverage in accordance with Section 7-204 of Title 47 of the Oklahoma Statutes;

2. "Operator's Policy" means an operator's policy of liability insurance which shall insure the named person against loss from the liability imposed upon him by law for damages arising out of the operation or use by him of any motor vehicle not owned by him, subject to the same limits of liability required in an owner's

policy:

- a. A policy or bond meeting the requirements of Section 7-204 of Title 47 of the Oklahoma Statutes;
- b. A deposit of cash or securities having the equivalency of limits required under Section 7-204 of Title 47 of the Oklahoma Statutes as acceptable limits for a policy or bond; or
- c. Self-insurance, pursuant to the provisions of Section 7-503 of Title 47 of the Oklahoma Statutes, having the equivalency of limits required under Section 7-204 of Title 47 of the Oklahoma Statutes as acceptable limits for a policy or bond;

4. "Compulsory Insurance Law" means the law requiring liability insurance in conjunction with the operation of a motor vehicle in this state as found in Article VI, Chapter 7, and Section 7-606 of Title 47 of the Oklahoma Statutes; and

5. "Security verification form" means a form, approved by the State Board for Property and Casualty Rates, verifying the existence of security required by the Compulsory Insurance Law of the State of Oklahoma;

D. Every operator of a motor vehicle registered in this state, shall while operating or using such vehicle within the City's boundaries, carry either an operator's or an owner's security verification form issued by a carrier, providing the operator is not excluded from the coverage thereon; or an equivalent form issued by the Department of Public Safety, reflecting liability coverage.

E. An owner or operator who fails to produce for inspection a valid and current security verification form or equivalent form which has been issued by the department upon request of any peace officer of the department shall be guilty of an offense and upon conviction shall be subject to a fine as provided in Section 1-108 of this code.

F. Any person producing proof in court that a current security verification form or equivalent form which has been issued by the department reflecting this liability coverage of such person was in force at the time of the alleged offense shall be entitled to dismissal of such charge. Court costs may be assessed by the City.

G. Upon conviction or bond forfeiture, the court clerk shall forward an abstract to the State Department of Public Safety within

ten (10) days reflecting the action taken by the court.

State Law Reference: Similar provisions, 47 O.S. Section 7-601 et seq.

Section 15-229 TEXTING WHILE DRIVING; PROHIBITED; EXCEPTION

A. Definitions. For the purpose of this section:

1. "Cellular telephone" means an analog or digital wireless telephone authorized by the Federal Communications Commission to operate in the frequency bandwidth reserved for cellular telephones;

2. "Compose", "send" or "read" with respect to a text message means the manual entry, sending or retrieval of a text message to communicate with any person or device;

3. "Electronic communication device" means an electronic device that permits the user to manually transmit a communication of written text by means other than through an oral transfer or wire communication. This term does not include a device that is physically or electronically integrated into a motor vehicle or a voice-operated global positioning or navigation system that is affixed to a motor vehicle, or a hands-free device that allows the user to write, send or read a text message without the use of either hand except to activate, deactivate or initiate a feature or function; and

4. "Text message" includes a text-based message, instant message, electronic message, photo, video or electronic mail.

B. It shall be unlawful for any person to operate a motor vehicle on any street, alley or highway within the City while using a hand-held electronic communication device to manually compose, send or read an electronic text message while the motor vehicle is in motion.

C. Any person who violates the provisions of subsection B of this section shall, upon conviction, be punished by a fine of Seventy Dollars (\$70.00) and court costs.

D. The provisions of subsection B of this section shall not apply if the person is using the cellular telephone or electronic communication device for the sole purpose of communicating with any of the following regarding an imminent emergency situation:

1. An emergency response operator;

2. A hospital, physician's office or health clinic;
3. A provider of ambulance services;
4. A provider of firefighting services; or
5. A law enforcement agency

(Note: This section was adopted as Ordinance No. 2015-08 on the 6th of October 2015).

ARTICLE 3

VEHICLE EQUIPMENT, INSPECTION

Section 15-301 . CERTAIN VEHICLES PROHIBITED, VEHICLES INJURIOUS TO STREETS.

No vehicle or object which injures or is likely to injure the surface of a street, shall be driven or moved on any street.

State Law Reference: Required equipment of vehicles, 47 O.S. Section 12-101 et seq.

Section 15-302 . OBSTRUCTIVE AND DANGEROUS VEHICLES.

No person shall drive any vehicle in such condition, so constructed, or so loaded, as to cause delay or be likely to cause delay in traffic, or as to constitute a hazard to persons or property, except by permit issued by the chief of police and in accordance with the terms of such permit.

Section 15-303 . EQUIPMENT.

Every vehicle operated upon the streets of the City shall be equipped as required by law. It is unlawful to operate a vehicle upon a street of the City which is not equipped as required by law. It is unlawful to fail to use such equipment in the manner required by law, or to use it in a manner prohibited by law. It is unlawful to operate a vehicle which has equipment prohibited by law upon a street of the City.

State Law Reference: For state law relating to equipment, see 47 O.S. Section 12-201 et seq.

Section 15-304 . MUFFLERS, CUT-OUTS.

It is unlawful for any person to operate a motor vehicle which shall not at all times be equipped with a muffler upon the exhaust thereof in good working order and in constant operation to prevent excessive or unusual noise. No muffler cut-out, by-pass or similar muffler elimination device, exhaust or vacuum whistle shall be used

on any motor vehicle while operating within the City; however exhaust whistles may be used on authorized emergency vehicles.

Section 15-305 . WIDTH, HEIGHT, LENGTH AND LOAD.

No person shall drive or convey through any street any vehicle the width, height, length, weight, or load of which exceeds that authorized by state law, except in accordance with a permit issued by state authority or by the chief of police.

Cross Reference: See also Section 16-536 of this code on trucks.

State Law Reference: For state law relating to size, weight, and load, see 47 O.S. Section 14-101 et seq.

Section 15-306 . INSPECTION OF VEHICLES.

A. No person shall drive or move on any road, street, or highway of this City any motor vehicle, including motorcycles, trailers, semi-trailers, or pole trailers, which are licensed by the Oklahoma Tax Commission and operated on the streets or highways, of this City, or any combination thereof, unless the vehicle is in good working order and adjustment and is in such safe mechanical condition as not to endanger the driver or other occupants.

The provisions of this Section shall not apply to any house trailer, which requires a permit to be moved upon the highways of this state.

B. Any person who violates the provisions of this Section shall upon conviction thereof, be subject to punishment as provided in Section 1-108 of this code.

ARTICLE 4

SPEED REGULATIONS

Section 15-401 . SPEED LIMITS GENERALLY, EXCEPTIONS.

A. No vehicle shall be driven at a greater speed than thirty (30) miles per hour in the City except;

1. On designated and numbered state and federal highways, the maximum is as posted;

2. Emergency vehicles being lawfully driven as provided in

this code;

3. When a different speed limit is otherwise designated and posted; or

4. When a different speed limit is established and posted as required in this code.

B. City personnel, subject to such direction as the Mayor and Council may give by motion or resolution, may reduce or increase the speed limits provided in this code, and when so provided, appropriate signs shall be placed on such streets or parts of streets indicating the lower or higher speed limit.

State Law Reference: Basic and minimum speed rules, 47 O.S. Section 11-801, 11-804, City powers 47 O.S. Section 22.1.

Section 15-402 . SCHOOL ZONES.

No vehicle shall be driven at a greater speed than that posted speed per hour between the hours posted on any street adjacent to any school in a designated school zone on days when school is in session, unless a different speed limit or time is otherwise designated and posted.

State Law Reference: Local authority to set speed limits, 47 O.S. Section 15-102, 11-803.

Section 15-403 . SPEED NEVER TO EXCEED THAT WHICH IS REASONABLE OR PRUDENT FOR EXISTING CONDITIONS; SPECIFICATIONS.

No person shall drive a vehicle at a speed greater or less than is reasonable or prudent under the conditions then existing, taking into consideration among other things, the condition of the vehicle, the traffic, roadway surface or width, the amount of light or darkness, the presence of pedestrians in or near the roadways, and the obstruction of views. No person shall drive any vehicle at a speed greater than will permit him to bring it to a stop within the assured clear distance ahead.

Section 15-404 . MINIMUM SPEED REQUIREMENTS; EXCEPTIONS.

No vehicle shall be driven at such an unreasonable slow speed in relation to the effective maximum speed allowed as to constitute a hazard or to interfere with the normal movement of other traffic except when the slow speed is unavoidable.

Section 15-405 . OBEDIENCE TO MAXIMUM AND MINIMUM SPEED LIMITS.

Where official signs and markings give notice of both maximum and minimum speed limits in effect on any street, no vehicle shall be driven at rates in excess of the maximum nor slower than the minimum except as required by an authorized officer or in obedience to posted official signs.

Section 15-406 RECKLESS DRIVING

A. It shall be deemed an offense for any person to drive a motor vehicle in a careless or wanton manner without regard for the safety of persons or property or in violation of the conditions outlined in Section 47 O.S. §11-801.

B. Any person convicted of violating Subsection A of this Section shall be punished by a maximum of Five Hundred Dollars (\$500.00), plus court costs thereof.

ARTICLE 5

DRIVING, OVERTAKING, PASSING

Section 15-501 . CHANGING LANES.

A. Whenever any roadway has been divided into two (2) or more clearly marked lanes for traffic, in addition to all other rules consistent with this subsection, a vehicle shall be driven as nearly as practical entirely within a single lane and shall not be moved from the lane until the driver has first ascertained that the movement can be made with safety and has signaled for a change of course.

B. Where streets or roadways do not have marked traffic lanes, vehicles shall nevertheless keep in line or follow a straight course as nearly as practical and shall not weave in and out or turn from side to side unnecessarily. Vehicles shall move to the right or left only as necessary in slowing or stopping adjacent to the curb, in passing slow moving vehicles or making a proper approach for a turn, and this only after the driver has first ascertained that such movement can be made safely and has signaled for a change of course.

C. Upon a roadway which has been divided into three (3) lanes, a vehicle shall not be driven in the center lane except when overtaking and passing another vehicle where the roadway is clearly visible and such center lane is clear of traffic within a safe distance, or in preparation for a left turn, or where such center

lane is at the time allocated exclusively to traffic moving in the direction the vehicle is proceeding and is signposted to give notice of such allocation.

D. Official signs may be erected directing the slow-moving traffic to use a designated lane or designating those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway. Drivers of vehicles shall obey the directions of every such sign.

Section 15-502. DRIVING ON RIGHT SIDE OF ROADWAY REQUIRED; EXCEPTIONS.

A. Upon all roadways of sufficient width a vehicle shall be driven to the right of the center of the roadway, except as follows:

1. When overtaking and passing another vehicle proceeding in the same direction under the rules governing such movement;

2. When the right half of a roadway is closed to traffic while under construction or repair;

3. Upon a roadway divided into three (3) marked lanes for traffic under the rules applicable thereon; and

4. Upon a roadway designated and signposted for one-way traffic.

B. All vehicles shall keep to the right roadway on all streets or highways which are divided into two (2) roadways.

C. Upon all roadways, any vehicle proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven in the right hand lane then available for traffic, or as close as practicable to the right-hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn at an intersection or into a private road or driveway.

State Law Reference: Similar provisions, 47 O.S. Section 11-301.

Section 15-503. WHEN OVERTAKING ON THE RIGHT IS PERMITTED.

A. The driver of a vehicle may overtake and pass upon the right of another vehicle only under the following conditions:

1. When the vehicle overtaken is making or about to make a left turn;

2. Upon a street or highway with unobstructed pavement not occupied by parked vehicles of sufficient width for two (2) or more lines of moving vehicles in each direction; or

3. Upon a one-way street or upon any roadway on which traffic is restricted to one direction of movement, where the roadway is free from obstructions and of sufficient width for two (2) or more lines of moving vehicles.

B. The driver of a vehicle may overtake and pass another vehicle upon the right of way only under conditions permitting such movement in safety. In no event shall such movement be made by driving off the pavement or main-traveled portion of the roadway.

Section 15-504 . OVERTAKING A VEHICLE ON THE LEFT.

A. The driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the street or roadway until safely clear of the overtaking vehicle.

B. Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

Section 15-505 . LIMITATIONS ON OVERTAKING ON THE LEFT; EXCEPTIONS.

A. No vehicle shall be driven to the left side of the center of the street or roadway in overtaking and passing another vehicle proceeding in the same direction unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit the completion of the overtaking and passing without interfering with the safe operation of any vehicle approaching from the opposite direction or any vehicle overtaken. In every instance the overtaking vehicle must return to the right-hand side of the roadway before coming within one hundred (100) feet of any vehicle approaching from the opposite direction.

B. No vehicle at any time shall be driven to the left side of the roadway under the following conditions:

1. When approaching the crest of a grade, or upon a curve in

the street or highway where the driver's view along the street or highway is obstructed; or

2. When approaching within one hundred (100) feet of any bridge, viaduct or tunnel or when approaching within fifty (50) feet of or traversing any intersection or railroad gradecrossing.

Section 15-506 PASSING VEHICLES PROCEEDING IN OPPOSITE DIRECTIONS.

Drivers of vehicles proceeding in opposite directions shall pass each other to the right. Upon roadways having a width from not more than one line of traffic in each direction each driver shall give to the other at least one-half ($\frac{1}{2}$) other main-traveled portion of the roadway as nearly as possible.

Section 15-507 ONE-WAY ROADWAYS AND ROTARY TRAFFIC ISLANDS.

A. City personnel, subject to any directions given by the Council by motion or resolution, may designate any road, street, alley, or highway, or any separate roadway under their jurisdiction for one-way traffic and shall cause appropriate signs giving notice thereof, to be erected.

B. Whenever the City designates any street or alley or part thereof as a one-way street or alley, City personnel shall have placed and maintained signs giving notice thereof; and no such regulation shall be effective unless such signs are in place. Signs indicating the direction of lawful traffic movement shall be placed at every intersection where movement of traffic in the opposite direction is prohibited.

C. Upon those streets and parts of streets and in those alleys and parts of alleys so designated as one-way streets and alleys, vehicular traffic shall move only in the direction indicated when signs indicating the direction of traffic are erected and maintained at every intersection where movement in the opposite direction is prohibited.

D. Upon roadways designated and sign posted for one-way traffic a vehicle shall be driven only in the direction designated.

E. A vehicle passing around a rotary traffic island shall be driven only to the right of such island.

State Law Reference: Similar provisions, 47 O.S. Section 11-308.

Section 15-508 . FOLLOWING TOO CLOSELY.

The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicles and the traffic upon and the condition of the highway.

State Law Reference: Similar provisions, 47 O.S. Section 11-310.

Section 15-509 . NO PASSING ZONES.

A. The State Department of Transportation, as regards state and federal highways, and the City Manager as regards all other streets, are hereby authorized to determine those portions of any highways where overtaking and passing to the left would be especially hazardous, and may, by appropriate signs or markings on the roadway, indicate the beginning and end of such zones. When such signs or markings are in place and clearly visible to an ordinarily observant person, every driver shall obey the directions thereof.

B. Where signs or markings are in place to define a no-passing zone as set forth in Subsection A of this Section, no driver shall at any time drive to the left side of the roadway within the no-passing zone or on the left side of any pavement striping designed to mark the no-passing zone throughout its length.

Section 15-510 . DRIVING THROUGH FUNERAL OR OTHER PROCESSION PROHIBITED; EXCEPTIONS.

No driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated as required in this chapter. This provision shall not apply at intersections where traffic is controlled by traffic control signals or police officers.

State Law Reference: Local powers to regulate processions, 47 O.S. Section 15-102.

Section 15-511 . DRIVERS IN A PROCESSION.

Each driver in a funeral or other procession shall drive as near to the right-hand edge of the roadway as practical and shall follow the vehicle ahead as close as is practical and safe.

Section 15-512 . FUNERAL PROCESSIONS TO BE IDENTIFIED.

A funeral composed of a procession of vehicles shall be identified by headlights or as may be determined and designated by the police department.

Section 15-513 . OVERTAKING AND PASSING IN SCHOOL ZONES.

A. No driver of a vehicle shall pass any other vehicle which is in motion and being driven in the same direction in any school zone between the hours posted on all days when schools are in session.

B. Wherever a school zone is located on a multiple lane street which is divided into three (3) or more clearly marked lanes for traffic or where the right half of the roadway has been divided into two (2) or more lanes, or on one-way streets, vehicles shall be allowed to pass slower moving vehicles being driven in the same direction where passing does not involve a change of lane movement.

Section 15-514 . OVERTAKING AND PASSING SCHOOL BUS.

A. The driver of a vehicle meeting or overtaking a school bus that is stopped to take on or discharge school children, and on which the red loading signals are in operation, shall stop the vehicle before it reaches the school bus and not proceed until the loading signals are deactivated and then proceed past such school bus at a speed which is reasonable and with due caution for the safety of such school children and other occupants.

B. The driver of any vehicle when passing a school bus shall use caution for the safety of school children and other occupants of the school bus.

C. Occupants of the school bus shall have the right of way when crossing the roadway immediately upon leaving the school bus.

State Law Reference: Similar provisions, 47 O.S. Section 11-705.

Section 15-515 . SCHOOL BUS REQUIREMENTS; LIGHTS; SIGNS; PAINTING.

A. The provisions of Section 15-514 of this code shall be applicable only if the school bus is painted yellow and bears upon the front and rear thereon a plainly visible sign containing the words "SCHOOL BUS" in letters not less than eight (8) inches in height which can be removed or covered when the vehicle is not in

use as a school bus.

B. The school bus shall be equipped with four (4) red alternately flashing warning signal lights, two (2) of which shall be located high on the front and two (2) high on the rear of the vehicle. The lights shall be a minimum of four (4) inches in diameter and shall be widely separated.

State Law Reference: Similar provisions, 74 O.S. Section 11-705.

Section 15-516 . DRIVING OF VEHICLES ON SIDEWALK PROHIBITED; EXCEPTION.

No person shall drive any vehicle within or upon any sidewalk area except at a permanent or temporary driveway.

Section 15-517 . LIMITATIONS ON BACKING VEHICLE.

The driver of a vehicle shall not back the vehicle unless such movement can be made with reasonable safety and without interfering with any other traffic. No vehicle shall be backed into an intersection.

Section 15-518 . LIMITATIONS ON USE OF MOTORCYCLES, BICYCLES AND MOTOR SCOOTERS.

A. No driver of a two-wheel or three-wheel motor vehicle or bicycle shall carry any other person upon or within such vehicle on any street or highway, except as provided in this Section:

1. If any two-wheel or three-wheel motor vehicle with a wheel diameter of twelve (12) inches or greater or any bicycle shall have either a double seating device with double foot rests or a side car attachment providing a separate seat space within such sidecar attachment for each person riding therein so that such person shall be seated entirely within the body of the side car, then it shall be permissible for an operator who has attained the age of sixteen (16) or older to carry a passenger; and

2. A demonstration ride by a licensed dealer or his employee is permissible.

B. No motorcycle, motor scooter, motorbike or all terrain vehicle, whether powered by electricity or combustible fuel, shall be ridden upon any public street, alley, sidewalk, right-of-way or park within the boundaries of the City of Fairview except as provided in this section:

1. Any operator of motorcycle, motor scooter or motorbike who possesses a valid operators license issued by a state agency and the motorcycle, motor scooter or motor bike has a license plate issued by an authorized state agency or Authorized Indian tribe may operate the vehicle upon city streets and alleys.

2. Any of the above mentioned vehicles may be driven on the street(s) dedicated for use of a municipality recognized parade as a participant and only during the time of the parade.

C. No rider of a motorcycle, bicycle, or motor scooter shall hold onto any moving vehicle for the purpose of being propelled.

D. A person operating a motor scooter, motorcycle, motor-driven cycle, or motor bicycle, shall ride only on the permanent and regular seat attached thereto.

E. No driver of a motorcycle or motor scooter shall pass other vehicles in between lanes of traffic traveling in the same direction. Authorized emergency vehicles are excepted from the provisions of this subsection.

F. No person under the age of sixteen (16) shall operate any motorcycle, motor bicycle, or motor scooter within the City between sunset and sunrise.

G. For the purpose of this chapter, an electric personal assistive mobility device as defined by Title 47, Section 1-114A of the Oklahoma Statute, shall not be considered a motor scooter.

Section 15-519

REQUIRED MOTORCYCLE EQUIPMENT, HEADGEAR.

A. In addition to all other requirements motorcycles and motor scooters shall be equipped with the following:

1. Handle bars which do not exceed twelve (12) inches in height, measured from the crown or point of attachment;

2. Two (2) mirrors, containing a reflection surface of not less than three (3) inches in diameter, mounted one on each side of the vehicle and positioned so as to enable the operator to clearly view the roadway for a distance of two hundred (200) feet to the rear of his vehicle;

3. Brakes adequate to control the movement of the vehicle, to stop and hold the vehicle, including two (2) separate means of applying the brakes. One means for applying the brakes shall be to effectively apply brakes to the front wheel, and one means shall

be to effectively apply the brakes to the rear wheels. All such vehicles shall be equipped with a stop lamp on the rear of the vehicle which shall display a red or amber light, or any shade of color between red and amber, visible from a distance not less than one hundred (100) feet to the rear in normal sunlight, and which shall be activated upon application of the service brake;

4. A properly operating speedometer capable of registering at least the maximum legal speed limit for that vehicle shall be provided;

5. A fender over each wheel. All fenders shall be of the type provided by the manufacturer;

6. One lighted headlamp capable of showing a white light visible at least three hundred (300) feet in the direction in which the vehicle is proceeding, and one tail lamp mounted on the rear which, when lighted, shall emit a red light plainly visible from at least three hundred (300) feet to the rear. The lights required by this paragraph shall be burning whenever the vehicle is in motion during the period from one-half ($\frac{1}{2}$) hour after sunset to one-half ($\frac{1}{2}$) hour before sunrise and at any other time when, due to insufficient light or unfavorable atmospheric conditions, persons and vehicles on the streets are not clearly discernible at a distance of at least five hundred (500) feet ahead; and

7. A windshield of sufficient quality, size and thickness to protect the operator from foreign objects. In lieu of the windshield, the operator shall wear goggles or face shield of material and design to protect him from foreign objects.

B. No person under eighteen (18) years of age shall operate or ride upon any vehicle covered under this Section unless the person is equipped with and wearing on the head a crash helmet of the type and as not to distort the view of the driver. Such headgear shall comply with the regulations issued by the State Department of Public Safety as provided in Section 40-106G of Title 47 of the Oklahoma Statutes.

C. No person may operate a motorcycle or motor scooter with the exhaust system modified so that motor noise is increased greater than that of the original muffler equipment provided by the manufacturers of the vehicle.

Section 15-520

CLINGING TO VEHICLES PROHIBITED.

No person riding upon any bicycle, coaster, ROLLER skates, sled or toy vehicle shall attach the same or himself to any moving

vehicle upon a roadway.

Section 15-521 . ENTERING AND LEAVING CONTROLLED ACCESS HIGHWAYS.

No person shall drive a vehicle onto or from any controlled-access highway except at entrances and exits established by public authority.

Section 15-522 . RECKLESS DRIVING.

Any person who drives any vehicle in a wanton manner without regard for the safety of persons or property is guilty of reckless driving, and upon conviction thereof, shall be fined as provided in Section 1-108 of this code.

State Law Reference: Similar provisions, 47 O.S. Section 11-901.

Section 15-523 . CARELESS OR NEGLIGENT DRIVING, STOPPING, OR PARKING.

It is unlawful for any person to drive, use, operate, park, cause to be parked, or stop any vehicle:

- A. In a careless manner;
- B. In a negligent manner;
- C. In such a manner as to endanger life, limb, person, or property; or
- D. In such a manner or condition as to interfere with the lawful movement of traffic or use of the streets.

Section 15-524 . FULL TIME AND ATTENTION REQUIRED.

The operator of every motor vehicle while driving upon the streets and highways of the City shall devote full time and attention to such driving.

Section 15-525 . REQUIREMENT OF ANY PERSON DRIVING A VEHICLE ON A PUBLIC WAY TO OPERATE SAME IN A CAREFUL AND PRUDENT MANNER.

Any person driving a vehicle on a public road or way shall drive the same in a careful and prudent manner and at a careful and prudent speed not greater than nor less than is reasonable and proper, having due regard to the traffic, surface, and width of the

public way and any other conditions then existing.

Section 15-526 . SPEED CONTEST PROHIBITED.

A. No person shall engage in, aid or abet any motor vehicle speed contest or exhibition of speed on any street or highway.

B. No person shall for the purpose of facilitating or aiding or as an incident to any motor vehicle speed contest upon any street or highway, in any manner obstruct or place any barricade or obstruction upon any street or highway.

C. When three (3) or more persons assemble to witness or participate in any unlawful speed contest such assembly is unlawful assembly and any person who participates in such unlawful assembly is guilty of an offense.

Section 15-527 . DRIVING THROUGH SAFETY ZONE.

No vehicle shall at any time be driven through or within a safety zone or island.

Section 15-528 . STARTING PARKED VEHICLE.

No person shall start a vehicle which is stopped, standing, or parked unless and until such movement can be made with reasonable safety.

Section 15-529 . OPENING AND CLOSING VEHICLE DOORS.

No person shall open the door of a motor vehicle on the side available to moving traffic unless and until it is reasonably safe to do so; nor shall any person leave a door open on the side of a motor vehicle available to moving traffic for a period of time longer than necessary to load or unload passengers.

State Law Reference: Similar provision, 47 O.S. Section 11-1105.

Section 15-530 . OBSTRUCTIONS TO DRIVER'S VIEW OR DRIVING MECHANISM.

A. No person shall drive a vehicle when it is so loaded, or when there are in the front seat such a number of persons, exceeding three (3), as to obstruct the view of the driver to the front or sides of the vehicle or as to interfere with the driver's control over the driving mechanism of the vehicle.

B. No passenger in a vehicle shall ride in such a 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.

Section 15-531 . BOARDING OR ALIGHTING FROM VEHICLES.

No person shall board or alight from any vehicle while such vehicle is in motion.

Section 15-532 . UNLAWFUL RIDING.

No person shall ride on any such vehicle upon any 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 to persons riding within truck bodies in space intended for merchandise.

Section 15-533 . PRIVATE SERVICE DRIVES.

No vehicles or animal shall be driven through any private service driveway or private service area except for the purpose of obtaining service or merchandise.

Section 15-534 . TRUCK ROUTES.

The City Council may prescribe routes through the City for the use of trucks in general, trucks or particular kinds or other vehicles which are not ordinary private passenger vehicles, passing through the City. Appropriate and adequate signs shall be placed along such routes so that drivers of such vehicles may follow the routes. When such signs are so erected and in place, the driver of a truck or other vehicle for which a route has been prescribed, as provided above, while passing through the City, shall keep on such route and shall not deviate therefrom except in case of an emergency. Drivers of such vehicles shall follow such routes so far as practicable also when driving within the City and not merely through the City.

Section 15-535 . LOADS ON VEHICLES.

A. No vehicle shall be driven or moved on any highway unless the vehicle is so constructed or loaded as to prevent any of its load from dropping, shifting, leaking, blowing or otherwise escaping therefrom, except that sand may be dropped for the purpose of securing traction, or water or other substances may be sprinkled on a roadway in cleaning or maintaining the roadway.

B. No person shall operate on any highway any vehicle with any load unless the load and any covering thereon is securely fastened so as to prevent the covering or load from becoming loose, detached or in any manner a hazard to other users of the highway. Any vehicle loaded with sand, cinders, or other loose material susceptible to blowing or escaping by reason of wind shall have the load covered or dampened so as to prevent the blowing or escaping of the load from the vehicle.

Section 15-536 VEHICLE APPROACHING OR ENTERING INTERSECTION.

A. When two (2) vehicles enter or approach an uncontrolled intersection from different highways at approximately the same time, the driver of the vehicle on the left shall yield the right-of-way to the vehicle on the right as otherwise stated in this chapter; however, the driver of vehicle on a street which is not a state or federal highway approaching an intersection with a state or federal highway shall stop and yield the right-of-way to a vehicle which has entered the intersection or which is so close thereto as to constitute an immediate hazard.

B. The right-of-way rule declared in Subsection A of this Section is modified at through highways as otherwise stated in this chapter.

State Law Reference: Right of way at intersections, 47 O.S. Section 11-401.

Section 15-537 VEHICLE TURNING LEFT AT INTERSECTIONS.

The driver of a vehicle within an intersection intending to turn to the left shall yield the right-of-way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard. After so yielding and having given signal when and as required by this code, the driver may make the left turn and the drivers of all other vehicles approaching the intersection from the opposite direction shall yield the right-of-way to the vehicle making the left turn.

State Law Reference: Similar provisions, 47 O.S. Section 11-402.

Section 15-538 VEHICLE APPROACHING A "YIELD RIGHT-OF-WAY" SIGN.

The driver of a vehicle approaching a "Yield Right-of Way" sign shall slow to a reasonable speed for existing conditions of

traffic and visibility, yielding the right-of-way to all vehicles on the intersecting street or highway which have entered the intersection or which are so close as to constitute an immediate hazard.

State Law Reference: Similar provisions, 47 O.S. Section 11-403.

Section 15-539 . VEHICLE ENTERING THROUGH HIGHWAY.

Except when directed to proceed by a police officer or a traffic control signal, every driver of a vehicle shall stop as required by this code at the entrance to a through highway and shall yield the right-of-way to other vehicles which have entered the intersection from the through highway, or which are approaching so closely on the through highway as to constitute an immediate hazard.

Section 15-540 . VEHICLES FACING STOP, SLOW, WARNING OR CAUTION SIGNAL.

If the two (2) or more vehicles face stop, slow, warning or caution signs or signals at an intersection and are approaching as to enter the intersection at the same time, the following rules shall apply: If each vehicle is required to stop, the vehicle coming from the right shall have the right-of-way. If each vehicle is required to slow, the vehicle coming from the right shall have the right-of-way. If each vehicle is required to take caution, the vehicle coming from the right shall have the right-of-way. If one vehicle is required to slow and the other to take caution, the one required to take caution shall have the right-of-way. In any event, a vehicle which has already entered the intersection shall have the right-of-way over one which has not entered the intersection.

Section 15-541 . THROUGH STREETS.

A. City personnel, subject to such direction as the Council may give, may designate any street or part of a street a through street.

B. Whenever the City designates and describes a through street, the stop sign, or yield sign if deemed more appropriate, shall be placed and maintained on every street intersecting a through street, or intersecting that portion thereof, unless traffic at such intersection is controlled at all times by traffic control signals.

C. At the intersection of two (2) such through streets or at the intersection of a through street and a heavy traffic street not so designated, stop signs shall be erected at the approaches of either of the streets as may be determined by the City if deemed desirable.

Section 15-542 . INTERSECTIONS WHERE STOP OR YIELD REQUIRED.

The City Manager, subject to any directions given by the Council by motion or resolution, is hereby authorized to determine and designate intersections upon other than through streets where particular hazards exist and to determine whether:

1. Vehicles shall stop at one or more entrances to any such stop intersection, in which event he shall cause to be erected a stop sign at every such place a stop is required; or

2. Vehicles shall yield the right-of-way to vehicles on a different street as provided in this part in which event he shall cause to be erected a yield sign at every place where yield is required.

Section 15-543 . STOP OR YIELD SIGN CONSTRUCTION AND PLACEMENT.

Every stop or yield sign erected pursuant to this chapter shall bear the word "Stop" or "Yield" in letters not less than eight (8) inches in height for a stop sign and not less than seven (7) inches in height for a yield sign. Every stop or yield sign shall at night be rendered luminous by steady or flashing internal illumination, by a fixed floodlight projected on the face of the sign, or by efficient reflecting elements on the face of the sign. Every stop or yield sign shall be located as close as practicable to the nearest line of the crosswalks on the near side of the intersection or if there is not crosswalk, then the sign shall be located at the nearest line of the intersecting roadway.

Section 15-544 . VEHICLE ENTERING STOP INTERSECTION.

Except when directed by a police officer or traffic control signal, every driver of a vehicle approaching a stop intersection, indicated by a stop sign, shall stop before entering the crosswalk on the near side of the intersection. In the event there is no crosswalk, the driver shall stop at a clearly marked stop line before entering the intersection. If there is not marked stop line, then the driver shall stop at the point nearest the intersecting road where the driver has a view of approaching traffic on an intersecting roadway before entering the intersection. A driver after having stopped shall yield the right-of-way to any

vehicle which has entered the intersection from another highway or road, or which is approaching so close as to constitute immediate hazard; but the driver having so yielded may then proceed the driver of all other vehicles approaching the intersection shall yield the right-of-way to the vehicle so proceeding.

Section 15-545 VEHICLE ENTERING YIELD INTERSECTION.

The driver of a vehicle approaching a yield sign shall, in observance to such sign, slow down to a speed reasonable for the existing condition or shall stop if necessary and shall yield the right-of-way to any pedestrian legally crossing the roadway on which he is driving and to any vehicle in the intersection or approaching on another road so closely as to constitute an immediate hazard. The driver having so yielded may then proceed and the drivers of all other vehicles approaching the intersection shall yield to the vehicle so proceeding. A driver who enters a yield intersection without stopping and has or causes a collision with a pedestrian at a crosswalk or a vehicle in the intersection shall prima facie be considered not to have yielded as required herein. The provisions of this Section shall not release the drivers of other vehicles approaching the intersection at such a distance as not to constitute immediate hazard from the duty to drive with due care to avoid a collision. The driver of a vehicle approaching a yield sign if required for safety to stop shall stop before entering the crosswalk on the near side of the intersection before entering the intersection; if there is no crosswalk, the driver shall stop at a clearly marked stop line, or if there is no stop line, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway.

Section 15-546 VEHICLE ENTERING HIGHWAY FROM PRIVATE ROAD OR DRIVEWAY.

The driver of a vehicle about to enter, leave or cross a highway from or into a private road or driveway shall yield the right-of-way to all vehicles approaching on the highway.

State Law Reference: Similar provisions, 47 O.S. Section 11-404.

Section 15-547 VEHICLES ENTERING TRAFFIC FROM PARKING.

Any vehicle attempting to re-enter traffic while parked at the curb shall yield the right-of-way to oncoming traffic in the street approaching from the rear. The parked vehicle shall proceed into the line of traffic only after the driver has given the appropriate

signal which indicates his intention of turning from the curb and into the line of traffic. The vehicle shall in no event enter the line of traffic until the driver has ascertained that no hazard exists.

Section 15-548 . EMERGING FROM THE ALLEY, DRIVEWAY, OR BUILDING.

The driver of a vehicle emerging from an alley, driveway, or building shall stop such vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across any alley way or driveway, and shall yield the right-of-way to any pedestrian as may be necessary to avoid collision, and upon entering the roadway shall yield the right-of-way to all vehicles approaching on the roadway.

State Law Reference: Similar provisions, 47 O.S. Section 11-704.

Section 15-549 . STOP WHEN TRAFFIC OBSTRUCTED.

No driver shall enter an intersection or a marked cross walk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic control signal indication to proceed.

Section 15-550 OBEDIENCE TO SIGNAL INDICATING APPROACH OF TRAIN.

A. Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this Section, the driver of such vehicle shall stop within fifty (50) feet but not less than fifteen (15) feet from the nearest rail of such railroad, and shall not proceed until he can do so safely. The foregoing requirements shall apply when:

1. A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train;

2. A crossing gate is lowered or when a human flagman gives or continues to give a signal of the approach or passage of a railroad train;

3. A railroad train approaching within approximately one thousand five hundred (1,500) feet of the highway crossing emits a signal audible from such distance and such railroad train, by reason of its speed or nearness to such crossing, is an immediate

hazard; or

4. An approaching railroad train is plainly visible and is in hazardous proximity to such crossing.

B. No person shall drive any vehicle through, around or under any crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being opened or closed.

Section 15-551 . CERTAIN VEHICLES TO STOP AT ALL RAILROAD GRADE CROSSINGS.

A. The driver of any motor vehicle carrying passengers for hire, or of any school bus carrying any school child, or of any vehicle carrying explosive substances or flammable liquids as a cargo or part of a cargo, before crossing at grade any track or tracks of a railroad, shall stop such vehicle within fifty (50) feet but not less than fifteen (15) feet from the nearest rail of such railroad, and while so stopped, shall listen and look in both directions along such track for any approaching train and for signals indicating the approach of a train, except as hereinafter provided, and shall not proceed until he can do so safely. After stopping as required herein and upon proceeding when it is safe to do so, the driver of any such vehicle shall cross only in such gear of the vehicle that there will be no necessity for changing gears while traversing such crossing, and the driver shall not shift gears while crossing the track or tracks.

B. No stop need be made at any such crossing where a police officer or traffic control signal directs traffic to proceed.

Section 15-552 . SEAT BELTS AND CHILD PASSENGER RESTRAINTS REQUIRED.

A. Every operator and front seat passenger of a passenger car operated in this City shall wear a properly adjusted and fastened safety belt system, required to be installed in the motor vehicle when manufactured pursuant to Federal Motor Vehicle Safety Standard 208. For the purposes of this Section, "passenger car" shall mean "automobile" as defined in Section 22.1 of Title 47 of the Oklahoma Statutes, except that "passenger car" shall not include trucks, pick-up trucks, truck-tractors, recreational vehicles, vans, motorcycles or motorized bicycles.

B. Subsection A shall not apply to an operator or passenger of a passenger car in which the operator or passenger possesses a written verification from a physician licensed in this state that he is unable to wear a safety belt system for medical reasons. The

issuance of such verification by a physician, in good faith, shall not give rise to, nor shall such physician thereby incur, any liability whatsoever in damages or otherwise, to any person injured by reason of such failure to wear a safety seat belt system. Subsection A shall not apply to an operator of a motor vehicle who is a route carrier of the U.S. Postal Service.

C. Every driver when transporting a child under four (4) years of age in a motor vehicle operated on the roadways, streets, or highways of this City shall provide for the protection of the child by properly using a child passenger restraint system or a properly secured set belt in the rear seat of the motor vehicle. For purposes of this subsection, "child passenger restraint system: means an infant or child passenger set by the United States Department of Transportation. Children four (4) or five (5) years of age shall be protected by the use of a child passenger restraint system or a seat belt. The provisions of this subsection shall not apply to:

1. A nonresident driver transporting a child in this state;
2. The driver of a school bus, taxicab, moped, motorcycle, or other motor vehicle not required to be equipped with safety belts pursuant to state or federal laws;
3. The driver of an ambulance or emergency vehicle;
4. A driver of a vehicle if all of the seat belts are in use; and
5. The transportation of children who for medical reasons are unable to be placed in such devices.

A law enforcement officer is hereby authorized to stop a vehicle if it appears that the driver of the vehicle has violated the provision of this Section and to give an oral warning to the driver. The warning shall advise the driver of the possible danger to children resulting from the failure to install or use a child passenger restraint system or seat belts in the motor vehicle. A person who violates the provisions of this subsection shall not be subject to any criminal penalty. A violation of the provisions of this subsection shall not be admissible as evidence in any civil action or proceeding for the damages. If any action brought by or on behalf of an infant for personal injuries or wrongful death sustained in a motor vehicle collision, the failure of any person to have the infant properly restrained in accordance with the provisions of this subsection shall not be used in aggravation or mitigation of damages.

D. No law enforcement officer shall make routine stops of motorists for the purpose of enforcing subsection A of this Section. Any person convicted of violating subsection A of this Section shall be punished by a maximum fine as set by state law or by the City, whichever is greater, and court costs.

ARTICLE 6

TRAFFIC CONTROL DEVICES

Section 15-601 . AUTHORITY TO INSTALL TRAFFIC CONTROL DEVICES.

City personnel, subject to any directions given by the Council by motion or resolution, shall have placed and maintained traffic control signs, signals, and devices when and as required under the traffic ordinances of this City to make effective the provisions of such ordinances, and may have placed and maintained such additional traffic control signs, signals, and devices as he may deem necessary to regulate traffic under the traffic ordinances of this City or under state law or to guide or warn traffic.

Cross-Reference: For state law relating to traffic control devices, see 47 O.S. Section 11-201 et seq.

Section 15-602 . TRAFFIC CONTROL DEVICES; UNIFORM REQUIREMENTS.

A. All traffic control signs, signals, and devices shall conform to the manual of Uniform Traffic Control Devices approved by the State Department of Public Safety.

B. All signs, signals, and devices required hereunder for a particular purpose shall so far as practicable be uniform as to type and relative location throughout the City. All traffic control devices erected and not inconsistent with the provisions of state law or this chapter shall be official traffic control devices.

Section 15-603 . OBEDIENCE TO OFFICIAL TRAFFIC CONTROL DEVICES.

The driver of any vehicle shall obey the instructions of any official traffic control device applicable thereto, placed in accordance with the provisions of this chapter, unless otherwise directed by a traffic or police office, subject to the exemptions granted the driver of an authorized emergency vehicle in this part.

State Law Reference: Drivers to obey traffic devices, 47 O.S. Section 11-201.

Section 15-604 . WHEN OFFICIAL TRAFFIC CONTROL DEVICES REQUIRED FOR ENFORCEMENT PURPOSES.

No provision of this chapter for which official traffic control devices are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official device is not in proper position and sufficiently eligible to be seen by an ordinarily observant person. If a particular Section does not state that official traffic control devices are required, such Section shall be effective even though no devices are erected or in place.

Section 15-605 . TRAFFIC CONTROL SIGNAL LEGEND.

The display of signal lights, arrows and words shall be deemed to have the following meanings and requires the appropriate response on the part of vehicular traffic and pedestrians:

1. Green alone, "Go":
 - a. Vehicular traffic facing the signal, except when prohibited, may proceed straight through or turn right or left unless an official sign at such place prohibits such turn, but any vehicle and any pedestrian lawfully within the intersection or adjacent crosswalk at the time the signal displays green shall have the right-of-way over such vehicular traffic; and
 - b. Pedestrian traffic, facing a green signal may proceed across the roadway within any marked or unmarked crosswalk unless a "walk" signal indicator is operating;
2. Steady yellow or amber alone, "caution":
 - a. The showing of such signal color following green shall constitute a warning that the "red" or "stop" signal will be exhibited immediately thereafter; and
 - b. Vehicles facing the signal shall stop before entering the near side crosswalk or at the limit line, if it is marked, unless the vehicle is so near the limit line when the "caution" signal first flashes that a stop cannot be made in safety, in which event vehicle may proceed cautiously through the intersection and clear the same before the "red" signal flashes;
3. Red alone, "stop":

- a. Vehicular traffic facing the signal stop before entering the crosswalk and shall remain standing until green or "go" is shown alone. Except where official signs are erected prohibiting such turns, vehicles in the right traffic lane, after making a full stop as required, may enter the intersection cautiously and make a right turn, but such vehicles shall yield the right-of-way to any pedestrians or other traffic in the intersection and the turn shall be made so as not to interfere in any way with traffic proceeding on a green signal indication on the cross street; and
- b. Pedestrians facing the signal shall not enter or cross the roadway when such movement interferes with traffic proceeding on a green signal indication on the cross street, or when the movement cannot be made in safety. No pedestrian facing such signal shall enter the roadway until the green or "go" is shown alone unless authorized to do so, by a pedestrian "walk" signal;

4. Steady red with green arrow:

- a. Vehicular traffic facing such signal when in the proper traffic lane may cautiously enter the intersection only to make the movement indicated by the arrow, but shall yield the right-of-way to pedestrians lawfully within a crosswalk and to other traffic lawfully using the intersection. If the movement indicated by the green arrow is a left turn, the left turn shall be made only on the red with green arrow signal; and
- b. No pedestrian facing such signal shall enter the roadway until the green or "go" is shown alone unless authorized so to do by a pedestrian "walk" signal; and

5. Green arrows alone. Whenever vehicular traffic movements are controlled by green arrows alone and not displayed with any other signal indication, vehicles facing such signals may make the movements indicated by the green arrows and the movements shall be made only when the green arrows are displayed.

State Law Reference: Similar provisions, 47 O.S. Section 11-202.

Section 15-606 . PEDESTRIANS; SIGNAL INDICATORS; REGULATIONS:

Special pedestrian control signals exhibiting the words "walk," "wait" or "don't walk" shall regulate pedestrian movement as follows:

1. "Walk." Pedestrians facing such signal may proceed across the roadway in the direction of the signal and shall be given the right-of-way by the drivers of all vehicles; and

2. "Wait" or "Don't Walk." No pedestrian shall start to cross the roadway in the direction of such signal, but any pedestrian who has partially completed his crossing on the "walk" signal shall proceed to a sidewalk or safety zone while the "wait" signal is showing.

Section 15-607 . FLASHING SIGNALS.

A. Whenever a flashing red or yellow signal is illuminated, it shall require obedience by vehicular traffic as follows:

1. "Flashing Red." When a red light is illuminated with rapid intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign; and

2. "Flashing Yellow." When a yellow light is illuminated with rapid intermittent flashes, drivers of vehicles may proceed through the intersection, or pass such signal only with caution.

B. This Section shall not apply at railroad crossings.

State Law Reference: Similar provisions, 47 O.S. Section 11-204.

Section 15-608 . PEDESTRIAN-ACTIVATED SCHOOL CROSSING SIGNALS.

Whenever a pedestrian-activated school crossing signal is provided, it requires obedience by vehicular traffic and pedestrians as follows:

1. "Flashing Yellow":

a. When a yellow lens is illuminated with rapid intermittent flashes, drivers or operators of vehicles may proceed through the intersection or pass such signal only with caution; and

- b. Pedestrians shall not proceed in conflict with traffic, but may activate the signal control switch, and shall wait until steady red alone is shown before entering the roadway or intersection controlled by the signal;
- 2. "Steady yellow alone":
 - a. Vehicular traffic facing the signal is thereby warned that the red of "stop" signal will be exhibited immediately thereafter, and such vehicular traffic shall not enter or be crossing the intersection or pass the signal when the red or "stop" signal is exhibited; and
 - b. No pedestrian shall enter the roadway or intersection on which the signal controls vehicular traffic until steady red alone is shown;
- 3. "Steady red":
 - a. Vehicular traffic facing the signal shall stop before entering the crosswalk on the near side of the intersection, and shall remain standing until flashing yellow is shown alone;
 - b. Pedestrians may proceed across the road controlled by the signal, and shall be given the right-of-way by the drivers of all vehicles; and
- 4. "Steady red and steady yellow combined":
 - a. Vehicular traffic facing the signal is thereby warned that the flashing yellow signal will be exhibited immediately thereafter, and that such vehicular traffic shall remain standing until the flashing yellow is shown alone; and
 - b. Pedestrians are thereby warned that the flashing yellow signal is about to be shown, and shall not enter the signal-controlled roadway or intersection, or in a direction which conflicts with the movement of vehicular traffic; but any pedestrian who has partially completed his crossing shall proceed to the nearest sidewalk or safety island, and shall be given the right-of-way by the drivers of all vehicles.

State Law Reference: Similar provisions, 47 O.S. Section 11-

Section 15-609 . UNAUTHORIZED TRAFFIC CONTROL DEVICES
PROHIBITED.

A. No person shall place, maintain, or display upon or in view of any highway any unauthorized sign, signal, marking, or device which purports to be or is an imitation of or resembles an official traffic control device or railroad sign or signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of any official traffic control device or any railroad sign or signal.

B. No person shall place or maintain nor shall any public authority permit upon any highway any traffic sign, signal, or device bearing thereon any commercial advertising.

C. This Section shall not prohibit the erection upon private property adjacent to highways of signs giving useful directional information which are of a type that cannot be mistaken for official signs.

D. Every prohibited sign, signal, marking or device may be removed without notice.

State Law Reference: Similar provisions, 47 O.S. Section 11-206.

Section 15-610 . DEFAACEMENT OF TRAFFIC CONTROL DEVICES.

A. No person shall without lawful authority attempt to or in fact alter, destroy, deface, molest, interfere, tamper, injury, knock down, remove or have in his possession any traffic control device or any railroad sign or signal or any inscription, shield or insignia thereon, or any part thereof.

B. This chapter shall not apply to any of the following persons when acting within the scope and duty of their employment:

1. Any officer, agent, independent contractor, employee, servant or trustee of any governmental agency; or

2. Any officer, agent, independent contractor, employee, servant or trustee of any contractor, public utility or railroad company.

State Law Reference: Similar provisions, 47 O.S. Section 11-207.

Section 15-611 . PLAY STREETS, AUTHORITY TO ESTABLISH.

City personnel, subject to any directions given by the Council, shall have authority to declare any street or part thereof a play street and to have placed appropriate signs or devices in the roadway indicating and helping protect the same.

Section 15-612 . PLAY STREETS, RESTRICTION ON USE.

Whenever authorized signs are erected indicating any street or part thereof as a play street, no person shall drive a vehicle upon any such street or portion thereof except drivers of vehicles having business or whose residences are within such closed area; and then any such driver shall exercise the greatest care in driving upon any such street or portion thereof.

Section 15-613 . DESIGNATION OF CROSSWALKS AND SAFETY ZONES.

Authorized City personnel, subject to any directions given by the Council, may:

1. Designate and maintain, by appropriate devices, marks or lines upon the surface of the roadway and crosswalks at intersections, where in his opinion, there is particular danger to pedestrians crossing the roadway, and at such other places as deemed necessary; and

2. Establish safety zones or islands of such kind and character and at such places as deemed necessary for the protection of pedestrians.

Section 15-614 . TRAFFIC LANES.

A. City personnel, subject to any directions given by the Council, may be authorized to have traffic lanes marked upon the roadway of any street where a regular alignment of traffic is necessary.

B. Where such traffic lanes have been marked, it is unlawful for the operator of any vehicle to fail or refuse to keep such vehicle within the boundaries of any such lane except when lawfully passing another vehicle or preparatory to making a lawful turning movement or otherwise authorized by ordinance.

State Law Reference: Similar provisions, 47 O.S. Section 11-309.

ARTICLE 7

STOPPING, STANDING AND PARKING GENERALLY

Section 15-701 ILLEGAL PARKING DECLARED PUBLIC NUISANCE.

Any vehicle in violation of any regulation contained in this chapter governing, limiting or prohibiting the parking or standing of a vehicle on any street or public thoroughfare is hereby declared to constitute a public nuisance, and each separate traffic citation issued as authorized herein for such violation shall constitute a separate notice thereof to the owner or operator of such vehicle.

Section 15-702 APPLICATION OF STANDING OR PARKING REGULATIONS.

The provisions of this chapter shall not be applicable when it is necessary for a vehicle to stop to avoid conflict with other traffic or in compliance with the directions of a police officer or official traffic control device.

Section 15-703 PARKING TIME LIMITS MAY BE ESTABLISHED, SIGNS.

The City Manager, subject to any directions given by the City Council by motion or resolution, may establish parking time limits or prohibit parking on designated streets or parts of streets and have appropriate signs placed on the streets. When the signs are in place, it is unlawful for any person to park a vehicle in violation of the sign.

Section 15-704 PARKING MORE THAN FORTY-EIGHT (48) HOURS, DISABLED VEHICLES.

No person shall park any vehicle or trailer on any street for a period of time longer than forty-eight (48) hours. This Section shall not affect parking limits established for shorter periods.

Section 15-705 BRAKES; MOTOR NOT TO BE LEFT RUNNING.

Adequate brakes shall be set on all parked vehicles. No driver of a motor vehicle shall leave the vehicle with the motor running while parked.

Section 15-706 SIGNS OR MARKINGS INDICATING ANGLE PARKING.

City personnel, subject to any direction by the City Council by motion or resolution, shall determine upon what streets and parts of streets angle parking shall be permitted, and shall have

such streets marked or signed.

Section 15-707 . OBEDIENCE TO ANGLE PARKING SIGNS OR MARKINGS.

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.

Section 15-708 . PARKING IN SPACES MARKED OFF.

In an area where parking spaces have been marked off on the surface of the street, a driver parking a vehicle shall park it within a parking space as thus marked off, and not on or over a line delimiting a space.

Section 15-709 . PERMITS FOR LOADING OR UNLOADING AT AN ANGLE TO THE CURB.

A. City Manager is authorized to issue special permits to permit the backing of a vehicle to the curb for the purpose of loading or unloading merchandise or materials subject to the terms and conditions of such permit. Such permits may be issued either to the owner or lessee of real property or to the owner of the vehicle and shall grant to such person the privilege as therein stated and authorized herein. The City Manager may revoke such permits at any time.

B. It is unlawful for any permittee or other person to violate any of the special terms or conditions of any such permit.

Section 15-710 . HAZARDOUS OR CONGESTED PLACES; STOPPING, STANDING, PARKING.

A. City personnel are hereby authorized to determine and regulate by proper signs the stopping, standing, or parking of vehicles when such stopping, standing or parking would create an especially hazardous condition or would cause unusual delay to traffic.

B. When official signs are erected at hazardous or congested places, as authorized in Subsection A of this Section, no person shall violate such signs.

Section 15-711 . STOPPING, STANDING OR PARKING PROHIBITED IN SPECIFIED PLACES.

A. No person shall stop, stand, or park a vehicle, except in

emergencies or when necessary to avoid conflict with other traffic or in compliance with law or the directions of a police officer or traffic control device in any of the following places:

1. On a sidewalk, sidewalk area, or between the sidewalk and the street;
2. In front of a public or private driveway;
3. Within an intersection;
4. Within fifteen (15) feet of a fire hydrant except in a parking space officially marked;
5. On a crosswalk;
6. Within twenty (20) feet of a crosswalk at an intersection;
7. Within thirty (30) feet upon the approach to any flashing beacon, stop sign, or traffic control signal located at the side of a roadway;
8. Between a safety zone and the adjacent curb or within thirty (30) feet of points on the curb immediately opposite the ends of a safety zone, unless a different length has been indicated by signs or markings;
9. Within fifty (50) feet of the nearest rail of a railroad crossing;
10. Within twenty (20) feet of the driveway entrance to any fire station, and on the side of the street opposite the entrance of any fire station within seventy-five (75) feet of the entrance when properly signposted;
11. Alongside or opposite any street excavation or construction when stopping, standing, or parking would obstruct traffic;
12. On the roadway side of any vehicle stopped or parked at the edge or curb of a street.
13. Upon any bridge or other elevated structure upon a highway or within a highway tunnel;
14. At any place where official signs prohibit stopping.

B. No person shall move a vehicle not lawfully under his control into any prohibited area or any unlawful distance away from a curb.

State Law Reference: Similar provisions, 47 O.S. Section 11-1003.

Section 15-712 . BLOCKING OF INTERSECTION OR CROSSWALK PROHIBITED.

No driver shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicles or pedestrians, notwithstanding any traffic control signal indication to proceed.

Section 15-713 . STANDING OR PARKING ON ONE-WAY ROADWAY.

A. If a highway includes two (2) or more separate roadways and traffic is restricted to one direction upon any such roadway, no person shall stand or park a vehicle upon the left-hand side of the one-way roadway unless signs are erected to permit such standing or parking.

B. The City Council may determine when standing or parking may be permitted upon the left-hand side of any such one-way roadway and to erect signs giving notice thereof.

Section 15-714 . STANDING OR PARKING ON LEFT SIDE OF ONE-WAY STREETS.

City personnel may have signs erected upon the left-hand side of any one-way street to prohibit the standing or parking of vehicles. When the signs are in place, no person shall stand or park a vehicle in violation of any such sign.

Section 15-715 . PARKING ADJACENT TO SCHOOLS.

A. City personnel may have signs erected indicting no parking upon either or both sides of any street adjacent to any school property when such parking would, in his opinion, interfere with traffic or create a hazardous situation.

B. No person shall park a vehicle in violation of any such sign.

Section 15-716 . PARKING PROHIBITED AT INTERSECTIONS.

The parking of vehicles at the curb where streets intersect

shall be prohibited fifteen (15) feet in advance of the crosswalk on the near side of such intersection.

Section 15-717 . PARKING IN ALLEYS, BLOCKING DRIVEWAYS.

No person shall park a vehicle within a street or alley in such a manner or under such conditions as to leave available less than ten (10) feet of the width of the roadway for the free movement of vehicular traffic. No person shall stop, stand or park a vehicle within a street or alley in such position as to block a driveway entrance to any abutting property.

Section 15-718 . ENTRY ON PRIVATE PROPERTY; TRESPASS; EVIDENCE; BURDEN OF PROOF.

A. No person shall make an entry with any vehicle upon real property owned or legally occupied by another without the owner's or occupant's consent except where such private property is provided as public parking and the general use of the property is not restricted by signs or proper markings.

B. Where entry is made upon real property owned or legally occupied by another without the owner's or occupant's consent, except on unrestricted public parking, and is complained of by the owner or legal occupant of the premises, the burden is put upon the person making the entry to show that permission for such entry was given.

Section 15-719 . PARKING ON MAIN TRAVELED PORTION OR ROADWAY.

A. Upon any street, no person shall stop, park, or leave standing any vehicle, whether attended or unattended upon the paved or main traveled part of the street when it is practical to stop, park, or leave the vehicle off such parts of the street, except that delivery vehicles, either loading or unloading, may park in the center of street, while in the process of loading or unloading and making delivery to or pick up at any local business establishment.

B. This Section shall not apply to the driver of any vehicle which is disabled while on the paved or main traveled portion of a street in such manner and to such extent that it is impossible to avoid stopping and temporarily leaving the disabled vehicle in such position.

Section 15-720 . DOUBLE PARKING PROHIBITED.

A. No vehicle shall be double parked on any street within

the City limits, except in compliance with the directions of a police officer, or traffic control device, or except when necessary to avoid conflict with another vehicle.

B. Delivery vehicles, either loading or unloading, may double park in the right-hand lane while in the process of loading or unloading and making delivery to local business establishments; provided that the driver of the delivery vehicle shall keep a lookout for cars and vehicles needing or attempting to move away from the curb and shall move his delivery vehicle as soon as possible to permit the parked vehicles to be moved and further providing that the double parking shall be permitted only so long as both traffic lanes are not blocked.

Section 15-721 . TRUCK PARKING PROHIBITED; TRUCKS TRANSPORTING HAZARDOUS MATERIALS PROHIBITED.

A. It is unlawful for any person to park a truck of over one ton capacity, or a trailer over thirty (30) feet in length, for more than three (3) consecutive hours on any street or alley in the City.

B. It is unlawful to park, store or otherwise let stand a truck or other vehicle which is used for the purpose of transporting or delivering flammable and combustible liquids as defined by the Fire Prevention Code and trucks or other vehicles which are used for the transportation and delivery of liquefied petroleum gases in any area within the City. However, the trucks and vehicles restricted in this Section may be temporarily parked at locations otherwise zoned for the purpose of loading and unloading flammable and combustible liquids and liquified petroleum gases for a period not to exceed one and one-half (1 1/2) hours during any twenty-four (24) hour period.

Section 15-722 . PARKING FOR CERTAIN PURPOSES PROHIBITED.

No person shall park a vehicle upon any roadway for the purpose of:

1. Displaying the vehicle for sale;
2. Displaying advertising or displaying merchandise or other things for sale or selling merchandise or other things; or
3. Washing, cleaning, or repairing the vehicle, except for repairs necessitated for emergency.

Section 15-723 . METHOD OF PARKING, STANDING OR PARKING CLOSE TO CURB.

Except as otherwise provided in this chapter, 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 the vehicle parallel to and within eighteen (18) inches of the right-hand curb. Any 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.

State Law Reference: Parking rules, 47 O.S. Section 11-1004.

Section 15-724 . NEGLIGENT PARKING.

No person shall park, cause to be parked, stop or leave unattended any vehicle as follows:

1. In a careless or negligent manner;
2. In such a manner as to endanger life, limb, person, or property; or
3. In such manner as to endanger or interfere with the lawful traffic or use of the streets.

Section 15-725 . RIGHT-OF-WAY TO PARALLEL PARKING SPACE.

A. The driver of any vehicle intending to occupy a parallel parking space where a backing movement is necessary and which is being vacated by another vehicle shall stop his vehicle to the rear of the parking space until the vacating vehicle has cleared and entered normal traffic. He then shall be deemed to have the right-of-way to such parking space over any other vehicle attempting to park therein.

B. The first of two (2) or more vehicles to reach the rear boundary of an unoccupied parallel parking space where a backing movement is necessary to occupy, shall be deemed to have the right-of-way to such parking space.

Section 15-726 . HANDICAPPED PARKING, ENFORCEMENT OF PUBLIC OR PRIVATE PARKING.

A. It is unlawful for any person to place or park a motor vehicle in any parking space on private property accessible to the public and where the public is invited or public property that is

designated and posted as a reserved area for parking of motor vehicles of a physically disabled person unless such person has a physical disability insignia as under the provisions of Section 15-112 of Title 47 of the Oklahoma Statutes, and such insignias are displayed as provided in Section 15-112 of Title 47 of the Oklahoma Statutes or regulations adopted pursuant thereto.

B. Any person who shall violate any of the provisions of this Section shall be guilty of an offense and upon conviction thereof shall be punishable by a fine as provided in Section 1-108 of this code.

State Law Reference: Handicapped insignia, application and display on vehicles, 47 O.S. Section 15-112.

ARTICLE 8

LOADING

Section 15-801 DEFINITIONS.

As used in this chapter:

1. "Freight loading zones" means all curb loading zones authorized and regularly used exclusively for the loading and unloading of merchandise for storage, trade, shipment or re-sale;

2. "Commercial vehicle" means:

A. A truck designated for delivery purposes with the name of the owner or his business painted on both sides of the vehicle, regularly used during normal business hours for the delivery and handling of merchandise or freight and which bears a regular state commercial license tag:

B. A passenger vehicle used regularly and actually engaged during normal business hours in the delivery and handling of merchandise or freight, and which bears a special numbered license plate issued by the City at the rear of the vehicle attached to the state license plate together with an identically numbered decal, issued vehicle; and

3. "Passenger loading zone" means all loading zones authorized and used regularly and exclusively for the loading and unloading of passengers except bus stops, taxicab stands, and stands for other passenger common carrier vehicles.

Section 15-802 CURB LOADING ZONES, DESIGNATION.

A. The City Manager, subject to any directions given by the Council by motion or resolution, may determine the location of passenger and freight curb loading zones and shall have placed and maintained appropriate signs indicating the zones and stating the hours during which the provisions of this Section are applicable.

B. No person shall stand or park a vehicle in violation of signs erected in accordance with this Section.

C. If any loading zone is established on request of any person, the signs shall not be placed until the applicant pays to the City an amount of money estimated by the City Council to be adequate to reimburse the City for all costs of establishing and signing the same.

Section 15-803 LOADING ZONES TO BE USED ONLY FOR DESIGNATED PURPOSE.

No curb loading zone authorized and established as a passenger loading zone shall be used as a freight loading zone, and no freight loading zone shall be used as a passenger loading zone except as may be specifically provided by law.

Section 15-804 STOPPING, STANDING OR PARKING IN PASSENGER CURB LOADING ZONE.

No person shall stop, stand, or park a vehicle in a passenger curb loading zone for any purpose or period of time other than for the expeditious loading or unloading of passengers, during the hours when the regulations applicable to such curb loading zones are effective, and then only for a period of not to exceed three (3) minutes.

Section 15-805 STOPPING, STANDING OR PARKING IN COMMERCIAL CURB LOADING ZONE.

A. No person shall stop, stand, or park a vehicle in a commercial curb loading zone for any purpose or length of time other than for the expeditious unloading and delivery or pickup and loading of materials during hours when the provisions applicable to such zones are in effect. In no case shall the driver stop for loading and unloading of materials exceed thirty (30) minutes. Vehicles using any commercial loading zone shall be subject to the licensing requirements and regulations provided by this chapter.

B. The driver of a passenger vehicle may stop temporarily at

a place marked as a freight curb loading zone for the purpose of and while actually engaged in loading or unloading passengers when such stopping does not interfere with any commercial vehicle which is waiting to enter the zone.

Section 15-806 DESIGNATION OF PUBLIC CARRIER STOPS AND STANDS.

The City Manager may establish loading zones for common carriers, including but not limited to bus stops, bus stands, taxicab stands and stands or other passenger common carrier motor vehicles, on such public streets in such places and in such number as he shall determine to be of the greatest benefit and convenience to the public. Every such loading zone shall be designated by appropriate signs.

Section 15-807 USE OF BUS AND TAXICAB STANDS RESTRICTED.

No person shall stop, stand, or park a vehicle other than a bus in a bus stop, or other than a taxicab in a taxicab stand when any such stop or stand has been officially designated and the appropriate signs are in place. The driver of a passenger vehicle may temporarily stop therein for the purpose of and while actually engaged in loading or unloading passengers when such stopping does not interfere with any bus, or taxicab waiting to enter or about to enter the zone.

Section 15-808 STOPPING, STANDING AND PARKING OF BUSES AND TAXIS.

A. The operator of a bus shall not stand or park such vehicle upon any street at any place other than a bus stand so designated as provided herein.

B. The operator of a bus shall not stop such vehicle upon any street at any place for the purpose of loading or unloading passengers or their baggage except in a bus stop, stand or loading zone designated as provided herein, except in case of an emergency.

C. The operator of a bus shall enter a bus stop, bus stand, or passenger loading zone on a public street in such a manner that the bus, when stopped to load or unload passengers or baggage, shall be in a position with the right front wheel of such vehicle not further than eighteen (18) inches from the curb and the bus approximately parallel to the curb so as not to unduly impede the movement of other vehicular traffic.

D. The operator of a taxicab shall not stand or park such vehicle upon any street at any place other than in a taxicab stand

so designated as provided herein. This provision shall not prevent the operator of a taxicab from temporarily stopping in accordance with other stopping or parking regulations at any place for the purpose of and while actually engaged in the expeditious loading or unloading of passengers.

ARTICLE 9

TURNING MOVEMENTS

Section 15-901 TURNING MARKERS OR INDICATORS.

A. Subject to any directions given by the Council by motion or resolution, the City Manager is authorized to place markers, buttons or signs within or adjacent to intersections indicating the course to be traveled by vehicles turning at such intersections. The course to be traveled, as so indicated, may conform to or be other than as prescribed by law.

B. When authorized markers, buttons, or other indications are placed within an intersection indicating the course to be traveled by vehicles turning thereat, no driver of a vehicle shall disobey the directions of such indications.

Section 15-902 DESIGNATION OF RESTRICTED TURNS.

The City Manager, subject to City Council direction, is hereby authorized to determine those street intersections at which drivers of vehicles shall not make right, left or U-turns, and shall have proper signs placed at the intersections. The making of the turns may be prohibited between certain hours of any day and permitted at other hours. Where turns are restricted during certain hours pursuant to this Section, the same shall be plainly indicated on the signs, or they may be removed when turns are permitted.

Section 15-903 OBEDIENCE TO NO-TURN SIGNS.

Whenever authorized signs are erected indicating that no right, left or U-turn is permitted, the driver of a vehicle shall not disobey the directions of any such sign.

Section 15-904 U-TURNS.

A. The driver of a vehicle shall not turn the vehicle so as to proceed in the opposite direction upon any street in the City at the following locations:

1. At intersections controlled by traffic control devices or signals unless such turns are specifically authorized;

2. Where a police officer is directing traffic except at the latter's direction; or

3. At any other location where an official "No U-Turn" sign has been placed and is maintained.

B. Manner of making U-turns. A U-turn may be made only when it can be made in safety and without interfering with other traffic. No person shall make a U-turn except in the following manner;

1. By approaching the intersection as closely as practical to the right curb or edge of the roadway, the driver giving and continuing to give a signal for a left turn until the turn is completed, proceeding to make the turn across the intersection;

2. In one continuous movement without stopping or backing the vehicle;

3. By yielding the right-of-way at all time to all vehicles until such turn is completed; and

4. Without constituting a hazard to or interfering with any other vehicle.

Section 15-905 . LEFT TURNS ACROSS CENTER LINE PROHIBITED, EXCEPTIONS.

It is unlawful and an offense for any person to turn a vehicle across the center line unless the turn is at an intersection at which left hand turns are permitted or into a private road or driveway.

Section 15-906 . POSITION AND METHOD OF TURNING.

The driver of a vehicle intending to turn at an intersection shall do as follows:

1. Right turns. Both the approach for a right turn and the execution of a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway;

2. Left turns on two-way roadways. At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, the approach for a left turn

shall be made in that portion of the right half of the street nearest the center thereof by passing to the right of the center line where it enters the intersection. After entering the intersection, the left turn shall be made so as to leave the intersection to the right of the center of the roadway being entered. Whenever practicable, the left turn shall be made in that portion of the intersection to the left of the center of the intersection; or

3. Left turns, on other than two-way roadways. At any intersection where traffic is restricted to one direction on one or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of the vehicle. After entering the intersection, the left turn shall be made so as to leave the intersection, as nearby as practicable, in the left-hand lane lawfully available to traffic moving in such direction upon roadway being entered.

State Law Reference: Similar provisions, 47 O.S. Section 11-601.

Section 15-907 TURNING MOVEMENTS AND REQUIRED SIGNALS.

A. No person shall turn a vehicle at an intersection unless the vehicle is in proper position upon the roadway as required in Section 15-905 of this code, or turn a vehicle to enter a private road or driveway, or otherwise turn a vehicle from a direct course or move right or left upon a roadway unless and until such movement can be made with reasonable safety. No person shall so turn any vehicle without giving an appropriate signal in the manner hereinafter provided.

B. A signal of intention to turn right or left, slow or stop when required, shall be given continuously during not less than the last one hundred (100) feet traveled by the vehicle before turning or stopping.

C. No person shall stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal in the manner provided herein to the driver of any vehicle immediately to the rear when there is opportunity to give the signal.

State Law Reference: Similar provisions, 47 O.S. Section 11-604.

Section 15-908 MEANS OF GIVING TURN SIGNALS.

A. Any stop or turn signal when required herein shall be given either by means of hand or arm, or by a signal lamp or lamps, or mechanical device of a type approved by the Oklahoma Department of Public Safety, except as provided in Subsection B of this Section.

B. A vehicle shall be equipped with, and the required signal given by, signal lamps or devices when:

1. The body or cab of a vehicle or the load of any vehicle projects twenty-four (24) inches or more to the left of the center of the steering wheel;

2. Under any condition where a hand and arm signal would not be visible both to the front and rear of the vehicle; or

3. The rear limit of the body of a vehicle or the load of any vehicle projects fourteen (14) feet or more beyond the center top of the steering post.

Section 15-909 METHOD OF GIVING HAND AND ARM SIGNALS.

All signals herein required given by hand and arm shall be given from the left side of the vehicle in the following manner and such signals shall indicate as follows:

1. Left turn - hand and arm extended horizontally;

2. Right turn - hand and arm extended upward; and

3. Stop or decrease speed - hand and arm extended downward with palm to the rear.

ARTICLE 10

PEDESTRIANS

Section 15-1001 PEDESTRIANS SUBJECT TO TRAFFIC CONTROL SIGNALS.

Pedestrians shall be subject to traffic control signals as provided for in this chapter, but at all other places pedestrians shall be granted those rights and be subject to the restrictions stated in this chapter.

State Law Reference: Pedestrian rights and duties, 47 O.S. Section 11-501 to 11-507.

Section 15-1002 PEDESTRIANS' RIGHT-OF-WAY AT CROSSWALKS.

A. When traffic control signals are not in place or not in operation, the driver of a vehicle shall yield the right-of-way slowing down or stopping, if need be, to so yield to a pedestrian crossing the roadway within a crosswalk when:

1. The pedestrian is upon the half of the roadway upon which the vehicle is traveling; or

2. The pedestrian is approaching so closely from the opposite edge of the roadway as to be in danger.

The provisions of this subsection are not applicable under conditions where pedestrians are required to yield pursuant to this chapter.

B. No pedestrian shall suddenly leave a curb or other place of safety or walk or run into the path of the vehicle which is so close that it is impossible for the driver to yield.

C. Whenever any vehicle is stopped at a marked crosswalk, or any unmarked crosswalk, or at an intersection to permit a pedestrian to cross a roadway, the driver of any other vehicle approaching from the rear shall not overtake to pass such stopped vehicle.

Section 15-1003 PEDESTRIANS TO USE RIGHT HALF OF CROSSWALK.

Pedestrians, when crossing the street at a crosswalk, shall move, whenever practicable, upon the right half of the crosswalk.

Section 15-1004 CROSSING AT RIGHT ANGLES.

No pedestrian shall cross a roadway at any place other than by a route at right angles to the curb or by the shortest route to the opposite curb, except in a crosswalk.

Section 15-1005 WHEN PEDESTRIANS SHALL YIELD.

A. Every pedestrian crossing a roadway at any point other than within a marked or unmarked crosswalk at any intersection shall yield the right-of-way to all vehicles upon the roadway.

B. Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right-of-way to all vehicles upon the roadway.

C. The provisions of this Section are not applicable where pedestrian crossings are prohibited.

Section 15-1006 PEDESTRIANS WALKING ALONG ROADWAYS.

A. Where sidewalks are provided, it is unlawful for any pedestrian to walk along and upon an adjacent roadway.

B. Where sidewalks are not provided, any pedestrian walking along and upon a highway shall, when practical, walk only on the left side of the roadway, or its shoulder, facing traffic which may approach from the opposite direction, and shall yield to approaching vehicles.

Section 15-1007 PEDESTRIANS PROHIBITED FROM SOLICITING RIDES, BUSINESS OR DONATIONS FROM VEHICLE OCCUPANTS.

A. No person shall stand in a roadway for purpose of soliciting a ride, donations, employment or business from the occupant of any vehicle.

B. No person shall:

1. Stand in any street, roadway or park and stop or attempt to stop and engage any person in any vehicle for the purpose of soliciting contributions or the watching or guarding of any vehicle while parked or about to be parked on a street;

2. Sell or attempt to sell anything to any person in any vehicle;

3. Hand or attempt to hand to any person in any vehicle any circular, advertisement, handbill or any political campaign literature, or any sample, souvenir or gift; or

4. In any other manner, while standing in the street or roadway, attempt to interfere with the normal flow of traffic for any other similar purpose.

Section 15-1008 DRIVERS TO EXERCISE DUE CARE.

Notwithstanding the foregoing provisions of this chapter, every driver shall exercise due care to avoid colliding with any pedestrian upon any roadway, and shall give warning by sounding the horn when necessary and shall exercise proper precaution upon observing any child or any confused or incapacitated person on the roadway.

Section 15-1009 CROSSING PROHIBITED.

Between adjacent intersections, at which traffic control signals are in operation, pedestrians shall not cross at any place except in a crosswalk. Pedestrians shall not cross any divided highway having a median in the center thereof, except in a crosswalk.

Section 15-1010 OBEDIENCE OF PEDESTRIANS TO RAILROAD SIGNALS.

No pedestrian shall pass through, around, over, or under any crossing gate or barrier at a railroad grade crossing while such gate or barrier is closed or is being opened or closed.

ARTICLE 11

BICYCLES

Section 15-1101 APPLICATION OF BICYCLE REGULATIONS.

The provisions of this Article shall apply whenever a bicycle is operated upon any street or upon any public way; or upon any path set aside for the exclusive use of bicycles, subject to those exceptions stated in this chapter.

State Law Reference: Similar provisions, 47 O.S. Section 11-1201 et. seq.

Section 15-1102 APPLICATION OF TRAFFIC LAWS TO BICYCLES.

Every person riding a bicycle upon a roadway shall be granted all rights and shall be subject to all the duties applicable to the driver of a vehicle by the laws of this state and the traffic provisions of this code applicable to the driver of a vehicle, except as to special regulations in this chapter and except as to those provisions of laws and ordinances which by their nature are inapplicable to such persons.

Section 15-1103 OBEDIENCE TO TRAFFIC CONTROL DEVICES.

A. Any person operating a bicycle shall obey the instructions of official traffic control signals, signs and other control devices applicable to vehicles unless otherwise directed by a police officer.

B. Whenever authorized signs are erected indicating no right or left or U-turn is permitted, no person operating a bicycle shall disobey the directions of 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 the pedestrians.

Section 15-1104 RIDING ON BICYCLES.

A. No person operating a bicycle shall ride other than astride a permanent and regular seat attached thereto.

B. No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.

Section 15-1105 RIDING ON ROADWAYS AND BICYCLE PATHS.

A. Every person operating a bicycle upon a roadway shall ride as near to the right-hand side of the roadway as practicable, exercising due care when passing a standing vehicle proceeding in the same direction.

B. Person riding bicycles upon a roadway shall not ride more than two (2) abreast except on paths or parts of roadways set aside for the exclusive use of bicycles.

C. If usable paths for bicycles are provided adjacent to a roadway, bicycle riders shall use such paths and not use the roadway.

Section 15-1106 SPEED OF BICYCLE.

No person shall operate a bicycle at a speed greater than is reasonable and prudent under the conditions then existing.

Section 15-1107 EMERGING FROM ALLEY OR DRIVEWAY.

The operator of a bicycle emerging from an alley or driveway shall, upon approaching a sidewalk or sidewalk area extending across the alley or driveway, yield the right-of-way to all pedestrians approaching on the sidewalk or sidewalk area. Upon entering the roadway, the bicycle operator shall yield the right-of-way to all vehicles approaching on the roadways.

Section 15-1108 CARRYING ARTICLES.

No person operating a bicycle shall carry any package, bundle, or article which prevents the rider from keeping at least one hand on the handle bars.

Section 15-1109 PARKING.

No person shall park a bicycle upon a street other than upon the roadway against the curb or upon the sidewalk in a rack to support the bicycle or against the building or at the curb in such manner as to afford the least obstruction to pedestrian traffic.

Section 15-1110 RIDING ON SIDEWALKS.

A. No person shall ride a bicycle upon a sidewalk within a business district.

B. The City Council, by motion or resolution, is authorized to have erected signs on any sidewalk or roadway prohibiting the riding of bicycles thereon by any person; and when such signs are in place, no person shall disobey the same.

C. Whenever any person is riding a bicycle upon a sidewalk, such person shall yield the right-of-way to any pedestrian and shall give audible signal before overtaking and passing such pedestrian.

Section 15-1110A SKATEBOARDS, ROLLER SKATES AND SIMILAR DEVICES
REGULATED

A. Definition. For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

SKATEBOARD. An item consisting of a short, oblong board, not exclusive to wood, with a pair of small wheels at each end, ridden on a hard surface such as a floor, sidewalk, or street.

B. No person shall operate a skateboard, coaster, or roller skates within the following locations and/or on the following designated streets, sidewalks and parking lots:

1. Main Street from State Road to Sandcreek Road; and
2. Central Street, Broadway Street, and Walnut Street From 7th Avenue to Railroad Street; and
3. Elm Street from 6th Avenue to Railroad Street; and
4. 6th Avenue from Central Street to Walnut Street; and
5. 7th Avenue from Central Street to Broadway Street.

C. Compliance required. No person shall ride a skateboard within the City of Fairview without complying with this section and any and all other applicable ordinances and statutes, to include:

1. Yielding to pedestrians. Whenever any person is riding a skateboard upon a sidewalk or other paved surface intended for use by pedestrians, such person shall yield the right-of-way to any pedestrian and shall not approach, overtake or pass such pedestrian in a reckless or careless manner, nor pass such pedestrian except in a single file if such person is riding a skateboard with other such riders.

2. Riding on certain devices or structures. No person shall skateboard on any public bench, table, planter wall, playground equipment, picnic tables, or other device or structure which is not intended for pedestrian or vehicular traffic, or jump or step on or off such devices or structures in the process of riding a skateboard. No person shall skateboard on any steps or handicapped ramps.

3. Reckless or dangerous riding. No person shall skateboard on any sidewalk or other paved surface intended for pedestrian use or for the parking of vehicles in a reckless or careless manner, nor in a manner which is likely to result in injury or harm to any person or property.

4. Riding on private property without permission. No person shall ride a skateboard on private property without first obtaining permission of the owner of said property to allow such skating or riding.

5. Riding while attached to vehicle. No person shall ride a skateboard while either the skateboard or the person is attached to any vehicle.

6. Prohibitions on public streets and in the downtown area. No person shall ride a skateboard on sidewalks, nor areas and sidewalks under the jurisdiction of the City of Fairview and commonly known and associated as being a part of the downtown business district.

7. Restrictions on use. No person shall ride a skateboard in any position other than standing on the board.

8. Prohibitions on ramps and incline devices. No person shall construct, establish, maintain, use or place a ramp or other incline device to be used for skateboarding upon any public sidewalk or roadway in the City.

Note: Section added by Ordinance No. 2007-6.

Section 15-1111 LAMPS AND EQUIPMENT ON BICYCLES.

A. Bicycles in use at night shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least five hundred (500) feet to the front and with a red reflector on the rear of a type which shall be visible from fifty (50) feet to three hundred (300) feet to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle. A lamp emitting a red light visible from a distance of five hundred (500) feet to the rear may be used in addition to the red reflector.

B. A bicycle shall not be equipped with, nor shall any person use, any siren or whistle.

C. Bicycles shall be equipped with a brake which will enable the operator to make the braked wheel skid on dry, level, clean pavement.

ARTICLE 12

(RESERVED)

ARTICLE 13

IMPOUNDMENT OF VEHICLES

Section 15-1301 PURPOSE AND EFFECT OF IMPOUNDMENT PROVISIONS.

The 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 and welfare, and the safeguarding of property, and shall be used generally for the prevention and removal of traffic hazards, prevention and abatement of public nuisances arising from traffic law violations, protection of the public rights in the use of streets and thoroughfares from obstructions placed and left in derogation of those rights, and for safeguarding and protecting recovered stolen vehicles.

State Law Reference: Grounds for removal of vehicles on highways by state, 47 O.S. Section 955; removal of abandoned vehicles on private property, 47 O.S. Section 954A.

Section 15-1302 PLACE OF IMPOUNDMENT.

Every vehicle that is impounded under the provisions of this

Article shall be removed to the nearest garage or place of safekeeping designated by the City and to no other place.

Section 15-1303 DURATION OF IMPOUNDMENT.

A. Except as otherwise provided, any vehicle impounded under the authority of this Article shall be stored and held safely until an order for its release is received from an officer of the traffic violations bureau or other proper police officer.

B. The order of release of an impounded vehicle shall be conditioned upon the payment by the person to whom the release is issued of all impoundment costs and accrued storage charges assessed against the vehicle.

Section 15-1304 POLICE GRANTED AUTHORITY TO IMPOUND VEHICLES.

Members of the police department are hereby authorized within the limits set forth in this chapter to impound vehicles under the circumstances hereinafter enumerated. No impoundment shall be valid unless made under order of an authorized police officer and in strict adherence with the procedures required in this Article.

Section 15-1305 DISABLED VEHICLES.

A disabled vehicle upon a street or highway may be impounded under the following circumstances:

1. If left unattended and improperly parked on street or highway and constitutes a definite hazard or obstruction to the normal movement of traffic; or

2. 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 and the vehicle is so disabled as to constitute an obstruction to traffic or a hazard.

Section 15-1306 VEHICLES ON BRIDGE.

An unattended vehicle left upon any bridge, viaduct or causeway, where the vehicle constitutes an obstruction to traffic or hazard, may be impounded.

Section 15-1307 ARREST AND DETENTION OF DRIVER OF VEHICLE.

Whenever the driver or person in charge of any vehicle is placed under arrest and taken into custody and detained by police under circumstances which leaves or will leave a vehicle unattended

on any street or highway, the vehicle may be impounded, unless the driver or person in charge can provide immediately for the vehicle's custody or removal.

Section 15-1308 VEHICLE CONSTITUTES TRAFFIC HAZARD.

A vehicle left unattended upon any street, alley or thoroughfare and so parked illegally as to constitute a definite hazard or obstruction to the normal movement of traffic shall be impounded.

Section 15-1309 ILLEGAL TRESPASS BY VEHICLE.

A. An unattended vehicle found to be in violation of this code may be impounded when the required complaint has been properly made and filed as provided in this Section.

B. If a violation of the provisions of this code occurs, the owner or legal occupant who complains shall sign a complaint against the person parking the vehicle on the owner's or legal occupant's property, or if the identity of the person parking the vehicle is unknown, then the complaint may be filed against the registered owner of the vehicle. The complaint shall be verified and shall allege that the complaining party is the owner or legal occupant of the property upon which the vehicle is parked or standing.

C. Upon filing of the complaint by the property owner or legal occupant, and if there appears to be proper cause to believe the provisions of this code have been violated, the police department shall cause the vehicle to be impounded from the property and placed in storage.

Section 15-1310 VEHICLES PARKED OVERTIME.

Any unattended vehicle which has been parked for more than one hour in excess of the time allowed for parking in any place shall be impounded, and any vehicle parked in violation of this code, for more than forty-eight (48) hours, shall be impounded.

Section 15-1311 VEHICLES BLOCKING FIRE EXITS OR HYDRANTS.

Any vehicle illegally parked in such a manner that it blocks a fire escape ladder, device or exit or blocks ready access to a fire hydrant shall be impounded.

Section 15-1312 VEHICLES PARKED IN INTERSECTION.

Any unattended vehicle illegally parked in any street intersection shall be impounded. A disabled vehicle in an intersection with the person in charge of the vehicle being present, shall be moved out of the intersection and to the nearest available legal parking space at the street curbing.

Section 15-1313 STOLEN VEHICLES; RECOVERY BY POLICE.

A. Whenever a stolen vehicle is located by police and the registered owner cannot be found within a reasonable time not exceeding one hour, or cannot be determined from the registration papers or other identifying media in the vehicle or from records or information available from reports of stolen cars, the vehicle may be removed to the nearest authorized place impoundment and the registered owner of the vehicle shall be notified of the location of the place of impoundment as soon as possible by the police department.

B. If the registered owner is identified, located and notified of the recovery of the stolen vehicle, the owner shall be given the right to make his own arrangement for the removal of the vehicle within the period of one hour from the time he is actually notified of its recovery, and if the owner is unable or unwilling to effect the removal within the time specified the vehicle may be impounded.

Section 15-1314 VEHICLES WITH OUTSTANDING TRAFFIC CITATIONS.

Any vehicle for which two (2) or more citations have been issued, for violation of an ordinance, and have not been presented as required, may be impounded if parked in violation of any provision of this chapter.

ARTICLE 14

PENALTIES

Section 15-1401 OBEDIENCE TO TRAFFIC CODE.

A. It is an offense against the City for any person to do any act forbidden or to fail to perform any act required by this chapter.

B. It is an offense against the City for the parent of any child or for the guardian of any ward to authorize or knowingly permit any such child or ward to violate any of the provisions of

this chapter.

C. It is an offense for any person to authorize or knowingly to permit any vehicle registered in his or her name to be driven or to stand or to be parked in violation of any of the provisions of this chapter.

Section 15-1402 PENALTIES, SPECIFIC AND GENERAL.

Except as otherwise provided in this part, any person violating any of the provisions of this part containing the traffic laws of the City, or who performs any unlawful act as defined in this part, or who fails to perform any act required by this part, shall be guilty of an offense and upon conviction thereof shall be fined or punished as provided in Section 1-108 of this code.

CHAPTER 16 TRANSPORTATION

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CHAPTER 16 TRANSPORTATION

ARTICLE 1

RAILROADS

Section 16-101 . RAILROADS TO IMPROVE STREETS AND ALLEYS.

When a railway occupies any portion of a street with its tracks running in a general direction of such street, either on or adjacent thereto, the railway company shall improve the space between its tracks and two (2) feet on either side thereof in the same manner that the remainder of the street is to be, or has been, improved, or with such other satisfactory material as the council by motion or resolution may approve. In case any railway company shall occupy an alley with its track or tracks, such company shall improve, gutter, drain, and grade such alley, and shall surface or pave it with the same material which is to be, or has been, used on the alley, or with such other satisfactory material as the council by motion or resolution may approve. When the tracks of any railroad company cross any street that is being or has been paved, the company shall pave as much of the street as is occupied by its track or tracks and two (2) feet on each side, using the same material as is to be, or has been, used on the street, or such other satisfactory material as the council by motion or resolution may approve. When more than one track crosses a street within a distance of one hundred (100) feet, measuring from inside rail to inside rail, the railroad company shall grade, gutter, drain, and curb the street area between its tracks, and surface or pave it with the same material which the city is to use or has used, on the street. Railroad companies shall keep all such improvements made by them in a good state of repair at all times.

Section 16-102 . SIDEWALKS TO BE CONSTRUCTED BY RAILROADS.

Railway companies shall construct sidewalks crossing their rights-of-way, using the same material as is used in adjacent sidewalks insofar as this is practicable under the circumstances. They shall construct sidewalks on both sides of the streets when both sides are used by pedestrians. The company shall keep such sidewalks in a good state of repair at all times.

Section 16-103 . CLIMBING ON TRAINS.

It is unlawful for any person to climb upon, hold to, or in any manner attach himself to, any railway train, locomotive, or railway car, while such is in motion within the city, unless such person is acting in line of duty; or to board any train or railroad

car, including a passenger, freight, or other car, except with a proper ticket or the permission of the person in charge of the train or car or in line of duty.

Section 16-104 . SPEED LIMIT FOR TRAINS.

A. The maximum speed of railroad locomotives, engines, motorcars or trains of cars within the corporate limits of the city shall be as provided by federal regulation.

B. No engineer, conductor or other person in charge of a railway locomotive, railway engine, railway motorcar or train of cars shall operate and run the same, or permit or suffer the same to be operated and run, along any track within the corporate limits of the city at a greater rate of speed than is prescribed and set forth in this Section.

C. Where grade crossings of any railroad tracks are protected by automatic crossing gates with arms or by wig-wag signals within the city, all trains passing through any grade crossings so protected shall not exceed a speed of fifty (50) miles per hour. Such automatic crossing gates or wig-wag signals shall close each and every grade crossing to highway traffic for a period of at least thirty (30) seconds before any train, or part of train, shall occupy the grade crossing.

Section 16-105 . CROSSING GATES OR SIGNALS.

Any and all railroad companies which are now operating and which shall hereafter operate, any railroad line or lines within the corporate limits, or through the corporate limits, of the city, are hereby authorized to erect and install automatic crossing gates, with arms, at all railroad grade crossings in the city.

Section 16-106 . TRAINS BLOCKING STREETS.

It is unlawful for the directing officer or the operator of any railroad train to direct the operation of or to operate the same in such a manner as to prevent the use of any street for purposes of travel for a period of time longer than five (5) minutes. This provision shall not apply to railroad trains or cars in motion, other than those engaged in switching.

Section 16-107 . UNNECESSARY NOISES PROHIBITED.

It is unlawful for any engineer or other person while operating a locomotive within or through the city to cause unnecessary or prolonged blasts with a whistle on the locomotive

or to allow or cause any unnecessary noises from such locomotive.

ARTICLE 2

AIRPORT DEPARTMENT AND AIRPORT COMMISSION

SECTION 16-201 DEPARTMENT OF AIRPORTS ESTABLISHED.

A. There is hereby created a department of airports, the head of which is the airport manager, appointed by the city manager for an indefinite term and removable by the city manager. The airport manager is an officer of the city and has supervision and control of the airport department. The airport department, through the airport manager, shall be under the direct supervision of the city manager and shall file monthly reports on forms approved by the city manager's office.

B. The airport department shall have the charge of the maintenance of and shall operate and improve the Fairview Municipal Airport. The airport shall be operated in compliance with all laws, procedures, rules and regulations of the Federal Aviation Administration. The airport department shall conduct general maintenance and repair of buildings and hangers, taxiways and runways.

SECTION 16-202 MAYOR TO APPOINT COMMISSION; LIMITATION.

Commissioners shall be appointed by the mayor and confirmed by a three-fourths (3/4) vote of the duly elected and qualified members of the city council, and shall hold office for a term of five (5) years, provided however, that the commissioners first appointed shall serve for terms of one, two (2), three (3), four (4), and five (5) years each, to be designated by the mayor, and thereafter upon the expiration of their respective terms their successors shall be appointed for a term of five (5) ears, from the first day of July.

SECTION 16-203 CONDITIONS FOR SERVICE ON COMMISSIONS.

The members of the commission shall receive no compensation for their services but shall be entitled to reimbursement for all expenses reasonably incurred by them in the performance of their duties as members of the commission. Each commissioner shall take and file the oath required by law in the State of Oklahoma. No member of such commission shall hold any elective office under the municipal government while a member of the commission, nor shall any such member be a candidate for any such elective office while a member of the commission. Further, no member of the commission

shall engage financially in any aeronautical enterprise other than minority ownership of stock of a certificated air carrier not operating on or from the Fairview Municipal Airport, nor shall any member have any financial interest in any concession, right or privilege to conduct any business or render any service for compensation upon the premises of the municipal airport.

SECTION 16-204 METHOD OF REMOVAL OF COMMISSION MEMBERS.

Any commissioner appointed by the provisions of this chapter may be removed only by a three-fourths (3/4) vote of the duly elected and qualified members of the city council.

SECTION 16-205 POWERS OF COMMISSIONERS.

The commissioners hereunder appointed shall have advisory powers and assist the city council as follows:

1. The commission shall assist the city in all operation, management, and development problems of the airport. It shall keep a record of all airport income, which shall be channeled through regular city channels. It shall also keep a record of all airport expenditures and any expenses paid shall first be approved by the commission. The commission should see that the airport is operated and maintained in full accordance with any agreements between the city and the Federal Aviation Agency or any other governmental agency;

2. The commission shall assist the city in complying with all civil air regulations of the FAA, pertaining to airworthiness of aircraft, certification of aircraft and operation of aircraft as may fall under the city's jurisdiction;

3. The commission shall give the city all necessary assistance in protecting all the aerial approaches to the airport;

4. The commission shall advertise the airport to the maximum interest of the city and encourage or cause to permit sufficient facilities to be available for all possible business in the community;

5. The commission shall recommend to the city annually before the city council prepares its budget, the amount of funds necessary for maintenance, operation, management, or development of the airport, which shall include the estimated revenue to be derived from the airport;

6. All recommendations to the city council shall have the

approval of a majority of the commission members;

7. The commission shall be responsible for issuance of news items to the local newspapers; and

8. The commission shall be responsible for assisting the city to coordinate all planning and activity on the airport with the state and federal aviation agencies.

SECTION 16-206 AIRPORT COMMISSION TO MEET MONTHLY.

The commission shall meet at. least monthly, but other meetings may be held at any time by the commission or upon the call of the mayor and the city council.

SECTION 16-207 AIRPORT COMMISSION TO ELECT OFFICERS.

The commission shall elect annually from its members a chairman and vice- chairman and shall also appoint a secretary who may, but need not be, a member of the commission.

SECTION 16-208 LEGAL COUNSEL FOR COMMISSION TO BE CITY ATTORNEY.

The city attorney of the city shall serve as ex-officio legal counsel for the commission, and the commission shall have the authority to employ other legal counsel as it may deem necessary.

SECTION 16-209 FAIRVIEW-MAJOR COUNTY JOINT AIRPORT ZONING BOARD CREATED.

Subject to like provision being made by the board of the county commissioners of the county, by proper resolution, duly promulgated and entered on its minutes, and as authorized by the provisions of Title 3 of the statutes of the state, there is hereby created a Joint Airport Zoning Board, to be known as the Fairview-Major County Joint Airport Zoning Board which shall have the powers and exercise the duties set forth in Sections 101 through 115 inclusive of Title 3 of the statutes of the state.

Cross Reference: See also Sees. 12-201 et seq., Zoning.

SECTION 16-210 MEMBERSHIP.

The Fairview-Major County Joint Airport Zoning Board shall be composed of five (5) members, two (2) to be appointed by the city council of the city and two (2) members to be appointed by the board of county commissioners of the county. The fifth member shall

be elected by a majority of the members so appointed and the fifth member shall serve as chairman of the Fairview-Major County Joint Airport Zoning Board.

Ed. Note: Fairview Airport Authority. Ordinance No. 76-4 approved the trust indenture creating the Fairview Airport Authority and accepted beneficial interest in the trust. The trust indenture is dated April 20, 1976.

ARTICLE 3

FAIRVIEW MUNICIPAL AIRPORT HEIGHT HAZARD ZONING

SECTION 16-301 TITLE.

This Article shall be known and may be cited as Fairview Municipal Airport Height Hazard Zoning. This Article is adopted pursuant to the authority conferred by 3 O.S. 100 et seq. It is hereby found that an obstruction has the potential for endangering the lives and property of users of the Fairview Municipal Airport, and property or occupants of land in its vicinity; that an obstruction may affect existing and future instrument approach minimums at the Fairview Municipal Airport; and that an obstruction may reduce the size of areas available for the landing, takeoff, and maneuvering of aircraft, thus tending to destroy or impair the utility of the Fairview Municipal Airport and the public investment therein. Accordingly, it is declared:

A. That the creation or establishment of an obstruction has the potential of being a public nuisance and may injure the region served by the Fairview Municipal Airport;

B. That it is necessary in the interest of the public health, public safety, general welfare and convenience that the creation or establishment of obstructions that are a hazards to air navigation is prevented; and

C. That the prevention of these obstructions should be accomplished, to the extent legally possible, by the exercise of the police power, as a reasonable zoning regulation, without the necessity of the payment of just compensation.

D. That the prevention of the creation or establishment of hazards to air navigation, the elimination, removal, alteration or mitigation of hazards to air navigation, or the marking and lighting of obstructions are public purposes for which a political subdivision may raise and expend public funds and acquire land or interests in land.

SECTION 16-302 DEFINITIONS

As used in this Article, unless the context otherwise requires, the following definitions shall have the following meaning:

1. AIRPORT - Fairview Municipal Airport.
2. AIRPORT ELEVATION - The highest point of an airport's usable landing area measured in feet from sea level. Fairview Municipal Airport has an elevation of 1,273' above mean sea level (MSL).
3. APPROACH SURFACE - A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in Section 16-304 of this Article. In plan, the perimeter of the approach surface coincides with the perimeter of the approach zone.
4. APPROACH, TRANSITIONAL, HORIZONTAL, AND CONICAL ZONES - These zones set forth in Section 16-303 of this Article.
5. BOARD OF ADJUSTMENT - The Board of Adjustment shall be that board created pursuant to 12-121 of this code.
6. CONICAL SURFACE - A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.
7. HAZARD TO AIR NAVIGATION - an obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.
8. HEIGHT - For the purposes of determining the height limits in all zones set forth in this Article and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.
9. HORIZONTAL SURFACE - A horizontal plane 150 feet above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone.
10. LARGER THAN UTILITY RUNWAY - A runway that is constructed for and intended to be used by propeller driven aircraft of greater than 12,500 pounds maximum gross weight and jet power aircraft.
11. NONCONFORMING USE - Any pre-existing structure, object of

natural growth, or use of land which is inconsistent with the provisions of this Article or an amendment thereto.

12. NON-PRECISION INSTRUMENT RUNWAY - A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in non-precision instrument approach procedure has been approved or planned.

13. OBSTRUCTION - Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in Section 16-304.

14. PERSON - An individual, firm, partnership, corporation, company, association, joint stock association, or governmental entity; includes a trustee, a receiver, an assignee, or a similar representative of any of them.

15. PRIMARY SURFACE - A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; for military runways or when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of the runway. The width of the primary surface is set forth in Section 16-303 of this Article. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

16. RUNWAY - A defined area on an airport prepared for landing and take-off of aircraft along its length.

17. STRUCTURE - An object, including a mobile object, constructed or installed by man, including but without limitation, buildings, towers, cranes, smokestacks, earth formation, and overhead transmission lines.

18. TRANSITIONAL SURFACES - These surfaces extend outward at 90 degree angles to the runway centerline and the runway centerline extended at a slope of seven (7) feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach surfaces, which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at 90 degree angles to the extended runway centerline.

19. TREE - Any object of natural growth.

20. UTILITY RUNWAY - A runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight and less.

21. VISUAL RUNWAY - A runway intended solely for the operation of aircraft using visual approach procedures.

SECTION 16-303 AIRPORT ZONES

In order to carry out the provisions of this Article, there are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to the Fairview Municipal Airport. Such zones are shown on the Fairview Municipal Airport Zoning Map consisting of 1 sheet, prepared by Leard-Bice & Associates, Inc., which is attached to Ordinance 99-1, on file in the Office of the City Clerk and made a part hereof. An area located in more than one (1) of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:

1. Utility Runway Visual Approach Zone. The inner edge of this approach zone coincides with the width of the primary surface and is 250 feet wide. The approach zone extends outward uniformly to a width of 1,250 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

2. Transitional Zones. The transitional zones are the areas beneath the transitional surfaces.

3. Horizontal Zone. The horizontal zone is established by swinging arcs of 5,000 feet radii for all runways designated utility or visual and 10,000 feet for all other from the center of each end of the primary surface of such runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.

4. Conical Zone. The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward therefrom a horizontal distance of 4,000 feet.

SECTION 16-304 AIRPORT ZONE HEIGHT LIMITATIONS

Except as otherwise provided in this Article, no structure shall be erected, altered, or maintained, and no tree shall be

allowed to grow in any zone created by this Article to a height in excess of the applicable height limit herein established for such zone. Such applicable height limitations are hereby established for each of the zones in question as follows:

1. Utility Runway Visual Approach Zone. Slopes twenty (20) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.

2. Transitional Zones. Slopes seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation which is 1,273 feet above mean sea level. In addition to the foregoing, there are established height limits sloping seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending to where they intersect the conical surface. Where the precision instrument runway approach zone projects beyond the conical zone, there are established height limits sloping seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending a horizontal distance of 5,000 feet measured at 90 degree angles to the extended runway centerline.

3. Horizontal Zone. Established at 150 feet above the airport elevation or at a height of 1,423 feet above mean sea level.

4. Conical Zone. Slopes twenty (20) feet outward for each foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation.

5. Excepted Height Limitations. Nothing in this Article shall be construed as prohibiting the construction or maintenance of any structure, or growth of any tree to a height up to 50 feet above the surface of the land.

SECTION 16-305

USE RESTRICTIONS

Notwithstanding any other provisions of this Article, no use may be made of land or water within any zone established by this Article in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots

using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

SECTION 16-306 NONCONFORMING USES

1. Regulations Not Retroactive. The regulations prescribed by this Article shall not be construed to require the removal, lowering, or other changes or alteration of any structure or tree not conforming to the regulations as of the effective date of this Article, or otherwise interfere with the continuance of nonconforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this Article, and is diligently prosecuted.

2. Marking and Lighting. Notwithstanding the preceding provision of this Section, the Owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the Airport Manager to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated, and maintained at the expense of the City of Fairview and/or the Fairview Airport Authority.

SECTION 16-307 PERMITS

1. Future Uses. Except as specifically provided in a, b, and c hereunder, no material change shall be made in the use of land, no structure shall be erected or otherwise established, and no tree shall be planted in any zone hereby created unless a permit therefor shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure, or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted. No permit for a use inconsistent with the provisions of this Article shall be granted unless a variance has been approved in accordance with Section 16-307.4.

a. In the area lying within the limits of the horizontal zone and conical zone, no permit shall be required for any tree or structure less than seventy-five feet of vertical height above the ground, except when, because of terrain, land contour, or

topographic features, such tree or structure would extend above the height limits prescribed for such zones.

b. In areas lying within the limits of the approach zones, but at a horizontal distance of not less than 4,200 feet from each end of the runway, no permit shall be required for any tree or structure less than seventy-five feet of vertical height above the ground, except when such tree or structure would extend above the height limit prescribed for such approach zones.

c. In the areas lying within the limits of the transition zones beyond the perimeter of the horizontal zone, no permit shall be required for any tree or structure less than seventy-five feet of vertical height above the ground, except when such tree or structure, because of terrain, land contour, or topographic features, would extend above the height limit prescribed for such transition zones.

Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, or alteration of any structure, or growth of any tree in excess of any of the height limits established by this Article except as set forth in Section 16-304.5.

2. Existing Uses. No permit shall be granted that would allow the establishment or creation of any obstruction or permit a nonconforming use, structure, or tree to become a greater hazard to air navigation than it was on the effective date of this Article or any amendments thereto or than it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted.

3. Nonconforming Uses Abandoned or Destroyed. Whenever the Code Enforcement Officer determines that a nonconforming tree or structure has been abandoned or more than 80 percent torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations.

4. Variances. Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property, not in accordance with the regulations prescribed in this Article, may apply to the Board of Adjustment for the City of Fairview for a variance from such regulations. The application for variance shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variances shall be allowed where it

is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and relief granted, will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the spirit of this Article. Additionally, no application for variance to the requirements of this Article may be considered by the Board of Adjustment unless a copy of the application has been furnished to the Fairview Airport Committee for advice as to the aeronautical effects of the variance. If the Fairview Airport Committee does not respond to the application within thirty (30) days after receipt, the Board of Adjustment may act on its own to grant or deny said application.

5. Obstruction Marking and Lighting. Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this Article and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to install, operate, maintain, at the owner's expense, such markings and lights as may be necessary. If deemed proper by the Board of Adjustment, this condition may be modified to require the owner to permit the City of Fairview and/or Fairview Airport Trust, at its own expense, to install, operate, and maintain the necessary markings and lights.

SECTION 16-308 ENFORCEMENT

It shall be the duty of the Zoning Administrator to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the Zoning Administrator upon a form published for that purpose. Applications required by this Article to be submitted to the Zoning Administrator shall be promptly considered and granted or denied. Application for action by the Board of Adjustment shall be forthwith transmitted by the Zoning Administrator.

SECTION 16-309 BOARD OF ADJUSTMENT

1. The Board of Adjustment is hereby authorized to have and exercise the following powers: (1) to hear and decide appeals from any order, requirement, decision, or determination made by the Zoning Administrator in the enforcement of this Article; (2) to hear and decide special exceptions to the terms of this Article upon which such Board of Adjustment under such regulations may be required to pass; and (3) to hear and decide specific variances.

2. The Board of Adjustment shall adopt rules for its governance and in harmony with the provisions of this Article. Meeting of the Board of Adjustment shall be held at the call of the

Chairman and at other times as the Board of Adjustment may determine. The Chairperson or Vice Chairman shall administer oaths and compel the attendance of witnesses. All hearings of the Board of Adjustment shall be public. The Board of Adjustment shall keep minutes and its proceedings shall show the vote of each member on each question; of if absent or failing to vote, indicating such fact, and shall keep records of all examinations and other official actions, all of which shall immediately be filed in the office of the Zoning Administrator and on due cause shown.

3. The Board of Adjustment shall make written findings of facts and conclusion of law giving the facts upon which it acted and its legal conclusions from such facts in reversing, affirming, or modifying any order, requirement, decision, or determination which comes before it under the provisions of this Article.

4. The concurring vote of a majority of the members of the Board of Adjustment shall be sufficient to reverse any order, requirement, decision, or determination of the Zoning Administrator on any matter upon which it is required to pass under this Article, or to effect variation to this Article.

Section 16-310 Appeals

1. Any person aggrieved, or any taxpayer affected, by the decision of the Zoning Administrator made in the administration of the Article, may appeal to the Board of Adjustment.

2. All appeals hereunder must be taken within a reasonable time as provided by the rules of the Board of Adjustment, by filing with the Zoning Administrator a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken.

3. An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board of Adjustment, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate to stay would in the opinion of Zoning Administrator cause imminent peril to life or property. In such case, proceedings shall not be stayed except by the order of the Board of Adjustment on notice to the Zoning Administrator and on due cause shown.

4. The Board of Adjustment shall fix a reasonable time for hearing appeals, give public notice and due notice to the parties in interest, and decide the same within a reasonable time. Upon

the hearing, any party may appear in person or by agent or by attorney.

5. The Board of Adjustment may, in conformity with the provisions of this Article, reverse or affirm, in whole or in part, or modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as may be appropriate under the circumstances.

SECTION 16-311 . JUDICIAL REVIEW

Any person aggrieved, or any taxpayer affected, by any decision of the Board of Adjustment, may appeal to the District Court of Major County as provided in Title 3, Section III of the Oklahoma Statutes.

SECTION 16-312 . PENALTIES

Each violation of this Article or of any regulation, order, or ruling promulgated hereunder shall constitute a misdemeanor and shall be punishable by a fine of not more than One Hundred Dollars (\$100.00) and court costs; and each day a violation continues to exist shall constitute a separate offense.

CHAPTER 17 UTILITIES

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CHAPTER 17. UTILITIES

ARTICLE 1

UTILITY SYSTEMS GENERALLY

<u>Section 17-101</u>	<u>LEASE OF SYSTEMS.</u>

The city leases its water, electric, sewer and refuse systems to the Fairview Utilities Authority, (hereinafter "authority" or "Authority" or "trust" or "Trust") a public trust. Sometimes the word "City" will appear in which case it can be construed to also mean the Authority. A copy of the trust indenture relating to the leasing of these systems is on file in the office of the city clerk. The city shall set the rates and other charges and fees of all utilities, which rates, charges and fees may be approved by motion of the authority.

Ed. Note: Water, sewer, electric and refuse collection systems are leased to the Fairview Utilities Authority and regulated by the authority. The ordinances and indenture grant to the authority the ability to govern these utilities.

Section 17-102 RULES ADOPTED, PENALTY.

The rules, regulations or rates of the utilities of the city, as leased to the authority, are set out herein in full, and may be amended from time to time. Any violation of the rules, regulations or rates is punishable as provided in Section 1-108 of this code. For purpose of this Chapter 17, the terms "city" and "authority" shall be interchangeable and shall refer to the entity which shall govern the utilities.

Section 17-103 ACCESS TO CITY METERS, FACILITIES AND APPURTENANCES; AGENTS.

A. It is unlawful and an offense for any person to obstruct or deny access to or prevent the reading of water and electric meters, facilities or appurtenances by the city, its agents, employees, or officers by parking any vehicle or placing any obstruction over or on top of the water meter covers or to obstruct access in any manner to the water or electric meters, facilities and appurtenances. Each day's continuation of any such violation shall be deemed a separate offense.

B. It is unlawful to make threats of any type to officers, agents, or employees of the city in the performance of their duties or to prevent the officers, agents, or employees from performing their official duties in reading the water or electric meters or by limiting the access to water or electric meters in any other manner not mentioned above.

ARTICLE 2

BILLINGS AND GENERAL PROVISIONS

Section 17-201 UTILITY FEES AND BILLINGS IN GENERAL.

All fees and charges in connection with any customer's use of the sanitary sewer system, the storm water drainage system, the water facility system, the collection and disposal of refuse and garbage, or the electrical service system are billed in accordance with applicable rates as provided in this municipal code. All fees and charges owing for any of these utility services shall be billed monthly. The utility bills submitted under the terms of this

chapter are payable on or before the due date which is printed on the bill.

Section 17-202 UTILITY TAPS AND CONNECTIONS; FEES; UTILITY DEPOSITS.

A. The appropriate city department head shall approve any request for a water tap and connection, a sewer tap to an existing line or a sewer tap to a new line and any electrical service connection. Approvals shall be based on engineering and legal considerations. An appeal from the denial of an application request may be taken by filing a written appeal to the City Council within ten (10) days of the denial. Prior to granting this approval, the customer shall have paid the deposit and connection or charge as provided in this municipal code. The deposit shall serve as a guarantee for the payment of charges for utility service and other amounts owed in connection with the utility service. It shall be held in trust by the city or authority. When a customer's utility service is disconnected, the deposit or any part of such amount deposited which remains after all such charges and amounts due the city have been satisfied, shall be returned to the customer, or if the customer cannot be found, retained by the city, after notice as required by law.

B. The following deposits shall be collected for the respective utility services for new customers and for any customers who have been disconnected prior to the re-initiation of such utility service:

Residential

Water \$20.00

Electric	Rent Residence	Own Home	Total Electric
	\$150.00	\$85.00	\$175.00

Double the stated deposit required for previous customers who leave an outstanding bill desiring reconnection.

Commercial or Industrial

A water and/or electric deposit in the amount of Two (2) months history or two (2) months like business and to be set by the City Manager or designee (hereinafter referred to throughout Chapter 17 as the "utility representative").*

In addition, a service fee to turn on or turn off service to

a utility customer at the customer's request shall be \$40.00.

* In certain circumstances, the initial deposit may be difficult to calculate. After three (3) months of service, and based on usage, the city may desire to recalculate the deposit. The deposit should be at least equal to an average two (2) months of the particular utility service. If this procedure provides for a greater deposit, after the City provides written notice of the same to the customer by letter or door hanger, in order to continue receiving that particular utility service, the customer must post the additional deposit.

All deposits shall be posted either as cash or in some other suitable form of guarantee such as an irrevocable letter of credit from a chartered financial institution. Any such guarantee deemed appropriate and satisfactory to the City Manager shall be acceptable in lieu of cash.

C. At any time the person having made the deposit, should desire to discontinue the use of utility services, he shall notify the utility representative in writing, and shall accompany his notice with all arrears, if any. In the case the notice is not accompanied with the charges, then the city shall deduct from the deposit the amount of the utility charges against the meter, and the balance, if any, shall be returned to the person making the request for discontinuance.

D. After five (5) years, commercial customers may request up to one half (1/2) of their deposit refunded, if all prior payment due and owing have been paid to the city in a timely manner and the account had not been turned off for any non-compliant reason.

E. Whenever the utility termination procedures as set out in Sections 17-208 through 17-210 have been fully complied with by the City and a customer's utility bill remains delinquent, the utility representative shall direct a city employee, by appropriate work order, to disconnect the utility service(s). Whenever a work order is issued to disconnect any utility service(s), a customer service charge of Forty Dollars (\$40.00) (for reconnections occurring during normal business hours, Monday-Friday, 8:00 a.m. through 4:30 p.m.) or Sixty Dollars (\$60.00) for reconnections occurring after normal business hours, plus payment in full of the past bill and penalties, shall be charged and collected prior to reconnection of any utility service(s), and without regard to whether the utility service(s) was actually disconnected. In addition, each time that disconnection occurs, the delinquent utility customer's utility deposit shall be increased by Fifty Dollars (\$50.00), and the

utility customer shall be required to post such additional deposit amount prior to the restoration of service. In addition, any person charged a customer service charge who does not have a deposit posted, shall be immediately required to post the applicable deposit prior to the reconnection to the utility system.

F. Notwithstanding any other provision in this municipal code, based on the facts of each situation, the utility representative may waive a portion or any or all of the stated fees, charges and deposits. The order that the customer's payment is credited to the customer's account shall be determined by the utility representative. If a customer is delinquent in the payment of any respective account, after such crediting procedure is applied, the account so delinquent shall be subject to termination pursuant to Sections 17-207 through 17-209.

Section 17-203 OTHER UTILITY FEES OR CHARGES.

The city from time to time may amend the rates, fees and charges governing all aspects of the utility services, including monthly service fees, connection fees and charges, and deposits.

Section 17-204 APPLICATION FOR SERVICE

Any person desiring to have premises connected with any utility of the city shall make application to the city which application shall contain the name of the applicant, the lot and block number, the address, the kind of building and the name of the owner or account. When the application has been properly filed and deposit made as set forth, the city shall inspect the premises, and if they conform with the rules and regulations of the city for the distribution of utility, the application shall be approved and the installation made.

Section 17-205 CONSUMER TO ADVISE OF CORRECT ADDRESS.

Every utility consumer, whether he is the owner or tenant, shall keep the utility department advised as to the customer's correct mailing address. Failure to receive utility bills shall not be a valid excuse for failure to pay same when due.

Section 17-206 JOINT BILLING.

The monthly charges to any premises for utility services shall be billed monthly on a single bill or statement to each owner or occupant liable therefor; provide however, that such bill or statement shall separately state the charges for each utility service rendered to the premises.

Section 17-207 DUE DATE AND PENALTY FOR PAYMENT.

Utility bills shall be rendered monthly by the city, and all bills shall be due and payable according to the stated due date listed on the bill.

Section 17-208 NOTICE OF INTENTION TO TERMINATE SERVICE.

Utility consumers' bills will be computed at the net rates and shall be payable on or before the due date as set out in Section 17-207, each and every month. Bills of all utility customers not paid by 4:30 P.M. on the 15th day of each and every month, or in the event that the 15th falls on a holiday, then on the first business day after the 15th day of each and every month (hereinafter referred to as the "penalty date"), will be classified as delinquent and shall be subject to an additional charge equivalent to ten percent (10%) of the account balance (excluding taxes). If any utility bill, or part thereof, shall remain unpaid after the penalty date, or if one or more of the enumerated reasons as provided by Section 17-209 permitting termination of utility service is alleged to have occurred, the city shall give written notice by United States mail of the enumerated reason for termination to the person listed as the utility customer of the premises for which such bill was rendered, who shall be deemed the agent of the owner of the premises for the purpose of notice, specifying the amount due, with penalties and/or setting out specifically the enumerated reason for termination of utility service, and advising of the utility department's intention to terminate service on a given date ("termination date"). If the delinquent amount, together with any penalties or other assessments accrued, is not paid by the termination date, or the enumerated reason for the termination of the utility service is not rectified, the City shall post a written notice on the door of the utility customer giving the utility customer at least twenty-four (24) hours written notice that the delinquent amount and any penalties or assessments shall be immediately paid, or the enumerated reason for the termination of the utility rectified, or the utility service will be terminated.

Such final notice shall also contain a statement to the effect that the owner or occupant may request a hearing before the utility representative prior to such termination date and state the telephone number at city hall where such utility representative may be contacted to request such a hearing.

Section 17-209 ENUMERATED REASONS FOR TERMINATION OF UTILITY SERVICE; TERMINATION OF SERVICE.

A. The city may disconnect and terminate service to a

utility customer for any of the following reasons:

1. Nonpayment of all or any portion of an undisputed bill or a bill which is no longer disputed or for which the city's dispute process has been completed.

2. Failure to comply with the terms and conditions of a payment agreement as provide for in Section 17-210.

3. Failure to post a deposit as prescribed by the municipal code.

4. Failure to make application for service.

5. Misrepresentation of identity or facts for the purpose of obtaining service or use of an alias, trade name, business name, relative's name or another person's name as a device to escape payment of an unpaid obligation for city service provided to the utility customer. For purpose of further interpretation of this subsection, the failure of a previous owner or occupant at the premises to pay an unpaid or delinquent account shall not constitute grounds for termination, unless the previous occupant remains an occupant or user of the city service at the premises, and in such event, the service may be properly terminated.

6. Violation of any rule or regulation of the city.

7. Unauthorized use of a city utility accomplished through bypassing of the City's measuring equipment or tampering with wires, meters, pipes or other City equipment or in any manner making any unauthorized connection, including but not limited to permitting former customers or other persons to use the city or customer's utility service at a former utility service connection location.

8. Whenever the city has reason to believe that continued service will create a condition on the utility customer's premise that is dangerous to persons or property.

9. Refusal to grant access at reasonable times for the purpose of installation, inspection, maintenance, replacement, or reading of the city's meter or other equipment installed upon the premises of the utility consumer, or obstructing a city easement of right-of-way, or maintaining any obstruction that would deny access for these purposes.

10. Potential adverse effect of the service required by the consumer on the service of other utility customers of the Authority, provided the utility customer has been notified and given a reasonable opportunity to correct the adverse effect.

11. Abandonment of the premises served.

12. Upon request of the utility customer.

13. Causing an injury or threatening to cause an injury to an employee of the City or Authority or the family of an employee of the City or the Authority or the property of the City or the Authority for the purpose of preventing a City or Authority employee from engaging in activities authorized by law or in retaliation for such activities.

14. Violation of the city's rules regarding the operation of nonstandard equipment or unauthorized attachments, if the utility customer was notified first and given a reasonable opportunity to comply with the rules.

15. Violation of federal, state or local laws or regulations through use of the service.

16. Causing damages to City or Authority property.

17. A condition exists which poses a health or safety hazard.

B. If a utility bill remains unpaid, in whole or in part, or such service is subject to disconnection allegedly based on one of the enumerated reasons set out in subsection A hereinabove, after service of the required termination notice and the appropriate time period of such notice has expired, and if:

1. No hearing before a trust officer or employee has been requested; or

2. After such hearing such charges are found to be properly imposed and/or the enumerated reasons found to have occurred;

then the utility service may be terminated.

C. In the event that a tenant terminates its tenancy and the City does not receive the delinquent utility amount owed, prior to the re-establishment of service to a new tenant at such same residence or business, both the new tenant and the landlord shall establish utility service with the City as customers, with both the new tenant and landlord responsible for the payment of the monthly billing.

Section 17-210

PAYMENT ARRANGEMENTS.

A. Effective January 1, 2019, any authorized City officer or employee may make payment arrangements with any utility customer who has had continuous utility service with the City for at least one year, has had no more than two (2) payment arrangements in the past twelve (12) months, and who makes a personal visit to City hall before the 15th day of each successive month period, or the first working day thereafter, when the 15th falls on a weekend or holiday. If payment arrangements are desired and approved by the authorized City officer or employee, the utility customer shall be required to sign the written payment arrangement agreement acknowledging the owed amount and agreeing to the payment arrangements and other provisions as provided in the agreement. Payment arrangements may only be signed after the account is delinquent (after the 15th day of each successive month). At least one-third (1/3) of the current bill, including any delinquency, must be paid at the time of making any payment arrangement. If the balance of the utility customer's gross bill, including any subsequent month's service incurred after signing a payment arrangement contract is not totally paid by the 15th day of the 2nd successive month or the first working day thereafter, when the 15th falls on a weekend or holiday, from the date of making the payment arrangement, the City may terminate the utility service without further notice. Once a payment arrangement has been made and entered into, it may not be amended or a new payment arrangement approved. A request for payment arrangements shall not stop the utility department from terminating the utility customer's service if the account is delinquent as provided by this Chapter. Exceptions to this policy in individual cases may only be made with the written consent of the Chief Financial Officer and City Manager.

B. As of January 1, 2019, the following Agreement for Deferred Payment shall be used for any customer requesting a payment arrangement:

AGREEMENT FOR DEFERRED PAYMENT OF DELINQUENT UTILITY ACCOUNT

I, the undersigned ("Undersigned") hereby acknowledge that I have

a utility account with the City of Fairview, Oklahoma, and Fairview Utilities Authority (collectively the "City") which has an outstanding balance as of \$_____ (hereinafter "unpaid balance") as of the above referenced date at the above service address. I have received the utility services represented by such unpaid balance but have neglected to pay such unpaid balance in full. As of the above date, my utilities services are currently still active and I continue to receive utility services on credit from the City. I understand that under City policies that my utility services could be terminated and no further utility service provided. In consideration of the City keeping my utility services on at the service address, I agree that beginning on the ____ day of _____ 201_, and continuing on or before the 15th day of each successive month period, or the first working day thereafter, when the 15th falls on a weekend or holiday ("due date"), and for each of the next two (2) successive months thereafter and until the unpaid balance is paid in full, that I will pay in cash or negotiable instrument, one-third (1/3) of the outstanding and unpaid balance, together with all penalties, and the then current bill, at City Hall. In the event that such amount is not timely paid by such due date during each successive month, the undersigned agrees that all utility services of the City will be disconnected at the service address, without further notice, and such utility services will not be reactivated until the unpaid balance, together with all penalties and interest at 14% per year is paid in full and an appropriate deposit established. This obligation to pay is without setoff or other defense. In the event of a breach of this agreement, in addition to collection of the unpaid balance and any penalties and interest, the prevailing party shall be entitled to a reasonable attorney's fee. Venue shall be permitted only in the District Court of Major County, Oklahoma. Each and every provision of Chapter 17 of the Fairview Municipal Code, as it is currently constituted or hereinafter amended, is hereby incorporated by reference into this Agreement and made a part thereof as if fully set out. Each party to this Agreement shall have whatsoever rights, duties and obligations are available to them in the event of a breach of this Agreement. My obligation to pay the bill as it becomes due, including but not limited to penalties, deposits, disconnect fees, reconnect fees and non-sufficient fund fees.

Section 17-211

PERSONNEL MAY INSPECT PRIVATE PREMISES.

City personnel in the service of the utility systems may enter any private premises served by the water, electricity, sewer or other utility systems at any reasonable time, and inspect the pipes, lines, fixtures and connections on the premises.

Section 17-212

RURAL UTILITY USERS.

A. Every person being furnished utility services by the city, outside the corporate city limits of the city, shall be deemed and known as a "rural user".

B. Rural water service will be granted only after a request has been made in writing to the City. The City Manager shall consider, and if appropriate, approve the request. The approval shall be based on engineering considerations such as the availability of potable water at adequate pressure and legal considerations, if appropriate. An appeal from the denial of an application request may be taken by filing a written appeal to the City Council within ten (10) days of the denial. Water extensions outside of the city limits of the city will not be made except on property on which the city has an easement, and which has been granted to and accepted by the city or dedicated for public use. All such extensions, lines, valves, fittings and connections shall be dedicated to the city for rural water service. All water extensions outside of the city shall be subject to the provisions contained in the International Plumbing Code and the regulations of the Oklahoma Department of Environmental Quality, and after inspection, shall be accepted by the City Council of the city, before being put in service.

C. In the event the city council of the city determines by resolution, duly adopted and approved, that there is a water shortage in the city, then rural water users shall have receive the same limitations and restrictions that are placed on those customers living within the corporate limits.

Section 17-213

CITY'S RIGHTS AND RESPONSIBILITIES.

A. When an application for utility services has been approved, the city shall cause to be installed a meter or tap as appropriate, and connect the same with the authority for utility service. The city, at all times, shall have the right to enter upon the premises for the purpose of inspecting, maintaining, (including tree-trimming), reading of meters, and for the purpose of repair or adjustments of meters, lines and wires of the city. The application and the installation of a meter or tap on the premises shall constitute a contract and agreement between the city and the persons making the application to pay for utility services applied for at the rate and manner specified by the city. The city does specifically reserve the right to charge and collect the rate and enforce the penalties in the manner herein provided, to change the rates at any time by ordinance or resolution, to temporarily discontinue the service at any time, following proper notice to the

customer when necessary for repairs unless such reason constitutes an emergency. Unreasonable impediments to the reading of any utility meter shall constitute sufficient grounds for discontinuation of service (following proper notice) until the impediment has been removed by the customer or his agent to the satisfaction of the city.

B. The city will use reasonable diligence to supply steady and continued service at the point of delivery, but will not be liable to the customer for any damages occasioned by irregularities or interruptions. The city may, without further notice, discontinue service to any customer when a defective condition of wiring or equipment upon the premises of the customer results, or is likely to result, in danger to life or property, or interfere with proper service. In order to make repairs or changes in the city's facilities for supplying utility service, or some other emergency, the city reserves the right without incurring any liability therefore to suspend service without notice to the customer for such periods as may be reasonably necessary.

Section 17-214 CUSTOMER REGULATIONS AND RESPONSIBILITIES.

A. The customer will not sell the utility service purchased from the city to any other person unless permitted by written agreement with the city or authority. The customer will not be permitted to extend or connect the installation of lines across or under a street, alley or other public or private property in order to obtain service for adjacent property through one meter or tap unless such adjacent property is a part of the same business or residential property.

B. The customer will be responsible for all damage to, or loss of, the city's property located upon his premises, unless occasioned by causes beyond his control, and shall not permit anyone who is not an agent of the city to remove or tamper with the city's property.

C. As costs for handling and processing, Thirty-five Dollars (\$35.00) shall be charged any person paying the City with a negotiable instrument upon an account containing funds insufficient to pay the charge. This Thirty-five Dollar (\$35.00) fee shall be paid to the City prior to restoring utility service.

Section 17-215 COLLECTION FEE

Whenever the City or one of its public trust authorities refers an unpaid debt or an unpaid account receivable to a collection agency, including but not limited to an unpaid fee,

penalty, interest, or other sum due, or a court penalty, cost, fine or fee in cases in the municipal court in which the accused has failed to appear or otherwise failed to satisfy a monetary obligation ordered by the court (hereinafter collectively referred to as an "unpaid debt or account"), a collection fee in the amount of thirty-five percent (35%) of the unpaid debt or account shall be assessed and collected.

Section 17-216 AVERAGE BILLING PROGRAM

There is hereby created the Average Billing Program for the City of Fairview, Oklahoma (hereinafter the "Program"). The Program provides for the establishment of a revolving average monthly utility payment plan which is calculated using the current bill and outstanding balance added to the previous 11 months bill (recalculation may occur at least every six (6) months or whenever the account balance is 1 times over or under the current calculated average monthly utility payment plan). In order to participate in the Program, the customer must:

1. Be a utility customer of the City for at least one year at the same address prior to the date of signing up for the Program and on that date have a zero utility balance;
2. Have had not more than one (1) late fee assessed and no returned checks or drafts for at least one (1) year prior to the date of signing up for the Program.
3. Must remain enrolled in the Program for at least one year from the date of signing up for the Program; and
4. Enroll in the Program during the months of October through December of each successive year (Enrollment in the Program will not be permitted at any other time during the year for new enrollees).

Under the terms of the Program, if any single payment is late or if a payment is not made, the account will be subject to automatic removal from the Program, the account balance becomes due in full, and the account may become subject to cut-off for non-payment.

A customer must stay enrolled in the Program for at least one (1) year; thereafter, a customer may elect to be removed from the Program at any time. Whenever any customer properly elects to be removed from the Program, such customer's current account balance will be paid in full immediately. Whenever termination of service at any address occurs, such account balance must be paid in full

immediately prior to the initiation of the Program at the customer's new address. Customers seeking to enroll in the Program may only apply from October 1 through December 31 of each successive year (hereinafter "enrollment period").

If the Program is canceled by the City with respect to any customer or the customer properly withdraws from the Plan, the customer may not be eligible to re-enter into the Program. If the customer's account has a credit balance, this balance cannot be used for payment unless the customer withdraws from the Plan or the utility representative consents in writing.

At times it may be impossible or impracticable to accurately determine the average monthly billing for accounts; sizable adjustments may be necessary to be made based on actual or historical usage. In addition, the utility representative is authorized to make adjustments to the implementation of this policy which are reasonable and/or in the best interest of fairness and responsible utility practices.

Section 17-217 ADMINISTRATIVE FEE.

Whenever the City sells, and any utility customer purchases, any item, material or supply from the City, including but not limited to dumpsters, poles, transformers, wire, pipeline, fittings, meters, meter boxes or any other item, material or supply, the City shall charge an administrative fee of twenty percent (20%) of the cost of such item, material or supply, in addition to the actual cost of the item, material or supply, to cover transportation, storage, billing, procurement, delivery and carrying costs incurred for keeping such items, materials or supplies available for use in the public service. In addition, all applicable city, county and state sales (excise) taxes shall be charged and collected.

Note: Section 17-217 was added by the adoption of Ordinance No. 2018-2.2 approved on February 20, 2018.

Section 17-218 AUTOMATED METER READING OPT OUT PROGRAM

There is hereby created the Automated Meter Reading Opt Out Program for the City of Fairview, Oklahoma (hereinafter the "Program"). The Program provides for the manual monthly reading of the water and/or electric meter(s), as applicable, and manual inputting of data into the utility billing system, in lieu of using the automated meter reading system. In order to participate in the Program, the customer must:

1. Be a utility customer of the City for at least one year at the same address prior to the date of signing up for the Program and on that date have a zero utility balance;

2. Have had no returned checks or drafts for at least one (1) year prior to the date of signing up for the Program.

3. Must remain enrolled in the Program for at least one year from the date of signing up for the Program; and

4. Enroll in the Program during the months of _____ through _____ of each successive year (Enrollment in the Program will not be permitted at any other time during the year for new enrollees).

A customer must stay enrolled in the Program for at least one (1) year; thereafter, a customer may elect to be removed from the Program at any time. Except when a customer changes their Program address and fully complies with the aforementioned provisions, new customers seeking to enroll in the Program may only apply from _____ 1 through _____ 31 of each successive year (hereinafter "enrollment period").

There shall be a step-up charge of Seventy-Five Dollars (\$75.00) to become a participant in the Program at each particular residential location, which amount shall be paid in full before participation shall be permitted. Thereafter the customer desiring to be in the Program shall pay a monthly fee of Thirty-eight Dollars (\$38.00), as the cost to provide manual meter reading and manually entering of the data into the utility billing system. Such monthly fee shall be paid as a part of the monthly utility billing. Access to the meter(s) must be provided by the customer to the city's meter reader at all times; failure to provide such access can result in the customer not being permitted to remain in the Program. The charges provided hereinabove are for all city meters to be manually read with data imputed at the service location.

Section 17-218 CHARGE FOR DAMAGED OR DESTROYED AMR WATER METER CAPS AND/OR ANTENNAS

The following charges shall be assessed and paid by any utility customer of the City when and if the cap or antenna for the automated water meter located on the water meter lid serving the customer's residence or business is lost, damaged or destroyed:

Cap Only	\$30.00
Antenna with Cap	\$150.00

The charge shall be placed on the monthly utility bill of the customer and collected as are all utility charges of the City, and if it involves the antenna with cap charge, upon request of the customer and with the customer signing a payment arrangement agreement, shall be paid over not more than three (3) monthly utility billing cycles.

ARTICLE 3

ELECTRIC SYSTEM

DIVISION 1

GENERALLY

Section 17-301 ACTS AUTHORIZED.

Any act in this chapter required to be done by the city shall be done on its behalf by an authorized employee of the electric department.

Section 17-302 CONNECTION TO ELECTRICAL SERVICE, APPLICATION.

Any person desiring to have premises connected with the electrical distribution system of the authority shall make application to the city. The application shall contain the name of the applicant, the lot and block number, the address, the kind of building and the name of the owner or account. When the application has been properly filed and the deposit made as set forth, the city shall inspect the premises. If the premises conform with the rules and regulations of the city for distribution of the electrical current, then the application shall be approved and the installation made.

Section 17-303 - Section 17-306 RESERVED.

Section 17-307 STANDARDS FOR WIRING AND APPARATUS, REFUSAL TO CONNECT.

All electric wiring and apparatus connected, or to be connected to the city's distribution system shall be made, installed, and maintained in accordance with the requirements of the electric code adopted by the city. The city reserves the right to refuse to connect to any wiring or apparatus which does not meet these requirements and the city may, without further notice, discontinue service to any customer when a defective condition of

wiring or equipment on the premises of the customer results, or is likely to result, in interference with proper service.

Section 17-308 DISCONTINUATION, RE-CONNECTION.

If at any time a person should desire to discontinue the use of electric service, he shall notify the city in writing and shall accompany his application with all the arrears, if any there be, and in case the application is not accompanied with such charges, then the city shall deduct from any deposit the amount of the electrical charges against the meter, and the balance of the deposit, if any there be, shall be returned to the person making the application. The city shall be authorized in the default of the application to pay such bills as rendered each thirty (30) days, to charge the same against any meter deposit provided for, and when the amount of such charge shall exceed the amount of the deposit, the city shall be authorized to discontinue the services until such arrears have been paid in full.

Section 17-309 RESERVED

Section 17-310 CUSTOMER TO PAY UPFRONT THE ESTIMATED COSTS OF ESTABLISHING OR ALTERING ELECTRIC SERVICE; EXCEPTIONS.

A. Except as otherwise provided in Subsection B hereinbelow, any person requesting the establishment, alteration or addition of electric services within or without the City, shall first pay the estimated cost of the installation, alteration or addition of such service, including the cost of the meter, transformer, materials, equipment, appurtenances and all labor. In the event there is a difference between the estimate and the actual cost, the credit or debit, respectively, shall be credited or debited on the customer's utility bill. All electric installations so purchased and/or installed shall remain the property of the city at all times. All requests for alteration to electric services for residential structures in an estimated amount of not to exceed One Thousand Dollars (\$1000.00) shall be referred to the City Manager who is authorized to waive up to One Thousand Dollars (\$1000.00) of such costs.

B. Any customer not able to pay upfront the full costs of such electric installation or otherwise requesting payment arrangements or public contribution, shall submit a written request to the utility representative. Such request shall be considered by the City Manager, and the City Council authorizes the City Manager to approve payment arrangements or to make public contributions provided in this Chapter. The City Manager's decision regarding such requests shall be based on available

revenue to pay the upfront costs of such electric service, the length of time it will take to pay back the city's investment from increased electric sales from such customer and the nature of the proposed installation. The City Manager may, in his sole determination, agree to offset part or all of the cost of the electric installation, if such action is in the best interest of the city, or shall make such other order as is determined in the city's best interest. All such actions shall be reduced to writing and provided in a quarterly report to the City Council. All payment arrangements shall be in writing and made in the name of the Authority, shall be for not more than five (5) years, shall bear interest at prime plus 1.5%, and shall require a minimum down payment of twenty percent (20%). Payments shall be charged monthly as a part of the monthly electric bill.

C. Any late payment shall be subject to the penalties established for late utility payments. In the event the payment remains unpaid and necessitates termination of the electric utility service to the customer, the remaining balance of the electric installation cost shall become immediately due and owing. A notice of the written agreement may be filed on record with the County Clerk of Major County on the customer's real property to notify third parties of the existence of this obligation, with such notice being released upon the complete satisfaction of the indebtedness.

Section 17-311 ELECTRIC RATES.

The City from time to time may amend the rates, fees and charges governing all aspects of the utility services, including monthly fees, connection fees and charges and deposits which rates, fees and charges may be enacted by resolution of the City or FUA.

Section 17-311A Residential and Commercial Distributed Generation Customer's Rate.

Wind, Solar and/or other Grid-Connected Non-Utility Owned Electric Generation Producing Electric Customers (hereinafter referred to as "Residential and Commercial Distributed Generation Customers" or "customers") Residential and Commercial Distributed Generation Customers shall pay shall pay a customer charge of \$58.00 per month and the usage rate per month based on actual metered consumption of \$0.07 per kilowatt hour (kWh) for the first 1200 kWh used, after which use the per kilowatt hour (kWh) charge shall be the same per kilowatt hour (kWh) charge as provided for all other users in such similar class of customer, which per kilowatt hour (kWh) charge shall be used to calculate the rate as provided in this code. All customers shall ensure there any back feed of electricity into the City's system is safe and constructed

and/or operated in accordance with all state and local electrical codes and the City has the right to inspect the customer's system to ensure such connection standard. The City will not use or pay for any electricity generated or received from a customer's generation system. Any customer who shall construct, install, operate and/or use, or permit the construction, installation, operation and/or use of a distributed generation service at such customer's residence, shall notify the City of such fact by making a personal visit to city hall at least ten (10) business days prior to the date of such construction, installation, operation and/or use of the distributed generation system. During such personal visit, said customer's rate shall be adjusted to the rate provided herein and a date and time for inspection of the facilities at the customer's home shall be set, and continued from time to time as required, to ensure that the installation is approved for use by the City, prior to its actual use by the customer. If the system is in compliance with the provisions of the municipal code and building codes adopted thereby, then the City Clerk shall issue a permit authorizing the installation and use of the system. Any customer who shall violate any provision of this section, by act or omission, shall be guilty of an offense and be subject to a fine of Two Hundred Dollars (\$200.00), court costs and all applicable fees and state assessments, with each such day of continued violation deemed an additional offense.

Note: Section 17-311A approved as Ordinance No. 2017-08.01.02 approved on August 1, 2017.

Section 17-312 THEFT OF ELECTRICITY.

Any person, firm, or corporation who shall by fraud or stealth in any way obtain electric service without having first made application to the office of the department in regular form, or who shall make an unauthorized connection, or shall use electric power for the city system knowing such use is not specifically authorized, shall be guilty of an offense, and upon conviction thereof shall be punished accordingly.

Section 17-313 DISTRIBUTED GENERATION RULES AND REGULATIONS

A. IN GENERAL. This section provides for the rules and regulations concerning customer-owned, grid-connected non-utility owned electric generating systems (hereinafter referred to as "Generation systems ") which may connected for parallel operation with the electrical system of the City of Fairview and the Fairview Municipal Authority (hereinafter for purpose of convenience only referred to as the "City").

1. Generation systems will be permitted to interconnect to the City's electric distribution system at the service level voltage only after a determination by the City that such interconnection will not interfere with the operation of the distribution or transmission system and that such interconnection ensures the safety of City employees and customers.

2. The City will not compensate, reimburse, refund, credit, or pay for any generation created by the Generation systems and sent back into the distribution system of the City.

3. All Agreements under the original connection agreement between the Customer and the City shall remain in effect including, but not limited to paying for electricity used and the penalties assessed for payment failure.

B. Interconnection Requirements

1. Customer has elected to operate, at its own expense, a Generation system. Generation systems shall be limited in size to not more than five (5) kW per customer aggregated for a combined total of fifty-three (53) Kw at the service interconnection point. The generation system is intended to offset either all or part of the customer's electrical requirements.

2. Customer's Generation system shall supply alternating current power, 60 Hertz, at a voltage and phase of the City's established secondary or primary distribution system.

3. If the Customer's Generation system full output capacity is larger than ten percent (10%) of the substation, feeder, or distribution line tap minimum load at the point of interconnection, additional studies and equipment may be required to provide proper line protection and voltage regulation. The Customer is responsible for the cost of any studies and/or upgrades required to allow safe interconnection of the Customer-owned generation.

4. Generation systems which produces frequencies that result in interference or generates distorted wave forms into the 60 Hertz City electric system which adversely affects the operation of City's electric system shall be corrected at the expense of the Customer.

5. Any costs or expenses incurred by the City due to modifications made to the City's existing electrical system as a result of the interconnection of Customer's Generation system shall be paid by the Customer.

6. Customer shall be the owner of the renewable attributes of the electricity that is generated, to include any and all credits, certificates, benefits, environmental attributes, emission reductions, offsets, and allowances, however entitled, attributable to the generation of electricity from the Customer-owned renewable generation and its displacement of conventional energy generation.

7. City may require Customer to interrupt or reduce deliveries when necessary in order to construct, install, maintain, repair, replace, remove, investigate, or inspect any of its equipment or part of its system.

8. Customer shall comply with all the latest applicable National Electric Code (NEC) requirements, NESC requirements, State of Oklahoma requirements, building codes, and shall obtain electrical permits for the equipment installation. Installation shall comply with local site permitting requirements.

9. The meter and transformer or transformer pole serving the Generation systems shall be labeled to indicate potential electric current back feed, and label shall be maintained by the Customer.

10. Customer shall provide space for metering equipment and meter base per City's requirements.

11. Customer's over-current device at the service panel shall be marked to indicate the type of back feed power source. Markings shall be maintained by the Customer.

12. Customer assumes full responsibility for all maintenance of generators, inverters, and associated equipment including protective equipment. Customer shall keep record of maintenance activities and provide such records to the City upon request.

13. Customer's Generation systems shall comply with NEC Articles 690 and 705 and applicable and current Institute of Electrical and Electronics Engineers (IEEE) standards including Standard 1547 "Interconnection Distributed Resources with Electric Power Systems" and any future updates or revisions for parallel operation with the City's electric system, in particular: a) Power output control system shall automatically disconnect from the City's source upon loss of voltage and not reconnect until City's voltage has been restored for at least five (5) minutes continuously, b) Power output control system shall automatically initiate a disconnect from the City's power source with six (6) cycles (0.1 second) if Customer's voltage falls below 50% of nominal on any phase, c) Power output control system shall automatically initiate a disconnect from the City's power source within two (2) seconds if

Customer's voltage falls below 88% of nominal or rises above 120% of nominal on any phase.

14. Customer shall provide a written description of how the protection devices will achieve compliance with the requirements of this section as part of the building permit application.

15. Customer shall furnish and install on Customer's side of meter a UL-approved safety disconnect switch, or transfer switch, which shall be capable of fully disconnecting the Customer's generating facility from the City's electric system. The disconnect switch shall be located adjacent to the City's meter and shall be of the visible break type in a metal enclosure which can be secured in the "Off" position with a padlock. The switch shall always be accessible to City personnel.

16. For systems up to five (5) Kw, the Customer shall, at its own expense, maintain in force general liability insurance in the amount of \$1,000,000.00, which insurance will protect against third party claims of property damage or injury to persons, including death, without any exclusion for liabilities related to the interconnection.

17. For purposes of gathering research data, City may at its expense install and operate additional metering and data-gathering devices on the Generation systems.

C. Specifications and System Diagram

1. Customer shall supply specifications for the proposed Generation system as part of the building permit process.

2. Customer shall supply a system diagram for use of City in determining the safety and functionality of a grid-connected generator that will be kept in City files.

3. Customer shall supply a certificate of completion from a qualified professional engineer or electrician that the Generation system meets all the requirements of this section.

4. All customers will sign a statement that they will adhere to the provisions of this section during the construction, installation and operation of my Generation system.

Note: Section 17-313 was approved as Ordinance No. 2017-08.01.1 approved on August 1, 2017.

ARTICLE 4

WATER SERVICE

Section 17-401 APPLICATION FOR WATER SERVICE.

When any person desires to connect with the water system of the city, he shall apply to the office of the utility representative for a written permit, which shall bear the name of the applicant, the location of the property to be served, including the street name, lot and block number, and the class or kind of service for which it is to be used, together with the name of the plumber or contractor who has been employed to do the work.

Section 17-402 METERS.

A. All tapping 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 fittings for installing same together with suitable box for same where necessary, excepting where a meter of larger capacity than one inch is required, in such case the consumer will be required to purchase and install same at his own expense under the supervision of the superintendent, the meter to be of standard manufacture and of a type approved by the department, and shall apply to all present and future users of meters.

B. 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.

C. Water tap fees.

1. The following schedule of water tap fees are herewith set forth and are to be collected for water taps within the city limits of the city from the customers where taps of the city water system are made:

a.	3/4 inch tap	\$250.00	plus	cost	of	meter	and
		material					
b.	1 inch tap	\$285.00	plus	cost	of	meter	and
		material					
c.	1 1/4 inch tap	\$365.00	plus	cost	of	meter	and
		material					

- d. 1 1/2 inch tap \$365.00 plus cost of meter and material
- e. 2 inch tap \$425.00 plus cost of meter and material
- f. 3 inch tap \$425 plus cost of meter and material
- g. 4 inch tap \$565.00 plus cost of meter and material
- h. 6 inch tap \$705.00 plus cost of meter and material
- i. 8 inch tap \$915.00 plus cost of meter and material
- j. 10 inch tap \$1200.00 plus cost of meter and material

2. The following schedule of water tap fees are hereby set and are to be collected by the city for rural water tap fees when rural taps of the city water system are made:

- a. 3/4 inch tap \$450.00
- b. 1 inch tap \$550.00
- c. Over 1 inch tap \$950.00

In addition to the payment of the aforementioned charges, such rural customer shall pay all costs of the installation, including but not limited to the cost of the meter and necessary pipe, fittings and tubing.

3. The administrative fee provided for in Section 17-217 and any applicable city, county, and state sales (excise) taxes shall be charged and collected in addition to the amount set out in Subsection C 1 & 2 hereinabove.

Section 17-403 THEFT OF WATER.

Any person, firm, or corporation who shall by fraud or stealth in any way obtain water service without having first made application to the city in regular form, or by way of an unauthorized connection, or by turning on the water service after such service has been turned off by the city, shall be guilty of an offense, and upon conviction thereof shall be punished

accordingly. The amount of water that has been obtained by any person, firm or corporation without such water having been permitted to go through the meter designated and placed for such person, firm, or corporation shall be estimated by the average amount used by such person, firm, or corporation during the past three (3) months that meter operated, and the person, firm or corporation shall pay for same at the rate fixed by authority of the city ordinances. In any case where thereafter is committed, the city shall have the right at the expense of the owner to install a boot and lock for the water meter and pit as a precaution against further theft.

Section 17-404 FAILURE OF WATER SUPPLY.

In case the supply of water shall fail, whether from natural causes or accidents of any kind, the city shall not be liable for any damage of any kind by reason of such failure.

Section 17-405 CITY LIABILITY.

The city is merely a supplier of water delivered at the curb valve of the consumer's installation, and is not responsible for any damage to apparatus, equipment, or other property of the consumer, either from wear or tear or inherent defects in the installation.

Section 17-406 WATER METER LOCATION.

The location of the water meter will be at a location on the line extension to be designated by the water department of the city.

Section 17-407 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 circumstance, use or tamper with them without written consent of the superintendent of the departments. 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 they are intended shall be guilty of an offense and shall be punished accordingly.

Section 17-408 PUMPING AND FILTER PLANTS, TANKS AND TOWERS.

It is an offense and unlawful for any party or parties to loiter around, climb upon, or tamper in any way with the tower and pressure tank or pumping station and filter plant. Any party or parties guilty of such offense shall, upon conviction thereof, be punished accordingly.

Section 17-409 REMOVAL BILLS; SPECIAL BILLS.

Bill rendered on vacation of premises or bills rendered to person discontinued service must be paid on presentation.

Section 17-410 SERVICE REGULATION.

The authority reserves the right, in cases of emergency, to govern and regulate the use of water to all consumers by resolution or proclamation as they deem proper for the public health and safety.

Section 17-411 RESTRICTING THE USE OF WATER DURING AN EMERGENCY.

Water restrictions imposed by City Council. In case of emergency caused by a shortage of water in the city water system, it shall be the duty of the City Manager to give immediate notice, by publication in a newspaper of general circulation in the city, to the customers of the water system, restricting the use of water obtained from the water system, as the mayor may designate for so long as such water shortage shall last. Whenever the City Manager takes such action he shall inform the City Council. Thereafter, and until the City Council proclaims that the emergency is at an end, it shall be unlawful for any person, corporation or entity, directly or indirectly, to use water obtained from the city's water system for any purpose or use specifically prohibited by the public notice.

Section 17-412 WATER RATES.

The City from time to time may amend the rates, fees and charges governing all aspects of the utility services, including monthly fees, connection fees and charges and deposits which rates, fees and charges may be enacted by resolution of the City or FUA.

ARTICLE 5

SEWER SERVICE

Section 17-501 PREAMBLE.

This Article sets forth uniform requirements for users of the wastewater collection and publicly owned treatment works (POTW) for the City of Fairview, Oklahoma (hereinafter "City") and enables the City to comply with all applicable state and federal laws including the clean water act (33 USC 1251 et seq.), and the general pretreatment regulations (40 CFR part 403). The objectives of this article are:

A. To prevent the introduction of pollutants into the POTW that will interfere with the operation of the POTW;

B. To prevent the introduction of pollutants into the POTW which will pass through the POTW, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the POTW;

C. To ensure that the quality of the wastewater treatment plant sludge is maintained at a level which allows its use and disposal in compliance with applicable statutes and regulations;

D. To protect POTW personnel who may be affected by wastewater and sludge in the course of their employment and to protect the general public;

E. To improve the opportunity to recycle and reclaim wastewater and sludge from the POTW;

F. To enable the City to comply with its NPDES permit conditions, sludge use and disposal requirements and any other federal or state laws to which the POTW is subject; and

G. To provide for equitable distribution of the cost of operation, maintenance and improvement of the POTW.

Section 17-502 DEFINITIONS.

Terms and words not specifically defined but used herein shall have their usual and ordinary meanings unless otherwise specifically defined in ordinances of the City. As used in this chapter, unless the context specifically indicates otherwise, the following terms and phrases shall have the meanings hereinafter designated:

ACCESS: Entry into or upon any real estate or structure, including any part thereof.

ACT OR THE ACT: The federal water pollution control act, also known as the clean water act, as amended, 33 USC 1251 et seq.

APPROVAL AUTHORITY: The director in an NPDES state with an approved state pretreatment program.

AUTHORIZED REPRESENTATIVE OF INDUSTRIAL USER: An authorized representative of an industrial user may be: a) a principal executive officer of at least the level of vice president, if the industrial user is a corporation; b) a general partner or proprietor if the industrial user is a partnership or proprietorship, respectively; c) a duly authorized representative of the individual designated above if such representative is responsible for the overall operation of the facilities from which the indirect discharge originates.

BOD₅ (DENOTING BIOCHEMICAL OXYGEN DEMAND): The quantity of oxygen utilized in the biochemical oxidations of organic matter under standard laboratory procedure in five (5) days at twenty degrees (20°) Celsius, expressed in milligrams per liter.

BUILDING DRAIN: That part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet (5') (1.5 m) outside the inner face of the building wall.

BUILDING SEWER: A sewer conveying wastewater from the premises of a user to the public sewer.

BYPASS: The intentional diversion of waste streams from any portion of any industrial user's treatment facility.

CATEGORICAL STANDARDS: Federal categorical pretreatment standards or pretreatment standards.

CITY: The City Council of the City of Fairview.

COMBINED SEWER: A sewer receiving both surface runoff and sewage.

COMPOSITE SAMPLE: The sample resulting from the combination of individual wastewater samples taken at selected intervals based

on an increment of either flow or time.

CONTROL AUTHORITY: Shall refer to the "approval authority", defined hereinabove; or the director if the City has an approved pretreatment program under the provisions of 40 CFR 403.11.

COOLING WATER: The water discharged from any use such as air conditioning, cooling or refrigeration.

DIRECT DISCHARGE: The discharge of treated or untreated wastewater directly to the waters of the state.

CITY'S ENGINEER: The City of Fairview's engineer or his duly authorized representative designated by the City Manager to administer, implement and enforce the provisions of this chapter.

ENVIRONMENTAL PROTECTION AGENCY, OR EPA: The U.S. environmental protection agency or, where appropriate, the term may also be used as a designation for the administrator or other duly authorized official.

EXISTING SOURCE: Any source of discharge, the construction or operation of which commenced prior to the publication of proposed categorical pretreatment standards which will be applicable to such source if the standard is thereafter promulgated in accordance with section 307 of the act.

FEDERAL CATEGORICAL PRETREATMENT STANDARDS OR PRETREATMENT STANDARDS: A regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the act (33 USC 1347) which applies to a specific category of industrial users. This term includes prohibited discharge limits established pursuant to section 403.5 of title 40 CFR.

GRAB SAMPLE: An individual sample which is taken from a waste stream on a one time basis with no regard to the flow in the waste stream and collected over a period of time, not to exceed fifteen (15) minutes in duration.

HOLDING TANK WASTE: Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum pump tank trucks.

INDIRECT DISCHARGE: The discharge or the introduction of non-domestic pollutants from any source regulated under section 307(b), (c) or (d) of the act (33 USC 1317), into the POTW (including holding tank waste discharged into the system).

INDUSTRIAL USER: A source of indirect discharge.

INFILTRATION: "Water", as herein defined, entering the sanitary sewer system, including private sewer service connections, from the ground, through such means as, but not limited to, defective pipes, pipe joints, connections, perimeter drains, or manhole walls. "Infiltration" does not include, and is distinguished from, "inflow".

INFILTRATION/INFLOW: A combination of infiltration and inflow waters entering the sanitary sewer lines, with no way of distinguishing the basic source, and which tends to cause an overloading of the capacities of the sanitary sewer system.

INFLOW: Water discharged into the sanitary sewer system, including service connection from means such as, but not limited to, roof downspout or leaders, cellar, yard, driveway and area drains, sump pumps, open foundations and/or perimeter drains, drains from springs and swampy areas, manhole covers, cross connections from storm sewers, surface runoff, street wastewater, or drainage. "Inflow" does not include, and is distinguished from, "infiltration".

INSTANTANEOUS MAXIMUM ALLOWABLE DISCHARGE LIMIT: The maximum concentration (or loading) of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected independent of the industrial flow rate and the duration of the sampling event.

INTERFERENCE: A discharge which alone or in conjunction with a discharge or discharges from other sources: a) inhibits or disrupts the POTW treatment processes or operations or its sludge processes, use or disposal; and b) therefore, contributes to a violation of any requirement of the City's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal by the POTW in accordance with any of the following statutory/regulatory provisions or permits issued thereunder (or more stringent state or local regulations): section 405 of the clean water act (33 USC 1345); or any criteria, guidelines, or regulations developed pursuant to the solid waste disposal act (SWDA), including title II commonly referred to as the resource conservation and recovery act (RCRA); or more stringent state criteria contained in any sludge management plan prepared pursuant to subtitle D, of the SWDA; the clean air act; the toxic substance control act; and the marine protection, research and sanctuaries act.

MEDICAL WASTE: Isolation wastes, infectious agents, human blood and blood byproducts, pathological wastes, sharps, body parts, fomites, etiologic agents, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes and dialysis wastes.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM OR NPDES PERMIT: A permit issued pursuant to section 402 of the act (33 USC 1342).

NATIONAL PRETREATMENT STANDARD, PRETREATMENT STANDARD, OR STANDARD: Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with sections 307(b) and (c) of the act, which applies to industrial users. This term includes prohibitive discharge limits established pursuant to 40 CFR Section 403.5.

NATURAL OUTLET: Any outlet into a watercourse, pond, ditch, lake, or other body of surface water or ground water.

NEW SOURCE: A. Any source from which there is or may be a discharge of pollutants, the construction of which is commenced after the publication of proposed pretreatment standards of the act which will be applicable to such source, if such standard is thereafter promulgated in accordance with that section; provided, that: 1) construction is at a site where no other source is located; 2) process or production equipment causing discharge is totally replaced due to construction; or 3) the production of the waste stream of the facility is substantially independent of existing sources at the same site. B. Construction of a new source has commenced, if the owner or operator has: 1) begun installation/assembly of facilities or equipment; 2) begun significant site preparation for installation/assembly; or 3) entered into binding nonstructural obligation for the purchase of facility equipment which is intended to be used in the operation within a reasonable time.

NONCONTACT COOLING WATER: Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product and to which the only pollutant added is heat.

NOTICE: If the structure and/or real property to be inspected is occupied, the representative shall first present proper credentials and request entry. If the structure and/or real property is unoccupied, he shall first make a reasonable effort to locate the owner or other person(s) having charge or control of the structure and/or real property and request entry.

OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY OR ODEQ: The approval authority agency for the state of Oklahoma.

pH: The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution and measured in standard units (su).

POTW TREATMENT PLANT: This portion of the POTW which is designed to provide treatment (including recycling and reclamation) of municipal sewage and industrial waste.

PASS THROUGH: A discharge which exits the POTW into the waters of the U.S. in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation).

PERSON: Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents, heirs, successors or assigns. This definition includes all federal, state or local governmental entities.

POLLUTANT: Any dredge spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.

POLLUTION: The manmade or man induced alteration of the chemical, physical, biological, and radiological integrity of water.

PRETREATMENT OR TREATMENT: The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration may be obtained by physical, chemical or biological processes, process changes or by other means, except as prohibited by section 403.6(d) of title 40 CFR. Appropriate pretreatment technology includes control equipment, such as equalization tanks or facilities, for protection against surges or slug loadings that might interfere with or otherwise be incompatible with the POTW. However, where wastewater from a regulated process is mixed in an equalization facility with unregulated wastewater or with wastewater from another regulated

process, the effluent from the equalization facility must meet an adjusted pretreatment limit calculated in accordance with subsection 403.6(e) of title 40 CFR.

PRETREATMENT REQUIREMENTS: Any substantive or procedural requirement related to pretreatment, other than a national pretreatment standard imposed on an industrial user.

PUBLIC SEWER: A sewer in which all owners of abutting properties have equal rights and is controlled, operated and maintained by the City; the same being an integral part of the POTW.

PUBLICLY OWNED TREATMENT WORKS (POTW): A treatment works as defined by section 212 of the act, which is owned by a state or municipality (as defined by section 502(4) of the act). This definition includes any devices and systems used in the collection, pumping, storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipe and other conveyances only if they convey wastewater to a POTW treatment system. The term also means the "municipality" as defined in section 502(4) of the act, which has jurisdiction over the indirect discharges to and the discharges from such a treatment works.

SANITARY SEWAGE: The liquid waste which may or may not contain solids, originating in the sanitary conveniences for personnel of a dwelling, business building, factory, industrial facility, institution or other place.

SANITARY SEWER: A sewer, which carries wastewater and to which storm, surface and ground waters are not intentionally admitted.

SEARCH WARRANTS: If, after proper request, entry or access is refused, or otherwise permission to inspect the property is not granted, the representative shall make application to a court of competent jurisdiction for a search warrant to permit such inspection.

SERVICE LINE OR HOUSE SERVICE LINE: That portion of a sewer, located on the premises of the user, extending from the building drain to the public sewer, and the operation and maintenance of such portion of the sewer shall be the responsibility of the user; further, the terms "service line" or "house service line" shall be synonymous with the term "building sewer" hereinabove set forth.

SEVERE PROPERTY DAMAGE: Substantial physical damage to property, damage to the treatment facilities which causes the

facilities to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass.

SEWER: A pipe or conduit for carrying wastewater or storm water.

SHALL/MAY: "Shall" is mandatory; "may" is permissive or discretionary.

SIGNIFICANT INDUSTRIAL USER (SIU): Any industrial user of the City's wastewater disposal system who: a) is subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR chapter I, subchapter N; b) any other non-categorical industrial user that: 1) has a discharge flow of twenty five thousand (25,000) gallons or more per average work day of process wastewater ("process wastewater" excludes sanitary, noncontact cooling, and boiler blow down wastewaters); 2) has a process waste stream which makes up five percent (5%) or more of the average dry weather hydraulic or organic (BOD₅, TSS, etc.) capacity of the POTW treatment plant; 3) the wastewater toxic pollutants as defined pursuant to section 307, of the act or state statutes or rules; or 4) is found by the City, the state or the U.S. environmental protection agency (EPA) to have a reasonable potential for adversely affecting the POTW treatment plant (inhibition, pass through of pollutants, sludge contamination, endangerment of POTW workers, or air emissions generated by the system), or for violating any pretreatment standard or requirement, either singly or in combination with other contributing industries.

SLUG: Any discharge of a non-routine episodic nature, including, but not limited to, an accidental spill or a non-customary batch discharge.

STANDARD INDUSTRIAL CLASSIFICATION (SIC): A classification pursuant to the standard industrial classification manual issued by the executive office of the president, office of management and budget, 1987.

STORM SEWER OR STORM DRAIN: A sewer pipe or manmade watercourse, which carries storm water and surface water and drainage, but excludes wastewater.

STORM WATER: Any flow occurring during or following any form of natural precipitation, and resulting therefrom, including snowmelt.

SUPERINTENDENT: The superintendent or supervisor of the water pollution control plant, or the individual designated by the City Council to fill the position or assume the duties of the superintendent or supervisor of the water pollution control plant who is charged by the City Council to implement the provisions of the NPDES permit.

SUSPENDED SOLIDS: Matter that either floats on the surface of, or is suspended in, water, wastewater, sewage or other liquids, and which are removable by laboratory filtering.

TOXIC POLLUTANT: Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the administrator of the environmental protection agency under the provision of CWA section 307(a) or other acts.

TREATMENT PLANT EFFLUENT: Any discharge from the POTW into waters of the state.

UPSET: An exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the industrial user. An "upset" does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operations.

USE OR USER OF THE SANITARY SEWER: Any person who contributes, causes or permits the contribution of wastewater into the City's POTW; and further the terms "user" or "user of the sanitary sewage system" shall also mean any person receiving City water service and who has a connection with the City's sewage system, or, in the case where a private water supply is used, the proprietor of the location having the sewer connection.

WASTEWATER: The liquid and water carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, together with any ground water, surface water, and storm water that may be present, whether treated or untreated, which is contributed into or permitted to enter the POTW for treatment and disposal. "Sewage" may include chemicals, household waste, laundry waste, human excrement, animal or vegetable matter in suspension or solution, and other solids in suspension or solution.

WATERCOURSE: A channel in which a flow of water occurs, either continuously or intermittently.

WATERS OF THE STATE: All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.

Section 17-503 . ABBREVIATIONS:

The following abbreviations shall have the designated meanings:

BOD₅ Biochemical oxygen demand

CFR Code of federal regulations

COD Chemical oxygen demand

EPA Environmental protection agency

l Liter

mg Milligrams

mg/l Milligrams per liter

NPDES National pollutant discharge elimination system

POTW Publicly owned treatment works

SIC Standard industrial classification

SWDA Solid waste disposal act, 42 USC 6901 et seq.

TSS Total suspended solids

USC United States Code

Section 17-504 . CHARGES AND FEES

After the effective date of this Article, the City Council, for the purpose of defraying cost of implementing and operating the City's pretreatment program, shall have the power and authority, by the adoption of a duly enacted ordinance, to require the payment of the following:

A. Fees for reimbursement of costs of setting up and operating the City's pretreatment program;

B. Fees for monitoring, inspections and surveillance procedures;

C. Fees for reviewing accidental discharge procedures and construction;

D. Fees for consistent removal by the City of pollutants otherwise subject to federal pretreatment standards;

E. Fees for surcharges; and

F. Any other fees as the City may deem necessary to carry out the requirements contained herein.

Section 17-505 SEWER CONNECTION REQUIRED.

A. The owners of all houses, building or property used for human occupancy, employment, recreation or other purposes, situated within the corporate limits of the City and abutting on any street, alley or right-of-way in which there is located a public sanitary sewer of the City, are hereby required at their own expense, to install suitable toilet facilities therein, and to have such facilities connected directly with the proper public sewer within sixty (60) days after the date of official notice to do so; provided, that such public sewer is within three hundred (300) feet of the property line. Connection shall be required at the time of issuance of any building permit and before issuance of a certificate of occupancy. It is the declared intent of the City Council that required connection to the City sanitary sewer system promotes the health, safety and welfare of the community.

B. Said notice shall be served by a designated agent of the City by delivering a true and correct copy to the property owner, or leaving the same at his usual place of residence with a member of his family over the age of fifteen (15) years, or if such owner cannot be found, by posting a copy of such notice at the front entrance of the building involved.

C. Any person who shall fail, neglect or refuse to comply within ninety (90) days after the date of official notice to do so shall be guilty of an offense. In the event of a continuous violation of this section by any property owner, the City may discontinue the furnishing of water to such property owner, until such time as a proper sewer connection has been made to the dwelling.

D. Deposits Of Garbage, Objectionable Wastes: No person shall place, deposit, or permit to be deposited in any unsanitary

manner on public or private property within the City, or in any area under the jurisdiction of the City, any human or animal excrement, garbage, or other objectionable waste.

E. Subdivisions: This section shall not be construed to limit the City's authority to require extensions and connections for new development pursuant to subdivisions of land or subdivision regulations of the City.

F. Compliance Required: No person who owns, rents or is in control of a building or structure, which is required to be connected to a sanitary sewer, shall fail to connect to such sanitary sewer.

Section 17-506

SANITARY SEWERS, ALTERNATE DISPOSAL .

A. Except as hereinafter provided in this Section, it shall be unlawful for any person to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended to be used for the disposal of sewage within the corporate limits of the City.

B. Where a connection to a public sanitary sewer line is not required under the provisions of 17-505, a private septic tank for sewage disposal may authorized by the City. Any such authorized private septic tank system shall be constructed and maintained under the rules and regulations of the Oklahoma Department of Environmental Quality. No septic tank shall be permitted to discharge to any public sewer or natural outlet.

C. In the event geographical, topical, or other terrain features prevent direct connecting into the public sewage disposal system, no private sewage disposal system will be authorized when a lift station will suffice.

D. Construction of a private sewage disposal system, is prohibited unless and until authorization is granted by the City and until the proposed construction has been approved by the City constructed and maintained under the rules and regulations of the Oklahoma Department of Environmental Quality.

E. The owner of any private septic tank shall operate and maintain the same in a sanitary manner at all times, at no expense to the City, and no statement contained in this Article shall be construed to interfere with any additional requirements that may be imposed by the City and/or the Oklahoma Department of Environmental Quality.

F. At such times as a public sewer becomes available to a property served by a septic tank, a direct connection shall be made to such public sewer in compliance with Section 17-505, and the septic tank shall immediately be abandoned and filled with suitable material.

Section 17-507 DISCHARGE OF SEWAGE AND POLLUTED WATER TO NATURAL OUTLET.

No person shall discharge to any natural outlet, or waters of the state within the City, or in any area under the jurisdiction of the City, any wastewater, except where suitable treatment has been provided in accordance with the provisions of this article.

Section 17-508 DISCHARGE OF STORM WATER AND GROUND WATER.

A. Discharge to Sanitary Sewer Prohibited: No person shall discharge or cause to be discharged any storm water, surface water, ground water, roof runoff or subsurface drainage to any sanitary sewer.

B. Discharge to Storm Sewers: Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet. Noncontact cooling water or unpolluted process waters may be discharged, on approval of the state, to a storm sewer or natural outlet.

Section 17-509 DISCHARGE OF CERTAIN WATERS OR WASTES TO SANITARY SEWER.

A. General Prohibitions: No user shall contribute or cause to be contributed, directly or indirectly, into the POTW any pollutant or wastewater which will interfere with the operation or performance of or pass through the POTW. These general prohibitions apply to all such users of the POTW whether or not the user is subject to categorical pretreatment standards or any other national, state or local pretreatment standards or requirements. Furthermore, no user may contribute the following substances to the POTW:

1. Any liquids, solids, or gases which by reason of their nature or quantity are, or may be, sufficient either alone or in interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. Pollutants which cause a fire or explosion hazard to the POTW, including, but not limited to, waste streams with a closed cup flashpoint of less than one hundred forty degrees Fahrenheit

(140°F) or sixty degrees centigrade (60°C) using the test methods specified in 40 CFR 261.21. At no time shall two (2) successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than five percent (5%) nor any single reading over ten percent (10%) of the lower explosive limit (LEL) of the meter. Prohibited materials include, but are not limited to: gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides and any other substances which the City, the state or EPA has notified the user is a fire hazard or a hazard to the system or as determined by the City engineer.

2. Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of or pass through the wastewater treatment facilities such as, but not limited to: grease, garbage with particles greater than one-half inch ($1/2$ ") in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastic, gas, tar, asphalt residues, residues from refining, or processing of fuel or lubricating oil, petroleum oil, non-biodegradable cutting oil, or products of mineral oil origins, mud, or glass grindings or polishing wastes.

3. Any wastewater having a pH less than 5.5, or having a pH greater than 11.0, or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the POTW.

4. Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW, or to exceed the limitations set forth in a categorical pretreatment standard. A toxic pollutant shall include, but not be limited to, any pollutant identified pursuant to section 307(a) of the act.

5. Any noxious, or malodorous or toxic liquids, gases, vapors, fumes, or solids which either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or are sufficient enough that may cause acute worker health and safety problems at the POTW or may prevent entry into the sewer system for maintenance and repair.

6. Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation process. In no case shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal criteria, guidelines or regulations developed under section 405 of the act; any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the solid waste disposal act, the clean air act, the toxic substance control act, or state criteria applicable to the sludge management method being used.

7. Any substance which will cause the POTW to violate its NPDES permit or the state water quality standards.

8. Any wastewater with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions.

9. Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference; but in no case shall wastewater effluent be discharged from any users into the sewer system at temperatures which exceed one hundred fifty degrees Fahrenheit (150°F) (65 degrees centigrade) or in no case shall heat be discharged from any user in such quantities that the influent temperature at the City's POTW will exceed one hundred four degrees Fahrenheit (104°F) (40 degrees centigrade).

10. Any pollutants, including oxygen-demanding pollutants (BOD₅, etc.) released in a discharge rate and/or pollutant concentration which will cause interference to the POTW.

11. Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the City's engineer in compliance with applicable state and federal regulation.

12. Any wastewater which causes a hazard to human life or creates a public nuisance.

13. Any trucked or hauled waste unless authorized pursuant to this article.

B. Rulings of City's engineer: When the City's engineer determines that a user is contributing to the POTW, any of the above enumerated substances in such amounts as to interfere with the operation of the POTW, the City's engineer shall:

1. Advise the user of the impact of the contribution of the POTW

2. Require pretreatment to an acceptable condition for discharge to the sanitary sewer;

3. Develop effluent limitations for such user to correct the interference with the POTW;

4. Reject the waste; or

5. Require control over the quantities and rates of discharge.

C. Pretreatment Plans and Equipment: If the City permits the pretreatment or equalization of waste flows, the design and installation of the plans and equipment shall be subject to the review and approval of the City, and subject to the requirements of all applicable rules, ordinances, and laws.

D. City Right to Establish Stringent Limitations: The City reserves the right to establish by ordinance more stringent limitations or requirements on discharges to the POTW system if deemed necessary to comply with the objectives of suitable treatment as defined in this article.

Section 17-510

GREASE, OIL AND SAND TRAPS AND INTERCEPTORS

Grease, oil and sand interceptors shall be provided when, in the opinion of the City, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, sand or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the City, and shall be located as to be readily and easily accessible for cleaning and inspection. The frequency of cleaning required will be dependent upon loading, capacity of interceptors, and flow obstruction problems experienced at each facility historically. Therefore, the City shall have the authority to establish a minimum grease interceptor cleaning frequency as needed for each user. Materials removed from these interceptors shall be disposed of at designated approved locations.

A. Traps and Interceptors Required: Traps and interceptors for oil, grease, sand and other substances harmful to the building drainage system, the public sewer or sewage treatment plant, or processes shall be provided as required in this section. Where food waste grinders connect to grease interceptors, the grease

interceptor shall be sized and rated for the discharge of the food waste grinder.

B. Traps Not Required: A trap shall not be required for individual dwelling units or any private living quarters.

C. Size, Type And Location Approved: The size, type and location of each trap or interceptor shall be of a type and capacity as defined in the international plumbing code and shall be approved by the City. All interceptors shall be located so as to be readily and easily accessible for cleaning and inspection. Such interceptors shall be properly inspected following construction by the City and shall be maintained by the owner, at his expense, in continuously efficient operation at all times.

D. Grease Traps: Grease traps shall conform to the plumbing and drainage institute (PDI) G101 requirements and shall be installed in accordance with manufacturer's instructions. Refer to the international plumbing code; table 1003.3.4.1 "Capacity of Grease Traps".

E. Grease Interceptors: A grease interceptor shall be installed in the waste line leading from sinks, drains or other fixtures in the following establishments: restaurants, hotel kitchens, hospitals, school kitchens, factory kitchens, clubs, cafeterias, drive ins, food processing establishments, and in any bar, lounge, private club or fountain where food is prepared or served, or where dishes, glasses, pots, pans or other kitchen wares are washed, or any other establishment where grease can be introduced into the drainage system in quantities that can effect line stoppage or hinder sewage disposal. The City's engineer shall have the authority to require installation of a trap or interceptor in any establishment when, in his opinion, one is required based on evidence that the establishment is contributing grease into the City's sewer mains in quantities that could affect line stoppage or hinder sewage disposal.

F. Oil Separators: An oil separator shall be installed in the drainage system of any establishment where, in the judgment of the City's engineer, oils and other flammables can be introduced or admitted into the public sewer by accident or otherwise.

G. Separators Required: At repair garages; gasoline stations with grease racks, grease pits or work racks; and at factories where oily liquid wastes are produced, separators shall be installed into which all oil bearing or grease bearing wastes shall be discharged before emptying in the building drainage system or other point of disposal.

H. Separation of Liquids: A mixture of treated or untreated light and heavy liquids with various specific gravities shall be separated in an approved receptacle.

I. Garages and Service Stations: Where automobiles are serviced, greased, repaired or washed or where gasoline is dispensed, separators shall be required. Parking garages in which servicing, repairing or washing is not conducted, and in which gasoline is not dispensed, shall not require a separator. Areas of commercial garages utilized only for storage of automobiles are not required to be drained through a separator.

J. Sand Interceptors In Commercial Establishments: Sand and similar interceptors for heavy solids shall be designed and located so as to be provided with ready access for cleaning.

K. Laundries: Commercial laundries shall be equipped with an interceptor with a wire basket or similar device, removable for cleaning that prevents passage into the drainage system of solids one-half inch ($1/2$ ") (12.7 mm) or larger in size, string, rags, buttons, or other materials detrimental to the public sewerage system.

L. Bottling Establishments: Bottling plants shall discharge process wastes into an interceptor that will provide for the separation of broken glass or other solids before discharging into the drainage system.

M. Slaughterhouses: Slaughtering room and dressing room drains shall be equipped with approved separators. The separator shall prevent the discharge into the drainage system of feathers, entrails and other materials that cause clogging.

N. Right of Entry: The City and its agents shall have the right of entry, during usual business hours, to conduct a random inspection of traps, interceptor or separator.

O. Grease Traps for Businesses, Approval: Any grease traps or interceptors for new or remodeled businesses shall be approved by the City's engineer prior to construction.

P. Violation Suspected; Notice; Hearing:

1. When the City determines that there may be potential violation, a site visit will be conducted. Any user found to be in violation of this section should be served by the City with written notice stating the violation and providing five (5) days to respond

to the violation. The offender shall, within the period of time stated in such notice, permanently cease all violations.

2. After the violator's response has been received, a follow up site visit will be conducted to determine if the violation has been corrected.

3. If the user fails to respond to the violation letter, an administrative hearing will be held and the user will be subject to administrative penalties at that time.

4. In the event an establishment is cited with a second violation within six (6) months of the first, an administrative hearing will be held and the user will be subject to administrative penalties at that time.

5. A third citation within six (6) months from the first violation will cause the City to immediately discontinue water service to the establishment for a period of not less than ten (10) days, during which time the offender shall correct the violation.

Q. Civil or Criminal Litigation: Any person who shall continue any violation beyond the time limit provided for in the penalty section of this ordinance shall be subject to specified civil or criminal litigation. Each day in which any such violation shall continue shall be deemed a separate offense.

Section 17-511 CONTROL MANHOLES AND METERS.

When required by the City, the owner of any property serviced by a building sewer carrying wastewater shall install a suitable control manhole together with such necessary meters and other appurtenances in the building to facilitate observation, sampling, and flow measurement. Such manholes, when required, shall be accessible and safely located and shall be constructed in accordance with plans approved by the City. The manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times.

Section 17-512 ACCIDENTAL DISCHARGES, SLUG LOAD OR UPSET:

A. Procedure for Providing Protection: Each user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this article. Procedures to prevent adverse impact from accidental discharges include: inspection and maintenance of storage areas, handling and transferring of materials, loading and unloading operations, control of plant site runoff, worker training, building of

containment structures or equipment, measures for containing toxic organic solvents, and/or measures and equipment for emergency response.

1. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner or user's own cost and expense.

2. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the City for review, and shall be approved by the City before construction of the facility.

3. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall ensure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure.

4. No user who contributes to the POTW shall be permitted to introduce pollutants into the system until accidental discharge procedures have been approved by the City. Review and approval of such plans and operating procedures shall not relieve the industrial user from the responsibility to modify the user's facility as necessary to meet the requirements of this article.

B. Notify POTW of Incident; Reports: In the case of an accidental discharge or slug load or upset, it is the responsibility of the user to immediately telephone and notify the POTW of the incident including any discharge that violates a prohibited substance of the permit. The notification shall include location of the discharge, date and time thereof, the time within which compliance is expected to reoccur, type of pollutant, concentration and volume, and corrective actions to reduce, eliminate or prevent reoccurrence within twenty four (24) hours of being aware of the upset.

1. Within five (5) days following an accidental discharge, the user shall submit to the City's engineer a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this article or other applicable law.

2. The City shall evaluate, at least once every two (2) years, whether each significant industrial user (SIU) needs a plan to control slug discharges. The evaluations will be documented in the SIU's file. If the City decides that a slug control plan is needed, the plan shall contain, at a minimum, the following elements:

- a. Description of discharge practices, including non-routine batch discharges; and
- b. Description of stored chemicals.
- c. Procedures for immediately notifying the POTW of any accidental or slug discharge. Such notification must also be given for any discharge which would violate any of the prohibited discharges provided for in this article.
- d. Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.

Section 17-513 . TRUCKED OR HAULED WASTEWATER.

Trucked or hauled waste, including septic tank and industrial sewage are not accepted unless the City administrator determines that the waste does not violate any requirements established or adopted by the City (e.g., local limits, etc.).

Section 17-514 . SPECIFIC LOCAL LIMITS.

The following pollutant limits are established to protect against pass through and interference at the POTW. In addition to all the aforementioned limitations contained in this article, all indirect discharges to the POTW shall not exceed the following limits at any time. These limits, unlike categorical limits, which apply at the end of the process stream, apply at the discharge point to the sewer. The limits represent total concentrations for all applicable pollutants.

0.28 mg/l (T) arsenic (AS)

0.13 mg/l (T) cadmium (CD)
3.10 mg/l (T) chromium (CR)
0.93 mg/l (T) copper (CU)
0.62 mg/l (T) lead (PB)
2.04 mg/l (T) nickel (NI)
1.25 mg/l (T) silver (AG)
1.19 mg/l (T) zinc (ZN)
0.02 mg/l (T) mercury (HG)
0.14 mg/l (T) cyanide (CN)
60.1 mg/l (T) phenols and phenolic compounds
200 mg/l (T) oil and grease (O&G)
5.5 - 11.0 pH
150°F temperature
(T) = total

Provided however, these pollutants limits shall not apply to discharge water constituting effluent discharged from a city reverse osmosis or ionization plant.

Section 17-515 STATE REQUIREMENTS; CITY RIGHT TO REVISE.

A. Application of State Requirements: State requirements and limitations on discharges shall apply in any case where they are more stringent than federal requirements and limitations or those in this article.

B. City Right to Increase Restrictions: The City reserves the right to increase the restrictions on compounds covered by the federal categorical pretreatment standards, and to adopt more stringent limitations or requirements on discharges to the wastewater system, if the same are deemed necessary to comply with the objectives of suitable treatment as defined and set forth in this article.

Section 17-516
HEARING.

PRETREATMENT STANDARDS ADOPTED SOLELY BY CITY;

The City is hereby granted the authority to establish pretreatment and effluent discharge standards on its own initiative. In the event new discharge standards, solely initiated and adopted by the City, or revisions to existing City standards are considered, a public hearing shall be held before the City Council prior to the adoption thereof. Notice of such hearing shall be published at least fifteen (15) days prior to the hearing, in a legal publication of general circulation within the City. In addition, all known users and other interested parties affected by the proposed standards shall be mailed written notice of the public hearing. Comments and suggestions received at the public hearing shall be considered during the preparation of the City's final effluent discharge standards.

Section 17-517

EXCESSIVE DISCHARGE.

No user shall attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the local limits or federal categorical pretreatment standards.

Section 17-518 MAINTENANCE OF PRETREATMENT FACILITIES.

A. Owner Responsibility: Where pretreatment or flow equalizing facilities are provided for any wastewater, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

B. Bypass of Treatment Facilities:

1. Bypass is prohibited unless it is unavoidable to prevent loss of life, personal injury or severe property damage, or no feasible alternatives exist.

2. The user may allow a bypass to occur which does not cause effluent limitations to be exceeded, but only if it is also for essential maintenance to ensure efficient operation.

3. Notification of Bypass:

a. Anticipated Bypass: If the user knows in advance of the need for a bypass, it shall submit prior written notice, if possible, at least ten (10) days before the date of the bypass, to the City.

b. Unanticipated Bypass: The user shall submit oral notice to the City within twenty four (24) hours and submit a written notice within five (5) days. This report shall specify:

(1) A description of the bypass and its cause, including its duration, exact time and date; and

(2) Whether the bypass has been corrected; and if the bypass is not corrected, the anticipated time it is expected to continue; and

(3) The steps being taken or to be taken to reduce, eliminate and prevent a recurrence of the bypass.

Section 17-519

MONITORING FACILITIES.

A. Placement of Facilities: The City shall require to be provided and operated at the user's own expense, monitoring facilities to allow inspection, sampling, and flow measurements of the building sewer and/or internal drainage system. The monitoring facility should normally be situated in the user's premises, but the City may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles. The user shall be responsible for relocation of the facility, if necessary, for street improvements or public utility construction, maintenance or repairs. The monitoring facility designed by the industrial user as the proper sampling site for regulated categorical or industrial processes will be approved by the City prior to the use of such facility.

B. Sampling Manhole: There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility sampling and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.

C. Compliance with City Standards: Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the City's requirements and all applicable local construction standards and specifications. Construction shall be completed within ninety (90) days following written notification by the City.

D. Excessive Pollutants Detected: In the event an excessive or shock load of pollutants are detected anywhere in the POTW or received at the POTW treatment plant, the City may require demand

monitoring procedures in order to discover the source of such discharge into the POTW. "Demand monitoring" means the use of all necessary measures and equipment for the purpose of determining the users who have created, or contributed to, the harmful discharge of problem pollutants. When the user or users have been identified, the City shall have the authority to assess the cost of demand monitoring against the offending user.

Section 17-520 SEWER RATES.

The City from time to time may amend the rates, fees and charges governing all aspects of the utility services, including monthly fees, connection fees and charges and deposits which rates, fees and charges may be enacted by resolution of the City or FUA.

Section 17-521 SANITARY SEWER BACKUP PREVENTION PROGRAM.

A. Any customer of the City's sanitary sewer system who suffers damage to their home, building or structure caused by the public sanitary sewer system backing up into the customer's private property, and not due to the negligence of the customer, may file an application with the City Clerk for the reimbursement of 50% of the cost of installing a backflow prevention system on their property to alleviate future events. The application shall contain such information as required by the City Manager, shall contain a verification clause and all receipts attached that show that the work has been performed and the equipment installed and paid for by the customer.

B. No reimbursement shall be made unless the customer (1) first files a claim with the City's insurance carrier and is refused payment by the insurance carrier, and (2) installs the backflow prevention system, and (3) executes a contract with the City permitting the right, but not the duty or obligation, to inspect such backflow prevention system, and (4) signs a release and waiver releasing the City and all its employees and officers from any and all liability based on the sewer backflow occurrence and any and all damage that may be occasioned in the future by the backflow prevention system.

C. All applications must be filed within ninety (90) days after the date the customer is notified that the City's insurance will not be paying said claim. The maximum amount paid on any application shall be \$250.00. Such funds shall be allocated on a first come, first served basis, from monies contained in a special account within the Fairview Utilities Authority established for this purpose. Reimbursements shall not exceed fifty percent (50%) of the actual cost of the installation of the backflow prevention

system, which system shall include a shut-off valve and/or sump pump.

D. In the event that the City is deemed to be legally liable for the damages due to the backflow of sewage into any home, building or structure, any such claim or judgment shall be paid in accordance with the City's insurance and not in accordance with this Section.

E. Nothing contained in this Section shall be deemed to place any duty or obligation on the City or Authority to pay such funds to any person, such program being at the sole option and discretion of the City Manager.

Section 17-522 PENALTIES.

A. It shall be unlawful for any person to 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.

B. Any person found to be violating any provision of this Article shall be served by the owner with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

C. Any person who shall continue any violation beyond the time limit provided for in this section shall be deemed guilty of a violation thereof, and upon conviction thereof shall be punished as provided in the penalty section of this ordinance for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.

D. Failure to pay monthly bills for water or sanitary sewer service when due or repeated discharge of prohibited waste to the sanitary sewer shall result in disconnection of any and all services to the water or sanitary sewer lines of the owner.

ARTICLE 6

SOLID WASTE COLLECTION AND DISPOSAL

Section 17-601. DEFINITIONS

For purpose of this Article, the following words shall have the following meanings:

A. Bags: Weather resistant plastic bags, securely tied about the top, and of sufficient strength to hold the load when picked up and carried without supporting the bottom, into which all residential users shall place their garbage and refuse. All garbage and refuse shall be placed in such properly secured plastic bags and such bags shall be placed in city provided poly-carts, in order that such garbage and refuse to be picked up and disposed of by the City.

B. Bulky Waste: Stoves, refrigerators, water tanks, washing machines, furniture and other waste materials other than Construction Debris, Dead Animals or Hazardous Waste with weights or volumes greater than those allowed for Bins or Containers, as the case may be.

C. City: The City of Fairview, Oklahoma, who shall be the Contractor.

D. Collectible limbs and brush: Trees, shrubs and brush trimmings, placed for collection by the user, securely tied together forming an easily handled package, not exceeding four (4) feet in length or 50 lbs. in weight, and placed in the polycarts at the regular place of collection.

E. Commercial and Industrial Unit: All premises, locations or entities, public or private, requiring solid waste collection, not a Residential Unit.

F. Construction Debris: Waste building materials resulting from construction, remodeling, repair or demolition operations.

G. Container: An one (1) or larger cubic yard receptacle used for commercial and industrial solid waste users.

H. Contractor: The City.

I. Dead Animal: Animals that have expired from any cause.

J. Disposal Site: A solid waste depository, including but

not limited to sanitary landfills and/or convenience centers, licensed, permitted or approved to receive for processing or final disposal of solid waste by all governmental bodies and agencies having jurisdiction and requiring such licenses, permits or approvals. Currently, the disposal Site is Red Carpet Landfill.

K. Garbage: Every accumulation of waste (animal, vegetable and/or other matter) that results from the preparation, processing, consumption, dealing in, handling, packing, canning, storage, transportation, decay or decomposition of meats, fish, fowl, birds, fruits, grains or other animal or vegetable matter (including, but not by way of limitation, used tin cans and other food containers; and all putrescible or easily decomposable waste animal or vegetable matter which is likely to attract flies or rodents); excepting (in all cases) any matter included in the definition of Bulky Waste, Construction Debris, Dead Animals, Hazardous Waste or Rubbish.

L. Hazardous Waste: Any chemical, compound, mixture, substance or article which is designated by the United States Environmental Protection Agency or appropriate agency of the State to be "hazardous" as that term is defined by or pursuant to Federal or State Law.

M. Location: All poly-carts for residential collection shall be located in the alley (or within ten feet (10') of the traveled portion of the roadway or street, if no alley access exists) or at such other location on the user's premises as designated by the City Manager or his designee. For disabled residential users, the term "location" shall mean placement of the garbage and refuse not more than seventy-five feet (75') from the street.

N. Refuse: This term shall refer to Rubbish, Bulky Waste, Construction Debris and Collectible limbs and brush.

O. Residential Unit: A dwelling within the corporate limits of the City occupied by a person or group of persons comprising not more than two families. A Residential Unit shall be deemed occupied when either water or electric services are being supplied thereto. A condominium dwelling, whether of single or multilevel construction, consisting of four or more continuous or separate single-family dwelling units, shall be treated as a Unit, with a common refuse container or containers, except that each single-family dwelling within any such Unit will be billed either separately as a Residential Unit or collectively on a single bill to the management as a multiple of Residential Units an appropriate extension of the residential rates.

P. Rubbish: All waste wood, wood products, tree trimmings, grass cuttings, dead plants, weeds, leaves, sawdust, printed matter, paper, pasteboard, rags, straw, used and discarded mattresses, used and discarded clothing, used and discarded shoes and boots, combustible waste pulp and other products such as are used for packaging, or wrapping, crockery and glass, ashes, cinders, floor sweepings, glass, mineral or metallic substances, and any and all other waste materials not included in the definition of Bulky Waste, Construction Debris, Dead Animals, Garbage or Hazardous Waste.

Q. User: An occupant of a Commercial, Industrial, or Residential Unit who generates refuse.

Section 17-602 USE REQUIRED

Except as herein otherwise authorized by the City Manager, all garbage and refuse accumulated in the City shall be collected, conveyed and disposed of by the City, and not by any other person.

Section 17-603 CITY MANAGER

All garbage and refuse accumulated in the City shall be collected, conveyed and disposed of by the City under the supervision of the City Manager or his designee.

Section 17-604 COLLECTION PRACTICES—GENERALLY; RATES

A. Collection Location. Garbage and refuse shall be placed for collection by all users in a location as directed by the City Manager or as otherwise provided in this Article

B. Poly-carts: Poly-carts shall be used by all residential users. Residential service requires the placement of garbage and refuse in bags and thereafter placing the bags in the poly-carts as provided in this Article.

C. Reserved.

D. Transfer Center:

1. The Transfer Center is located on city-owned property.

2. Any user may deposit garbage and refuse in properly marked containers at the Transfer Center at times as displayed on the sign posted at the Transfer Center. The City shall accept and dispose of all garbage and refuse delivered by any user of the solid waste service of the City to the Transfer Center at a charge

as designated by the City Council, provided such user, if requested, can furnish a recent utility bill showing payment of solid waste fee.

E. Sharing Commercial Containers. In commercial areas where users have small volumes of waste, arrangements may be made with the City for such users to share containers and their cost. Such arrangements shall be made only after consent by the utility representative.

F. Holidays. Collections will not be made on the following holidays:

1. New Year's Day;
2. Memorial Day;
3. Independence Day;
4. Labor Day;
5. Thanksgiving Day;
6. Christmas Day.

If a collection day falls on a holiday, collection will be the following day for commercial and industrial users and on the next regularly scheduled pickup day for residential users.

G. Rates Charged the Public. The City from time to time may amend the rates, fees and charges governing all aspects of the utility services, including monthly fees, connection fees and charges and deposits which rates, fees and charges may be enacted by resolution of the City or FUA.

H. Miscellaneous Rules.

1. Users may place one discarded Christmas tree for collection during the two-week collection scheduled by the City.

2. Extra refuse and garbage collection will be provided on an on-call basis for each and every user. Extra refuse and garbage collection may consist of unbundled landscape waste and bulky items such as furniture, carpet and white goods, building refuse resulting from demolition or construction projects, and any other items too large for the regular solid waste collection routes to accept. Extra refuse and garbage collection will be paid for separately by the user. These services will be by City Work Order with Fee added to user's utility bill.

3. For large collection involving a roll-off dumpster, the City shall provide for the special collection of Bulky Waste,

Construction Debris and Dead Animals. The rates and terms for such special collections shall be negotiated between the City.

4. Each user shall provide access to the City to the area where the garbage and refuse deposited for collection is to be placed.

5. All provisions contained in this code and other rules of the City pertaining to users shall be followed at all times by the user.

Section 17-605

STORING OF TRASH; OTHER RULES.

A. No person shall place any trash in any street, alley, or other public place, or on any private property, whether owned by said person or not, except in proper containers for collection or under express approval granted by the City, nor shall any person throw or deposit any trash in any stream or other body of water.

B. Any unauthorized accumulation of trash on any premises is hereby declared to be a nuisance and is hereby prohibited.

C. No person shall cast, place, sweep or deposit anywhere within the city any trash in such a manner that it may be carried or deposited by the elements upon any street, sidewalk, alley, sewer, parkway or other public place, or into any occupied premises.

D. All polycarts shall be moved to a location other than the front of the residence after pickup occurs.

E. Furniture, mattresses, carpet, white goods and other large items will not be picked up by the City but must be taken by the user to the Transfer Center or disposed of in an otherwise lawful manner; provided however, the City will pick up these items during Spring Cleanup or at other designated times.

F. The City will furnish the polycarts; provided however, if the customer desires to furnish a polycart, such polycart shall be compatible with the collection trucks in order to be emptied and no set-off in monthly charges shall be made.

Section 17-606

OTHER MATTERS

A. The removal of wearing material, bedding or other refuse from homes or other places where highly infectious or contagious diseases have prevailed should be performed under the supervision

and direction of the City Manager or his designee. Such refuse shall not be placed in containers for regular collection.

B. Highly inflammable or explosive materials shall not be placed in containers for regular collection but shall be disposed of as directed by the City Manager or his designee at the expense of the owner or possessor thereof.

C. The actual producers of refuse or the owners of premises upon which refuse is accumulated, which is not permitted to be disposed of pursuant to the terms of this Article or who desire personally to collect and dispose of such refuse, or persons who desire to dispose of waste material not included in the definition of refuse and collectors of refuse from outside the city who desire to haul over the streets of the city shall use a watertight vehicle so operated as to prevent offensive odors escaping therefrom and refuse from being blown, dropped or spilled. All such collection and containers shall be approved by the city. Disposal of such refuse shall be made outside the limits of the city, except as specifically permitted by the city.

D. Carry out service shall be provided for the disabled person if such individual provides certification to the City Manager or his designee that he/she is the head of household and provides documentation from a recognized agency (social security, veterans administration) private insurance company, pension fund or other disability documentation acceptable to the City Manager or his designee and further certifies that no other person or member of the household is physically capable of placing the container for curb side service and further certifies the address where the applicant resides. If such documentation is approved by the City Manager or his designee, the user will receive carry out service at curb side rates. Any person making a false or incorrect certification shall be guilty of an offense. Certifications must be renewed on July 1 of each year.

Section 17-607

USE OF ANOTHER'S TRASH CONTAINER

Except as otherwise provided herein, it shall be unlawful for any person to use another person's trash container, whether the container is furnished by the city or by the individual or some other person, without permission of such other person.

ARTICLE 7

STORMWATER DRAINAGE SYSTEM SERVICE ORDINANCE

Section 17-701 STORMWATER DRAINAGE SYSTEM SERVICE ORDINANCE AUTHORIZED

A. Definitions.

Unless otherwise provided in this Article, the following words and phrases shall have the meanings given herein:

City shall mean the City of Fairview, Oklahoma.

Stormwater Drainage Management Program means the overall strategy and framework for the stormwater management activities of the City.

Stormwater Drainage System means any facility, structure, improvement, development, equipment, property, or interest therein, or other structural or nonstructural element made, constructed, used, or acquired for the purpose of collecting, containing, storing, conveying, and controlling stormwater wherever located including, but not limited to, storm sewers, conduits, natural and man-made channels, pipes, culverts, curbs, gutters, and detention ponds whether public or private.

Developed real estate shall mean real property altered from its natural state by the addition to or construction of any impervious surface such that the hydrology of the property is affected.

Impervious surface shall mean any hard surfaced area which prevents or retards the entry of water into the soil in the manner and to the extent that such water entered the soil under natural conditions, causing water to run off the surface in greater quantities or at an increased rate of flow than was present under natural conditions, such as but not limited to rooftops, asphalt or concrete sidewalks, paving, driveways and parking lots, walkways, patio areas, storage areas, and gravel, oiled macadam, or other surfaces which similarly affect the natural infiltration or runoff patterns of real property in its natural state.

Service charge shall mean the fee levied within the boundaries of the City for the City's stormwater drainage facilities.

Undeveloped Real Estate shall mean real estate unaltered by the construction or addition of any impervious surface which would change the hydrology of the property from its natural state.

B. Service Charge and Exemptions.

There is hereby established a service charge for the City's stormwater drainage system at rates hereinafter established; provided, however, that the service charge shall not be imposed on the following types of property:

1. City streets, rights-of-way, parks, and open space;
2. State of Oklahoma highway or County rights-of-way; or
3. Undeveloped Real Estate

C. Rate Schedule.

The monthly service charge rate is hereby established at the following monthly rate and which charge shall be paid so long as any utility of the City is connected or being used and without regard to the status of occupancy:

Commercial Customer	\$5.00
Residential Customer	\$2.50
Large Apartment (10 or more units)	\$0.75 per dwelling unit
Small Apartment (less than 10 customers)	\$1.00 per dwelling unit
4-plexs	\$1.00 per dwelling unit
Duplexs	\$1.00 per dwelling unit
Mobile Home Parks	\$1.00 per dwelling unit

D. Collection of Service Charge; Use of the Monies Collected.

1. The service charges herein established for the City's stormwater drainage system shall be billed monthly on the utility bill and may include such penalties as are now or may hereafter be established for utility service bills. The provisions for collection provided herein shall be the rights or remedies which the City may have under the laws of the State of Oklahoma.
2. All monies collected shall be placed in a special account and used only for purposes consistent with the City's Stormwater Drainage Management Program, as now constituted or hereinafter adopted or amended, and at a minimum the monies may be used for stormwater drainage maintenance, construction, repair, operation and/or cleaning waterways, culverts and other related drainageways, related land, lease and/or easement purchases, and the purchase of materials and labor related to stormwater maintenance.

E. City Council Review.

The City Council shall evaluate annually, as part of the budget preparation process, the financial needs of the stormwater drainage systems and make such amendments to this section which may be in the best interest of the residents of the City.

CHAPTER 18 FEE SCHEDULE

SECTION 18-101 FEES

For the purposes of providing a clear and concise listing of the fees and charges authorized by the provisions of this code, a schedule of fees and charges, or fee schedule, is hereby set forth in this appendix. The heading gives the title of the appropriate chapters and articles, as applicable. Actual cost for research fees include cost of labor or any fees expended by the city. The fees herein may be amended by motion or resolution of the council. Current copy is on file with the City Clerk.

DESCRIPTION OF FEE

ADMINISTRATION AND GOVERNMENT

CITY RECORDS

Code Section

Photocopying (per page)	\$ 0.25
Mechanical reproduction fee	Actual cost to city
2-611 Search fee for commercial purposes:	Actual cost to city
2-612 Prepayment required when estimated cost exceeds	\$25.00
Accident Report; arrest report, offense report; incident report	\$3.00/page \$7.00 per tape

Chapter 3

Certificate of compliance with zoning, Fire, health and safety codes	\$50.00

ANIMALS

General Provisions

Annual license fee for kennel	\$100.00
Animal over 6 months of age, Annual tax	\$3.00

Impounding and keeping animal or fowl:

Impound fee	\$15.00
Per day fee and care	\$5.00

Dogs not vaccinated against rabies, pay deposit as set by city to be refunded upon proof of vaccination

Euthanasia Fee	\$10.00

Redeeming animals:

1. Impoundment fee	\$15.00
2. Proof of vaccination (Deposit Required)	
3. Feed and care (Per Day)	\$5.00

Adoption Fees:

Cost of vaccination, plus all applicable impound fees, daily care (\$5.00 per day) and all Other expenses incurred.

Refund of excess sale price

Supervised quarantine at owner's expense: Actual Cost

Impoundment of vicious, dangerous or diseased animals - expenses are the responsibility of Owner: Actual Cost

Determination if animal is vicious, dangerous or diseased:	Actual Cost

If not, then surrendered to owner upon payment of expenses. If it is, the owner to pay all Required fees.

BUILDING REGULATIONS AND CODE

Registration, Permits, Bond and Fees

Electrical Contractor	1 st year	\$50.00
	2 nd and continuing	\$25.00
	If license does not lapse	
Journeyman		\$10.00
Apprentice		\$0.00

Plumbing Contractor	1 st year \$50.00
	2 nd and continuing \$25.00
	If license does not lapse

Journeyman	\$5.00

Apprentice	\$0.00

Mechanical Contractor	1 st year \$50.00
	2 nd and continuing \$25.00
	If license does not lapse

Journeyman	\$10.00

Apprentice	\$0.00

NOTE: All of the above contractors must show proof of bond with the state.

Building Permit Fees \$1.00 per thousand up to \$100,000.00; maximum is \$100.00 building permit fee

Electrical Inspection Fees

\$2.00 and up according to size of structure

For Example:	2 bedroom home	\$5.50
	3 bedroom home	\$6.50
	4 bedroom home	\$7.50

Commercial buildings are computed by Electric Inspector as to outlets and time.

Plumbing Inspection Fees

\$3.00 and up according to size of structure

For Example:	2 bedroom home	\$3.50
	3 bedroom home	\$5.00
	4 bedroom home	\$6.50

Commercial buildings are computed by Plumbing Inspector as to outlets and time.

Gas Line Inspection \$2.00

NOTE: All applicants for permits must furnish a drawing showing in some detail, the relevant size and location of

the purposed project. In the case of fences, small storage buildings, driveways, a sketch on the application will suffice. However, for major remodel and new construction and large complex projects a set of drawings by an engineer or architect may be required, and the cost of the plan review will be added to the permit. This cost will vary with the complexity of the project.

Bonds and Fees

Permit fee to move building with 24 hours notice	\$20.00
Without 24 hours notice	\$30.00

COURT

COURT PROCEDURE

Filing criminal offense in Municipal court, court cost \$30.00

Deferred sentence to pay restitution and administrative fee of up to state maximum

Judgment of conviction: Cost to defendant of maximum sum required by state law (plus fees, mileage of jurors and witnesses, witness fees paid per day plus mileage per day)
\$25.00

Dishonored check or instrument returned and processing fee per check or instrument to Court
Clerk (returned check charge) \$25.00

FINANCE AND TAXATION

SALES TAX

Excise Tax set by franchise 4%

Use Tax 4%

Telephone Exchange Fee

Annual Inspection fee and service charge for operating exchange (set by Franchise)

Utility Fee

Utility tax, in lieu of franchise 2%

Health and Nuisances
Nuisance and Health Generally

Summary abatement of nuisances; cost to owner or person responsible

Abatement of health nuisance; cost of abating or removing nuisance, charged to owner or Occupant.

Weeds, Grass and Trash

Cleaning and mowing:

If done by city not to exceed \$500.00

If done by private contract to be bid of best and lowest bidder

Actual costs and other expenses including notice and mailing to be paid by property owner

Dilapidated Buildings

Costs of dismantling and removal of boarding or securing:

If by city actual cost of labor, maintenance and equipment not to exceed ACTUAL COST

If by private contractor to be by bid
Actual costs and other expenses including cost of notice and mailing to be paid by Property owner

Abandoned, Junk Vehicles

Advance cost of mailing to property owners advising of application; up to Maximum of \$50.00

Owner responsible for all expenses incurred by removal and deposition

Redemption of impounded vehicles or motor vehicle, prior to sale; actual and reasonable expense of removal plus storage

Issuance of licenses conditioned upon approval, fees, inspection or bond

Processing fee for all licenses and permits

Itinerate Vendors

License required prior to soliciting in the city to cover each person and each location or separate place of business

Per Week	\$25.00
Per Day	\$5.00

Owner or lessees of building to obtain blanket itinerant vendor license

Fee for license	\$25.00

Garage Sales

Permit required	\$5.00

PLANNING, ZONING AND DEVELOPMENT ZONING REGULATIONS

12-201 Zoning Regulation, filing, amendment, etc. fees

Subdivision and Platting Regulations

12-401 Subdivision regulation, filing, etc fees:

The water and sewer systems have to be designed by a registered P.E. and submitted to the State Health Department for review and approval. There is a fee associated with this and is the responsibility of the developer. These plans along with a detailed set of plans have the subdivision including the layout of the streets and alleys (these alleys must be dedicated alleys, not easements) will be submitted to the Planning and Zoning Committee for review, they will, in turn, submit these to the council with their recommendations. Fees will be \$100.00 plus Costs.

Mobile Home Regulations

Mobile home regulations, permits, parks, etc., fees:

Mobile homes allowed to be placed in the City upon approval, will require a building permit. The cost of this permit is \$10.00.

Parks would be same as subdivision.

Flood Plain Regulations

Development permit - Area to be developed will be topographically surveyed by engineer, and studied by an engineer to determine impact on surrounding area. The topographical map and the findings of the engineer to be furnished before a permit is issued. That permit will be same as subdivision regulates. In the case of a building permit, if this study is for a business or dwelling in a flood plain will be the same as any other building permit after all the above are met and measures are taken to prevent flooding or flood damage to the proposed building project.

Public Safety

Fire Prevention Code

New materials, processes or occupancies may require permits.

Fire Services

Charges for calls made outside city limits

- A. Non-emergency calls: \$250/truck per hour
\$25.00/hr per each fire
fighter (min of 1 hr.)
- B. Emergency calls: \$300 per truck per each 8 hr.
period.

STREETS AND SIDEWALKS

General Provisions

Abatement procedure for removal of trees and shrubs	\$15.00
Permit for structure on or over street or sidewalk	\$25.00
Permit & fee for culvert, driveway, stock pass fence or sign	\$25.00

Excavations

Permit to tunnel under or make an excavation in street, alley or public place for persons other than the phone company, gas company or cable company, there will be a Permit applied for and a fee paid of \$25.00.

The condition of the alley or public place excavated by any one will be restored as good or better than before the project was undertaken

Deposit to cover cost of restoration of the ground and laying of pavement.

TRAFFIC AND VEHICLES

General Provisions

Security verification vehicle form as required by state

Stopping, Standing and Parking

15-602 Handicapped parking requires detachable insignia of physically disabled person

15-1110A	Skateboards	
	1 st Offense	\$50.00
	2 nd Offense	\$100.00
	3 rd and subsequent Offenses	\$200.00

Loading Zones

15-1204 Special permit to back to curb for loading or unloading issued to: owner of lessee of real Property; or owner of vehicle

Impoundment

15-1912 Release conditioned on payment of:
Impoundment costs and accrued storage charges
Proof of payment of all fines and costs due city