

THE CHARTER OF THE CITY OF PERRY, OKLAHOMA

As Framed by the Freeholders and Presented to the Voting Electorate of the City of Perry, Oklahoma, for their approval or rejection, at the special nonpartisan election scheduled for the 7th day of November 2006.

PREAMBLE

We, the people of the City of Perry, in order to secure the benefits of home rule, encourage efficient and business-like methods in the transaction of municipal affairs, promote civic advancement and general welfare and protect the human rights and personal dignity of all persons do ordain and establish this Charter for the City of Perry.

NOTE: When the masculine gender is used in this Charter, it shall also include the feminine.

ARTICLE I. ORGANIZATION AND POWERS

Section 1. Organization.

We, the People, living within the boundaries hereinafter defined, and their descendants, hereby create, organize and reconstitute a Municipal Corporation and body politic with perpetual succession under the name of the "City of Perry, Oklahoma" that shall succeed to own and possess all the property, rights, privileges, franchises, powers and immunities now belonging to the present corporation known as the City of Perry, and shall be liable for all debts and obligations for which said present corporation is now liable, and having adopted a common seal retain the power to alter the same at pleasure, to sue and be sued in all courts, to make contracts, to take and acquire property by purchase, condemnation or otherwise, and to hold, lease, mortgage, convey or otherwise dispose of any of its property within or without the limits of said City, with such other powers, rights, privileges, franchises and immunities as are granted and conferred by any other parts of this Charter or by the Constitution and the laws of the State of Oklahoma.



The following shall be the City Seal:

Section 2. Boundaries.

The boundaries of said City, and the respective wards thereof shall, until altered as provided by law, be the same as at the time of the adoption of this Charter.

Section 3. General Grant of Powers.

Said City shall also have all other powers that are now, or may hereafter be given it by the Constitution and the laws of this State, and this Charter is and shall be the organic law of the City in all matters pertaining to the local government of the City and prevails over state law on matters relating to purely municipal concerns, and said City shall have the power to enact and enforce all ordinances necessary to protect health, life and property; to define, prevent, and summarily abate and remove nuisances; to preserve and enforce good government and order; and to take any and all other actions necessary to protect the health, safety and welfare of the residents of the City of Perry, Oklahoma.

Section 4. Bequests, Gifts and Donations.

The City of Perry, Oklahoma, may receive bequests, gifts and donations of all kinds of property, both real and personal, or in trust for charitable or public purposes, and perform all acts necessary to carry out the purposes of such bequests, gifts, donations or trusts, with power to operate, manage, sell, lease or otherwise dispose of same, in accordance with the terms of the bequest, gift, donation, or trust.

Section 5. General Grant of Powers not Limited.

The legislative, executive and judicial powers of the City shall extend to all matters of local and municipal government, it being the intent hereof that the specification of particular powers by any other provision of this Charter shall never be construed as limiting or impairing the effect of the general grant of powers hereby made.

Section 6. Former Government in Force.

All existing ordinances of the City not inconsistent with this Charter or inapplicable under the municipal government provided by this Charter, shall be and continue in full force and effect, until amended or repealed or until they expire by their own limitations, and no existing right, action (civil or penal), suit, proceeding, or contract, shall be affected by the change in the form of government of the City; but all shall continue as though no such change had taken place; and all debts, penalties and forfeitures which have accrued, or which may hereafter accrue by virtue of anything heretofore done or existing, shall inure to the benefit of the City of Perry, Oklahoma, and may be sued for and recovered by the said City as though this Charter had not been adopted. Nothing herein, however, shall legalize or make legal any invalid indebtedness of the City heretofore contracted or incurred or impair any defense against the payment of the same, nor shall the adoption of this Charter in anywise interfere with any proceedings heretofore instituted relating to the levy and collection of taxes, special assessments, or levies of any nature, or with any proceedings to enforce the payment of the same, and all contracts heretofore entered into by the City shall remain in full force and effect and be completed under the ordinances existing at the time of the adoption of this Charter.

ARTICLE II. CITY OFFICERS; ELECTIONS

Section 1. Elected Officers: Powers and Duties; Compensation.

1. There shall be a Council of nine (9) members, which shall consist of a Mayor elected at large, and two (2) Councilmembers from each of the four (4) wards of the City, as the wards are now constituted or as they may be hereinafter constituted from time to time. The Mayor and Councilmembers shall be registered voters and each Councilmember shall be actual residents of their respective wards. Removal of a councilmember from the ward for which he was elected shall cause an immediate vacancy. All members of the Council shall be elected at large. Except in exercising the powers of initiative and referendum, all legislative power shall be vested in the Council. All references in this Charter to "Councilmembers" or "City Councilmembers" shall be construed to mean the Mayor as well as those persons elected or appointed to Council positions.

2. Five (5) members of the Council shall constitute a quorum, and the affirmative vote of at least five (5) members shall be necessary to adopt any motion, resolution or ordinance or pass any measure, unless a greater number is required by a specific provision of the Charter.

3. The Mayor shall preside at all meetings of the Council, performing legislative and any required ceremonial duties as are necessary in conducting City business. The Mayor shall be recognized as the official head of the City by the courts for the serving of civil processes, and by the Governor for military purposes. In time of public danger or emergency the Mayor may, with the consent of the Council, take command of the police, maintain order and enforce the laws. The Mayor is counted for quorum purposes; shall have all powers, rights, privileges, duties and responsibilities of a Councilmember; and, shall have the right to vote on questions.

4. The Mayor and Councilmembers shall be paid a reasonable compensation as they may determine by majority vote; provided in no case shall the salary or emoluments of the Mayor or any Councilmember be changed after his election or appointment, or during his term of office, unless by operation of law enacted prior to his election or appointment. The Mayor and Councilmembers may also be reimbursed for expenses incurred in the discharge of their official duties.

5. Except as otherwise provided in this Charter, all powers of the City, including the determination of all matters of policy, shall be vested in the Council. The Council shall have the power:

A. To appoint, supervise and remove the City Manager, City Attorney, City Auditor, Chief Financial Officer and such additional temporary and specific appointments as required to conduct the business of the City;

B. To appoint the Municipal Judge, as provided in this charter;

C. To enact municipal legislation by ordinance and perform all other legislative and policy making functions;

D. To raise revenue and make appropriation, to adopt the budget, to regulate bond elections, the issuance of bonds or other evidences of indebtedness, sinking funds, the refunding of indebtedness, and to approve salaries, wages and benefits as specifically provided herein and oversee all other fiscal affairs of the City;

E. To appoint and remove the members of all Commissions, Boards, agencies, authorities and all other entities, now or when and if established, as provided by ordinance, law, or written instrument, and to prescribe the method of appointing or electing and removing them;

F. To inquire into the conduct of any office, department, or agency of the city government, and to investigate municipal affairs, either en banc or by a duly appointed committee; and for this purpose, to subpoena witnesses, take testimony and require the production of evidence;

G. To regulate elections to carry out the initiative, referendum and recall; and

H. To create, change, and abolish all offices, departments, agencies, commissions, boards, authorities and all other entities of the city government other than the offices, departments, and agencies created by this Charter; and to assign additional powers, duties and functions to offices, departments and agencies created by this Charter or by Council action.

6. All power not otherwise delegated to another by this Charter is reserved to the City Council.

Section 2. In General.

1. The Noble County Election Board shall administer all elections for the City, and unless otherwise provided herein, shall conduct such elections in compliance with the general laws of the State of Oklahoma.

2. The following positions shall be filled at the April 2007 General Election: Mayor, Ward 1, Post 1, Ward 2, Post 1, Ward 3, Post 1, and Ward 4, Post 1, all of whose terms shall be for a four (4) year period. The following positions shall be filled at the April 2009 General Election: Ward 1, Post 2, Ward 2, Post 2, Ward 3, Post 2, and Ward 4, Post 2, all of whose

terms shall be for a four (4) year period. Those persons that hold the positions as Councilmembers from Ward 1, Post 2, Ward 2, Post 2, Ward 3, Post 2, and Ward 4, Post 2, on the day that the Council gives notice to the Noble County Election Board to conduct the April 2007 election, shall continue to hold such positions under the new government and until their successors are appointed or elected and qualified. On the first Monday in May 2007, the elected positions for City Clerk, Street Commissioner, City Treasurer and City Marshal are abolished.

3. The term of office of an elected official shall begin on the third Monday in April following the general municipal election, after being duly sworn, and such official shall serve until his successor is appointed or elected and qualified, unless he is removed or forfeits his office under other provisions of this Charter. If a newly elected official does not qualify within thirty (30) days after his term of office begins, the office shall become vacant and shall be filled in the manner provided by law. In order to complete the unexpired term, the office of an official who is holding over shall be filled at the next general election in accordance with the general election laws of the state.

4. For the purpose of filing for, and election to, the positions of Councilmember, only persons who have (i) been duly registered to vote in accordance with state law within the City and (ii) duly resided in the ward from which they seek election, for a period of one (1) year prior to the first day of the filing period, shall be eligible to seek election as Councilmember.

5. For the purpose of filing for, and election to, the position of Mayor, only persons who have been duly registered to vote in accordance with state law within the City and who have been a resident of the City for one (1) year prior to the first day of the filing period, shall be eligible to seek election as Mayor.

6. The person who receives the most votes for any City office shall be certified as having been elected to that office. There shall be no City run-off elections.

Section 3. Official Oath, Bond.

Upon entering the duties of their offices, the Mayor and Councilmembers shall take the oath of office prescribed by the Constitution of Oklahoma. The Council shall require the Chief Financial Officer, other appropriate financial officer, and/or any officer or employee designated by ordinance or resolution, to sign municipal warrants or municipal checks, and any other officers and employees as the Council may designate by ordinance, to give bond for the faithful performance of such officer or employee's duties within ten (10) days after election or appointment, in such amount and form as the Council shall prescribe. The City shall pay the premiums on such bonds.

Section 4. Qualifications of Voters.

In all municipal elections, only registered voters of the City shall be eligible to vote. Registered voters shall be qualified and registered under the law of the State of Oklahoma.

Section 5. City Council to Order Special Elections.

The Council may call special elections in the manner as provided by state law.

Section 6. Candidates; Nonpartisan Elections

1. Qualified candidates for the offices of Mayor and Councilmember may file for office as provided by the general laws of the State.

2. All elections of the City shall be nonpartisan.

Section 7. Election of Vice Mayor; Duties of Vice Mayor.

On the first regularly scheduled Council meeting in May of each odd-numbered year, the Council, by a majority vote of all Councilmembers, shall elect one of the Councilmembers to be Vice Mayor of the City for a term of two years and until his successor is elected and qualified. The Vice Mayor shall act as Mayor in the absence of the Mayor. In case of the absence of both the Mayor and the Vice Mayor, the remaining Councilmembers shall elect one of their number to act as Mayor until the return of the Mayor or Vice Mayor.

Section 8. Vacancies in Office.

1. A vacancy in the office of a member of the Council shall exist whenever the holder thereof:

A. Ceases to possess some qualification for the office, prescribed by this Charter or by applicable law;

B. Dies,

C. Resigns,

D. Is removed from office by proceedings of a Court of competent jurisdiction, including but not limited to a violation and conviction of Article III, Section 6;

E. Is declared legally incompetent by a Court of competent jurisdiction; or

F. Ceases to reside in the ward where elected or appointed, except that no vacancy shall occur whenever a Councilmember is rendered a non-registered voter of the ward represented by reason of reapportionment carried out by the Council;

G. 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.

2. When a vacancy occurs in an office of an elected municipal official, except the mayor, the governing body shall appoint, by a majority vote of the remaining members, a person to fill the vacancy until the next general municipal election, and to serve until a successor is elected and qualified. Any vacancy shall then be filled at the next general municipal election by election of a person to complete the balance of any unexpired term. If the vacancy has not been filled within sixty (60) days after it occurs, the governing body shall call for a special election for the purpose of filling the vacancy for the duration of the unexpired term, unless said vacancy occurs or said election would occur within one hundred twenty (120) days prior to the first day of the filing period for the next general municipal election. When a vacancy occurs in the office of the Mayor, the governing body shall call for a special election for the purpose of filling the vacancy for the duration of the

unexpired term, unless said vacancy occurs or said election would occur within one hundred twenty (120) days prior to the first day of the filing period for the next general municipal election. If a vacancy is not filled by the special election, it shall be filled by appointment.

3. To be eligible for appointment to fill a vacancy in an elected municipal office, a person must meet the same qualifications required for filing a declaration for candidacy for that office.

ARTICLE III. CITY MANAGER

Section 1. Council to Appoint City Manager.

- . By majority vote of all Councilmembers, the Council shall appoint a City Manager. He shall be chosen by the Council solely upon the basis of his executive and administrative qualifications, without regard to age, gender, race, color, creed, national origin, or disability (provided he is qualified and meets the requirements applicable to his employment), and he need not, when appointed, be a resident of the City or State; but during his tenure of office, he shall reside within one (1) mile of the corporate limits.¹

2. No member of the Council shall, during the time for which he is elected, be chosen City Manager, nor for two years after he ceases to be a member.

3. The City Manager shall be removable at any time, upon

¹ Section 1 was amended by the voters at an election held on November 4, 2008, to provide that the City Manager shall live within five miles of the Perry corporate limits (Ordinance No. 2008-13). Section 1 was amended by the voters at an election held on April 2, 2013, that the City Manager reside within five (5) miles of the corporate limits of the City provided any person appointed city Manager may reside within ten (10) miles of the corporate limits, if such appointee resided at such residence for more than five (5) years prior to the appointment (Ordinance 2013-01). Section 1 was amended by the voters at an election held on April 4, 2017, to provide that the City Manager shall reside within one (1) mile of the corporate limits (Ordinance No. 2017-03).

a vote of a majority of all the Councilmembers, which action shall be final, it being the intent of this Charter to vest all authority and fix all responsibility for removal of the City Manager with the Council.

4. By letter filed with the City Clerk, the City Manager may appoint a qualified acting City Manager during the temporary absence or disability of the City Manager. The Council may appoint a qualified acting City Manager whenever;

- a. The manager fails to make such designation;
- b. The Council suspends the City Manager; or
- c. There is a vacancy in the office of City Manager.

5. The City Manager shall be a contract employee and all the terms, conditions, wages, and benefits (including any severance consideration) shall be set out in a written employment contract.

Section 2. General Powers and Duties of the City Manager.

The City Manager shall be the chief executive officer of the municipal government responsible only to the Council. The City Manager shall not, during the term of office, be an employee of, or perform any duties for any person, firm, corporation or institution other than the City of Perry or its public authorities and shall not be interested in the profits or emoluments of any contract, job, work, or service of the City or its public authorities.

Section 3. Oath and Qualifications.

Before entering upon the duties of his office, the City Manager shall take the official oath and be bonded, if required by his contract. The City Manager shall be or become a member of national and state professional organizations pertaining to employment and abide by the organizations' ethical codes.

Section 4. Special Powers and Duties of the City Manager.

1. Being at all times directly responsible to the Council for the proper administration of the City Government, the City Manager shall have the following powers and duties:

A. To ensure that all laws and ordinances governing the City are enforced;

B. To appoint and remove all directors or heads of departments and all subordinate officers and employees in such departments. Such appointments shall be made solely upon the basis of merit and fitness, including training, education and experience in the work to be performed, and without regard to age, gender, race, color, creed, national origin, or disability (provided he is qualified and meets the requirements applicable to his employment); provided however, the standard for removal for non-probationary full-time, part-time, temporary, probationary or seasonal employees shall not be upon the basis of merit and fitness, but shall be based upon the good of the service, creating employment "at will", and shall be effective from and after the approval of this amendment by majority vote of the electorate. This amendment will not apply to any non-probationary full-time employees, who have completed their probation period prior to the date this amendment becomes effective whose standard for removal shall remain merit and fitness for employment.²

C. To manage and supervise all departments of the City Government, and to exercise all other executive functions, except as this Charter may otherwise provide;

D. To supervise and manage and have general charge over the construction, operation, maintenance and repair of City-owned public works, utilities, streets, sidewalks, bridges, grounds, and buildings within or without the corporate limits of the City, except as otherwise herein provided;

E. To make timely and informative reports to the Council, including a monthly report, and attend all meetings of the Council unless excused therefrom, taking part in discussions, but without voting privileges;

F. To recommend to the Council the adoption of such measures as he may deem necessary or expedient;

² Amendment to Section 4B was approved by the voters at an election held on November 4, 2008 (Ordinance No. 2008-11). Section 4B was further amended by the voters at an election held on April 4, 2017 (Ordinance No. 2017-04).

G. To keep the Council fully advised as to the financial conditions and future needs of the City, making appropriate recommendations;

H. To ensure that all franchise rights and provisions are justly enforced;

I. To prepare and submit to the Council an annual budget as required by this Charter;

J. To prepare, or cause to be prepared, an agenda of business for each Council meeting, including his recommendations;

K. To respond to written and oral requests of Councilmembers pertaining to the City's business;

L. To perform such other duties as may be prescribed by law or ordinance; and

2. If the City Manager gives an order to or requests certain action of an employee or department head, and such order or requested action is disputed by such employee or department head, the City Manager may be requested by said employee or department head to place such order or action in writing.

Section 5. Purchasing Ordinance; City Manager Responsible for Enforcement.

The Council shall by ordinance duly passed, prescribe a purchasing ordinance setting such limits, terms and requirements including exemptions and exceptions from such requirements, as may be deemed appropriate and efficient for the administration of the City Government, and pertaining to purchases not otherwise controlled by the terms of the Public Competitive Bidding Act of 1974, in effect at the time that this Charter is approved or as hereinafter amended. Such purchasing ordinance and terms thereof shall at all times be considered a local matter or concern. The City Manager shall be responsible for ensuring compliance with the Purchasing Ordinance.

Section 6. Council Not to Interfere in Appointments, Removals or Administration.

Except for purpose of inquiry or comment, neither the

Council, nor any of its members, shall direct or request the appointment of any person to, or his removal from office or employment by the City Manager or any of his subordinates, or in any manner take part in the appointment or removal of officers and employees in the administrative services of the City, (which appointments are reserved to the City Manager), except that the Council may direct the City Manager, by resolution, to investigate charges of misconduct or incompetence against any City employee and to report the result thereof. The Councilmembers shall deal with the administrative service solely through the City Manager, and no Councilmember, individually or collectively, shall give orders to any subordinate of the City Manager, either publicly or privately. Violation of any of the provisions of this section by any Councilmember shall constitute grounds for removal by a court of competent jurisdiction.

Section 7. Political Activity of City Employees

Political activity of City employees shall be covered by general state statutes. However, no person employed by the City may file a declaration of candidacy for, nor serve as, Councilmember or Mayor.

ARTICLE IV. CHIEF FINANCIAL OFFICER

Section 1. Chief Financial Officer

1. Purpose.

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

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

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

3. Duties. The Chief Financial Officer shall:

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 (at least a monthly review for obvious posting and account balancing errors) and preparation of subsidiary schedules for the City Auditor, and (iii) the presentation of such financial statements to the Council each month or whenever requested³;

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

C. Assist in the preparation of the budget;

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

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

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

ARTICLE V. CITY CLERK

Section 1. City Clerk Appointment and Removal

The City Clerk shall be appointed and removed by the City

³ Section 1, Subsection 3B was amended by the voters at an election held on April 4, 2017, to eliminate the phrase "or at the Finance Committee meeting (Ordinance 2017-05)".

Manager. The City Clerk shall:

1. Be the Clerk for the Council;
2. Keep the journal of the proceedings of the Council;
3. Enroll the ordinances and resolutions passed by the Council in a book or set of books kept for the purpose;
4. Have custody of documents, records, and archives, as may be provided for by law or by ordinance, and have custody of the seal of the City;
5. Attest and affix the seal of the City to documents as required by law or by ordinance; and
6. Have such other powers and functions related to his duties as may be prescribed by law or by ordinance.

ARTICLE VI. MUNICIPAL COURT

Section 1. Appointment, removal and compensation of Municipal Judge.

As provided by the Constitution and laws of the State of Oklahoma, the Municipal Court of the City of Perry is hereby continued. The Mayor, with the consent and approval of the Council, shall appoint a qualified person, as provided by state law, and whose other qualifications may be set by ordinance, as Judge of said Court with the official title of Municipal Judge. The Judge shall serve for a term of two (2) years beginning on May 1 of each odd numbered year, and until his successor is appointed and qualified. Said Municipal Judge shall be entitled to such compensation as may be prescribed by City Council.

ARTICLE VII. CITY ATTORNEY

Section 1. Appointment and removal of City Attorney.

The Mayor, with the consent and approval of a majority of all the members of the Council, shall appoint the City Attorney. The City Attorney may be removed by a majority vote of all the members of the City Council.

Section 2. Duties of the City Attorney.

The City Attorney shall have such qualifications, powers and duties as are prescribed by law. It shall be the City Attorney's duty to advise the Council and each member thereof, and the City Manager, upon all legal questions and the City Attorney shall give opinions in writing when requested and shall represent the City as counsel in all litigation, in all courts and shall perform such other legal services on behalf of the City, its officers or employees, as may be required by the Council. Although the City Attorney is appointed by the Council, he shall also perform the work as may be directed by the City Manager. The foregoing provision shall not be deemed to prevent the City Manager, with the approval of a majority of the City Council, from employing private counsel as it is deemed necessary.

ARTICLE VIII. REMOVAL

Section 1. Method of Removal.

Any member of an:

1. Appointive board or commission created by this Charter;
2. Appointive board or commission created by any amendment to this Charter; or
3. Appointive board or commission created by municipal ordinance;

may be removed if five (5) City Councilmembers approve a motion to remove.

ARTICLE IX. LEGISLATIVE DEPARTMENT

Section 1. Resolutions, Ordinances and Motions.

A roll call vote shall be called and recorded on every motion, resolution or ordinance. Every motion, resolution or ordinance shall be reduced to writing and the title of all resolutions and ordinances shall be read aloud before the final vote is taken. The Mayor shall have no power to veto any measure, and he shall have a vote on all questions. Every

resolution or ordinance shall bear the approval of the City Manager as to content, the City Attorney as to form, and upon approval by a majority of Councilmembers, be signed by the Mayor or by the Vice Mayor, acting in that capacity, and every ordinance shall be published in full or by number, title, and brief gist in a newspaper of general circulation within the city within ten (10) days following adoption except as otherwise hereinafter provided. The procedures set out in State law shall govern the adoption, publication, codification and enforcement of municipal ordinances.

Section 2. Open Meetings.

The regular meetings of the Council shall be held on the first and third Mondays of each month unless a different regular meeting date is otherwise set by the Council; provided that regular meetings must be held at least semi-monthly. The Council may be called in special session by the City Manager, Mayor or by three (3) Councilmembers. All meetings, regular or special, of the City Council or other public bodies (as defined by the Oklahoma Open Meeting Act ("Act") or as the Act may be hereinafter amended) shall be open to the public, as provided by the Act, subject to such exceptions and exemptions as provided by the Act.

Section 3. Removal of Mayor and or Councilmembers.

The Mayor or any Councilmember shall be subject to removal from office in the same manner and for the same cause or causes as provided by the laws of the State of Oklahoma for the removal of public officers.

ARTICLE X. RECALL OF ELECTIVE OFFICERS

Section 1. Time of Commencing Proceedings.

The holder of any elective office, either by election or appointment to fill a vacancy, may be removed at any time after six (6) months from the date of his accession to said office, by the registered voters qualified to vote for a successor to such incumbent, as provided by this Article.

Section 2. Filing of Petition; Validation of Signatures.

1. A petition bearing the signatures, names and addresses

of twenty-five per cent (25%) of the registered voters qualified to, and who actually voted in the last mayoral election, shall be necessary to initiate recall proceedings against any elected official. The City Clerk shall maintain on file and for public use proper petition forms to initiate such proceedings.

2. The petition form shall be furnished by the City Clerk. The date and time that the petition is furnished by the City Clerk shall be considered the "initiation date" and shall be so certified to in writing by the City Clerk. Each petition shall be filed against a specific office. No petition shall be effective against more than one (1) officer of the City. Those persons circulating the petition shall sign a statement, provided by the City Clerk, that each person will circulate the petition in accordance with state law and actually witness and verify each signature placed on each petition submitted by such circulator. The petition circulators must possess the same characteristics as a petition signer as provided in subsection 1 hereinabove.

3. At the top of each page of said petition there shall be a brief statement of the basis for recalling the elected officer.

4. The petition must be returned to the City Clerk within thirty (30) calendar days of the initiation date in order for the petition to be valid ("petition receipt date"). If the 30th day falls on a weekend or holiday, the petition may be submitted on the next business day. Failure to return the petition(s) within the proper time limits shall render that recall petition procedure null and void.

5. Upon the timely receipt of the petition(s), the City Clerk shall inspect said petition(s) to see that all the signatures are valid and that both the signatories and circulators meet the other qualifications set out in subsection A hereinabove. All invalid signatures shall not be counted. If any circulator has not met the qualifications set out in subsection 1 hereinabove, his petitions shall be null and void. Such inspection by the City Clerk shall be completed in not more than thirty (30) calendar days from the petition receipt date and the results of such City Clerk's inspection published in a newspaper of general circulation in the community (which document shall be titled "Sufficiency of Recall Petition dated as of the Petition Receipt Date") and shall be sent by certified

mail, return receipt requested, to the officer whose recall is sought.

Section 3. Election.

Upon determination by the City Clerk that the petition(s) are legally sufficient, said petition(s) shall be presented to the City Council. The City Council shall within thirty (30) days of receiving such legally sufficient determination, in accordance with state election laws, order a recall election. The recall election shall require the officer to stand election for such office and any other qualified person may file as a candidate. The election shall be held in accordance with state law and the procedure used shall be the same as required to fill a vacancy in such elected office. The candidate receiving the greatest number of votes shall be certified as elected and shall serve for the remaining term of the office for which recall was sought.

Section 4. Persons Recalled or Resigning.

A person who fails to win re-election after being subject to this recall procedure, or who has resigned from office while recall proceedings were pending against him, may not hold office or any position of employment in the City Government within four (4) years after his recall or resignation.

ARTICLE XI. MISCELLANEOUS PROVISIONS

Section 1. Compensation.

A. The Council shall fix the compensation of all officers and employees that it is charged with appointing.

B. Subject to fiscal budgetary appropriations, the City Manager shall fix the number, salaries and compensation of all officers and employees that he is charged with appointing.

C. No full-time employee shall be permitted under any circumstances to draw more than one salary from the City for any and all purposes.

Section 2. No Appointment for Definite Time.

No employee shall be appointed to an office or position in

the City for any definite time.

Section 3. Conflict of Interest.

1. Neither the Mayor, Councilmember nor the City Manager, shall sell or barter anything to the City or to a public authority with the City as beneficiary (for purpose of this section to be collectively referred to as the "City") or to a contractor to be supplied to the City; or to make any contract with the City (excepting a City Manager employment agreement); or purchase anything from the City other than those things that the City offers generally to the public (i.e., at auctions or competitive sales or utility services or airport hangar or similar leases) and then only on the same terms as are offered to the public. Any officer or employee violating this section, upon conviction thereof, shall, in addition to any other penalty or fine, thereby forfeit his office or employment. Any violation of this section, with the knowledge, express or implied, of the person, firm or corporation contracting with the City, shall render the contract voidable by the City Manager or the Council. This subsection shall not apply in cases where the City acquires property by condemnation or threat of condemnation.

2. The Council, by ordinance, or the City Manager, by personnel rules, may further regulate conflict of interest and ethics of officers and employees of the City.

3. The general laws contained in Title 11 of the Oklahoma Statutes, as amended, which pertain to conflict of interest for municipal officers and employees are hereby re-adopted as if fully set out herein.

Section 4. Officers to Continue Until their Successors are Elected or Appointed and Qualify.

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

Section 5. Amendment; Proposal, Ratification, Approval.

This Charter may be amended by proposals thereof submitted by the Council or by the Mayor upon initiative petition of the electors as provided by the State Constitution, at a general or special election, ratified by a majority of the qualified electors voting thereon, and approved by the Governor as provided by the State Constitution. If more than one amendment is proposed, all of them, except those which are so interrelated that they should be ratified or rejected together, shall be submitted in such a manner that the electors may vote on them separately. A proposition to amend this Charter may be either in the form of a proposed amendment to a part or parts of the Charter or of a proposed new Charter.

Section 6. Councilmembers Cannot Accept newly created Office or Employment.

No Councilmember shall be appointed to any office or employment created by the Council during that member's term until the expiration of two (2) years after that member's term of office on the Council shall have ended.

Section 7. Officers may Administer Oaths.

The Mayor, Municipal Judge and the City Clerk shall have the power to administer oaths.

Section 8. Auditing of Accounts and Publication of Same.

At the end of each fiscal year, and at such other time as it may deem necessary, the Council shall cause a full and complete examination of all the books and accounts of the City, including the accounts of municipally owned utilities, to be made by a competent, independent Certified Public Accountant who shall be the City Auditor.

Section 9. Land Use Powers

The City of Perry shall have full power to promote the public health, safety, morals, and general welfare by regulating the use of real property and by controlling and directing the development of the City, through the exercise of the complete powers necessary and proper to carry out and maintain these and all powers into full effect, within the City limits, to the

fullest extent permissible under the Constitution of the United States and the Constitution of this State. The exercise of the powers of planning, zoning, development and subdivision regulation within the City shall be always in pursuance of this grant of authority and not under state statutes or law, except with respect to those matters of general state concern as to which state law controls under the State Constitution. The City also may exercise powers of planning, zoning, development and subdivision regulation granted by the State in respect to matters of general state concern, as aforesaid, and also in respect to property situated outside the City limits, including but not limited to real property owned, leased or controlled by the City. The City shall have the power to exercise its power to protect the health, safety and welfare of the public on real property owned by the City and located outside of the City's corporate limits, including but limited to the power to enforce municipal ordinances.

Section 10. Right to Engage in Business and Other Powers

The City shall have the right to:

1. Engage in any lawful business or enterprise and to do all things necessary and proper in the discretion of the Council pursuant to the authority granted to it by the Constitution, state laws and this Charter, to maintain said business, or enterprise for the benefit of the City.

2. Acquire, own and maintain, within or without its corporate limits, real estate for sites and rights-of-way for any municipal purpose, including but not limited to public utility and public parks, and other public purposes, and for the location thereon of buildings, appurtenances and facilities associated with electricity, natural gas, telecommunications, waterworks, sanitary sewer, drainage and any and all other utilities owned, leased or controlled by the City, and for the purpose of any other lawful business or enterprise of the City. The City may acquire, erect, construct and own all necessary poles, wire, lines, pipelines, mains, channels, together with necessary appurtenances, apparatus and substations, and acquire right-of-ways, and do all other things necessary and proper in carrying on the business both inside and outside the corporate limits of the City. The City may construct or acquire lines, pipelines, mains or channels together with necessary appurtenances by purchase or otherwise and may sell such service

to any person, firm or corporation located inside or outside of its corporate limits.

3. Exercise the power and right of eminent domain for any municipal or proper public purpose, within and without its corporate limits.

4. Engage in economic and tourism development, historic preservation, the promotion of aesthetics, and beneficial environmental efforts, and to expend public monies in pursuit of the same, provided that all such efforts are pursuant to written agreements providing for adequate consideration, safeguards and accountability.

5. Engage in all other activities and exercise all such additional powers as permitted by the general laws of the State of Oklahoma, and as currently provided or as hereinafter amended.

Section 11. Sale of Water, Sewer or Electric Utilities.

The City may not sell, lease, convey or otherwise dispose of, in whole or in part, its water, sewer or electric utilities unless such sale, lease, conveyance, or other disposal of such utility shall be authorized by vote of a 2/3rd of the registered voters of the City voting on the question at an election to be held for such purpose. This section shall not apply to any sale or lease to a public trust with the City as sole beneficiary. The sale in whole of any of the foregoing public utilities, if authorized by the vote as provided hereinabove, must be at least equal to or greater than the fair market value price determined by an independent appraisal expert selected by the City. Unless restricted by written instrument, the sale or lease of any real or personal property not constituting or a part of the aforementioned public utilities, upon which a public use has previously been made, may be sold or leased, in whole or in part, without such vote and election.

Section 12. When the Charter Goes into Effect.

1. Upon ratification by a majority vote of the qualified electors of the City voting upon the question at the election and its approval by the Governor:

A. The provisions of this Charter pertaining to offices

and officers, both existing and to be elected and appointed, shall go into effect as provided by this Charter.

B. This form of government shall be effective as of the date of the election of officers for this new government to be had in April 2007.

Section 13. Reapportionment.

1. As soon as practicable, following each federal census, the Council shall review the wards and ward boundaries of the City. Any change in the boundaries of wards shall be made by ordinance with due regard to the convenience and contiguity of the wards. The effective date of a change in the names or boundaries of wards shall be the effective date of the ordinance making the change, unless the Council provides otherwise.

2. When territory is annexed to the City, the Council shall by resolution incorporate it into the adjacent ward or wards or shall readjust the wards and boundaries in the manner provided hereinabove, as it deems appropriate.

Section 14. Review of Charter.

The City Charter shall be reviewed from time to time to ensure its efficiency and relevancy to current events and needs of the residents. The City Clerk shall record and separately segregate all public comments and other suggestions concerning potential charter changes or amendments. At a minimum, the City Charter shall be reviewed at least every ten (10) years. The Council shall appoint a committee of residents to perform this function. Suggested amendments, deletions and additions shall be recommended by the committee to the City Council if deemed appropriate. The Council should consider whether to place such recommendations to a vote of the people at the next general or special election.

Section 15. Ordinance Continued; Pending Actions and Proceedings; Financings

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

2. The adoption of this Charter shall not abate or

otherwise affect any action or proceeding, civil or criminal, pending when it takes effect, brought by or against the municipality, or any office, department, agency or officer thereof.

3. The adoption of this Charter shall not abate or otherwise affect, in any manner, any City (or public trust authority with the City as beneficiary) financing, indebtedness, note, obligation or any other financial matter in effect at the time of the adoption of this Charter.

Section 16. Saving Clause.

1. If any section or a part of a section of this Charter is determined by a Court of competent jurisdiction to be invalid, it shall not invalidate or impair the force or effect of any other section or part of a section of this Charter, except insofar as such other section or part of a section is dependent for its operation upon the section so held to be invalid.

2. If a Court of competent jurisdiction holds a part of this Charter invalid, or a change in the State Constitution or state law renders a part of this Charter invalid or inapplicable, the Council, by ordinance, may take such appropriate action as will enable the City Government to function properly.

PAGE LEFT INTENTIONALLY BLANK

CHAPTER 1: GENERAL PROVISIONS

ARTICLE 1

USE AND CONSTRUCTION OF THE CODE

Section 1-101	HOW CODE DESIGNATED AND CITED
Section 1-102	RULES OF CONSTRUCTION
Section 1-103	CATCH LINES OF SECTIONS; CITATIONS
Section 1-104	EFFECT OF REPEAL OF ORDINANCES
Section 1-105	SEVERABILITY OF PARTS OF CODE
Section 1-106	AMENDMENT TO CODE; EFFECT OF NEW ORDINANCES; AMENDATORY LANGUAGE
Section 1-107	ALTERING CODE
Section 1-108	GENERAL PENALTY
Section 1-109	FINES RECOVERABLE BY CIVIL ACTION
Section 1-110	ORDINANCES IN EFFECT IN OUTLYING TERRITORY
Section 1-111	SCHEDULE OF FEES AND CHARGES CREATED; SCHEDULE OF BONDS AND FINES, COSTS, FEES AND ASSESSMENT
Section 1-112	ADOPTION OF TITLES 21, 37, 37A AND CERTAIN SECTIONS OF 47 AND TITLE 63 OF THE OKLAHOMA STATUTES, AS AMENDED, AS MUNICIPAL ORDINANCES; DRUGS AND RELATED SUBSTANCES.
Section 1-113	MONTHLY TRANSFER OF PORTION OF NON-JUVENILE FINES TO RESTRICTED CASH ACCOUNT FOR CAPITAL EXPENDITURES.
Section 1-114	TECHNOLOGY FEE

ARTICLE 2

WARD BOUNDARIES

Section 1-201	MAP OF CITY DESIGNATED AS OFFICIAL MAP
Section 1-202	WARD BOUNDARIES

CHAPTER 1: GENERAL PROVISIONS

ARTICLE 1

USE AND CONSTRUCTION OF THE CODE

Section 1-101 HOW CODE DESIGNATED AND CITED.

The provisions embraced in the following chapters and Sections shall constitute and be designated the "Code of Ordinances, City of Perry, Oklahoma," and may be cited.

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

Section 1-102 RULES OF CONSTRUCTION.

In the construction of this code and of all ordinances, the following rules are observed unless the construction is inconsistent with the manifest intent of the city council:

1. "City" means the City of Perry;
2. "City Council" means the City Council of the City of Perry;
3. "Computation of time." Whenever a notice is required to be given or an act to be done a certain length of time before any proceeding shall be had, the day on which the notice is given or the act is done shall be counted in computing the time but the day on which the proceeding is to be had shall not be counted;
4. "County" or "this county" means the County of Noble, Oklahoma;
5. "Gender." The word importing one gender only shall extend and be applied to other genders and to firms, partnerships, and corporations as well;
6. "Joint Authority." All words giving "joint authority" to three (3) or more persons or officers shall be construed as giving such authority to a majority of such persons or officers;

7. "Law" includes applicable federal law, provisions of the Constitution and statutes of the State of Oklahoma, the ordinances of the city, and, when appropriate, any and all rules and regulations promulgated thereunder;

8. Reserved.

9. "Mayor" means the mayor of the city;

10. "Month" means a calendar month;

11. "Nontechnical and technical words." Words and phrases which are not specifically defined shall be construed according to the common and accepted usage of the language; but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meanings;

12. "Number." A word importing the singular number only may extend and be applied to several persons and things as well as to one person and thing. Words used in the plural number may also include the singular unless a contrary intention plainly appears;

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

14. "Or" may be read "and," and "and" may be read "or," if the sense requires it;

15. "Other officials or officers, etc." Whenever reference is made to officers, agencies or departments by title only, i.e., "clerk," "city clerk," "city attorney," "fire chief," "chief of police," etc. they shall mean the officers, agencies or departments of the city and not officers as defined by state law;

16. "Person" shall extend and be applied to an actual person, any persons and to associations, clubs, societies, firms, partnerships, and bodies politic and corporate, or the manager, lessee, agent, servant, officer or employee of any of them, unless a contrary intention plainly appears;

17. "Preceding, following" means next before and next after, respectively;

18. "Property" shall include real and personal property;

19. "Signature or subscription" includes a mark when a person cannot write; 20. "State" or "this state" shall be construed to mean the State of Oklahoma;

21. "Statutory references" means references to statutes of the State of Oklahoma as they now are or as they may be amended to be;

22. "Street" shall be construed to embrace streets, avenues, boulevards, roads, alleys, lanes, viaducts, highways, courts, places, squares, curbs and all other public way in the city which are dedicated and open to public use;

23. "Tense." Words used in the past or present tenses include the future as well as the past and present;

24. "Week" means seven (7) days; and

25. "Year" means a calendar year.

Section 1-103 CATCH LINES OF SECTIONS; CITATIONS.

The catch lines 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 catch lines, 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 city council that the Sections, paragraphs, sentences, clauses and phrases of this code are severable, and if any phrase, clause, sentence, paragraph, or Section of this code 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 City Council of the City of Perry, Oklahoma, that Section ____ of the code of ordinances of the City of Perry, Oklahoma, is hereby amended to read as follows": (Set out new provisions in full.)

C. When the City 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 City Council of the City of Perry, Oklahoma, that the provisions of this ordinance shall become and be made a part of the code of ordinances of the City of Perry, Oklahoma, and the Sections of this ordinance may be renumbered 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 municipal court not of record may not impose a penalty, including fine or deferral fee in lieu of a fine and costs, that is greater than that established by statute for the same offense.

2. The maximum fine or deferral fee in lieu of a fine for any traffic-related offenses relating to speeding or parking, provided that the penalty for such offense is not established by statute, shall not exceed Two Hundred Dollars (\$200.00). For any traffic-related offenses relating to speeding or parking with a penalty established by statute, including fine or deferral fee in lieu of a fine and costs, a municipal ordinance may impose a penalty that is less than or equal to the penalty established by statute for the same offense.

3. The maximum fine or deferral fee in lieu of a fine for alcohol-related or drug-related offenses, provided that the penalty for such offense is not established by statute, shall not exceed Eight Hundred Dollars (\$800.00). For any alcohol-related or drug-related offenses with a penalty established by statute, including fine or deferral fee in lieu of a fine and costs, a municipal ordinance may impose a penalty that is less than or equal to the penalty established by statute for the same offense. The court shall remit Fifty Dollars (\$50.00) of each alcohol fine or deferral fee to a fund of the municipality 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.

4. or all other offenses, provided that the penalty for such offenses are not established by statute, the maximum fine or deferral fee in lieu of a fine that may be imposed by the municipal court not of record shall not exceed Seven Hundred Fifty Dollars (\$750.00).

5. The maximum fines of One Thousand Dollars (\$1,000.00) and costs may be imposed for conviction for violations of municipal ordinances regulating the pretreatment of wastewater and regulating stormwater discharges.

6. 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; SCHEDULE OF BONDS AND FINES, COSTS, FEES AND ASSESSMENT.

A. Schedule of Fees and Charge. 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 bond and fine schedule as of the adoption of this Code:

Charge	Fine	\$ or PMC
RULES OF THE ROAD		
Speed		
1 to 10 mph over posted limit	\$125.00PMC	\$15-401
11 to 15 mph over posted limit	\$150.00PMC	\$15-401
16 to 20 mph over posted limit	\$175.00PMC	\$15-401
21 or more over posted limit	\$200.00PMC	\$15-401
School Zone	\$160.00 PMC	\$15-402.a
	\$180.00 PMC	\$15-402.b
	\$200.00 PMC	\$15-402.c
Failure to reduce weather/road	\$150.00PMC	\$15-403
Impede traffic movement	\$150.00	\$47-11-804a
Operating MV at speed not proper	\$150.00PMC	\$15-525
Recklessness or Carelessness		
Eluding Police Officer	\$500.00PMCS	\$15-212.1
Reckless Driving	\$500.00PMC	\$15-522
Careless Driving	\$225.00PMC	\$15-523
Failure to Devote Full-time	\$150.00PMC	\$15-525
Engaging in Speed Contest	\$200.00PMC	\$15-526
Following and Backing		
Following to Closely	\$150.00PMC	\$15-508
Improper Backing or/into Intersect	\$150.00PMC	\$15-517
Lane Usage		
Unauthorized Direction of Travel	\$150.00PMC	\$15-203
Wrong way on one way	\$150.00PMC	\$15-203
Improper Lane Usage	\$150.00PMC	\$15-501
Making Unsafe Lane Change	\$150.00PMC	\$15-501
Driving Left of Center	\$150.00PMC	\$15-502
Improper Passing on Right Side	\$150.00PMC	\$15-503
Improper Passing on Left Side	\$150.00PMC	\$15-504
Passing when unsafe to do	\$150.00PMC	\$15-505
Passing in no Passing Zone	\$150.00PMC	\$15-509
Passing in a school zone	\$150.00PMC	\$15-513

Passing School Bus loading lights	\$150.00PMC	\$15-514
Failure to Signal Intent to Turn	\$150.00PMC	\$15-907
Failure to Yield to Emergency Vech	\$225.00PMC	\$15-212
Failure to Yield to vehicle (Right)	\$150.00PMC	\$15-536
Failure to Yield when turning left	\$150.00PMC	\$15-537
Failure to Yield (traffic thruway)	\$150.00PMC	\$15-539
Failure to Yield (posted stop)	\$150.00PMC	\$15-544
Failure to Yield (posted yield)	\$150.00PMC	\$15-545
Failure to Yield (private drive)	\$150.00PMC	\$15-546
Failure to Yield (to traffic/park)	\$150.00PMC	\$15-547
Failure to Yield (alley or dr/way)	\$150.00PMC	\$15-548

Traffic Signs

Failure to Stop for Bus	\$150.00PMC	\$15-514
Failure to Stop at Stop Sign	\$150.00PMC	\$15-544
Failure to Stop at RR Crossing	\$150.00PMC	\$15-550
Driving Around Crossing Gate	\$150.00PMC	\$15-550
Failure of Required MV to Stop	\$150.00PMC	\$15-551
Failure to Obey Traffic Device	\$150.00PMC	\$15-603
Failure to Stop for Red Light	\$150.00PMC	\$15-604
Failure to Stop for Flashing Red	\$150.00PMC	\$15-607

Turns

Failure to Make Required Turn	\$125.00PMC	\$15-901
Making Prohibited Turn (posted)	\$125.00PMC	\$15-903
Improper U-Turn	\$125.00PMC	\$15-904
Turning Vehicle Across Center Line	\$125.00PMC	\$15-905

Driver's License

Violation of License Restriction	\$150.00PMC	\$15-215
No Driver's License	\$150.00PMC	\$15-215
No Driver's License in possession	\$50.00PMC	\$15-215
Driving without proper endorsement	\$150.00PMC	\$15-215
Driving Under Suspension (DUS)	\$250.00PMC	\$15-216
DUS (subsequent)	\$300.00PMC	\$15-216
Allowing unauthorized driver	\$250.00PMC	\$15-218

Insurance & Duties at Accidents

Leaving the scene of prop accident	\$250.00PMC	\$15-219
Failure to Provide information	\$250.00PMC	\$15-219
Leaving scene of Fixture Accident	\$250.00PMC	\$15-220

Failure to Report Accident	\$250.00	PMC	\$15-221
Failure to Carry Security Verify	\$125.00		
PMC \$15-228eFailure to Maintain Insurance	\$250.00	PMC	\$15-228

Equipment

Failure to display Valid Tag	\$150.00	PMC	\$15-217
Driving Vehicle that is unsafe	\$150.00	PMC	\$15-302
Improper Equipment	\$150.00	PMC	\$15-303
Improper Equipment after warning	\$200.00	PMC	\$15-303
Defective Exhaust	\$150.00	PMC	\$15-304
Operating Unsafe MV	\$150.00	PMC	\$15-306
Unlawful Riding Upon Vehicle	\$150.00	PMC	\$15-532
Failure to use Seat Belt	\$20.00	PMC	\$15-552
Failure to use Child Restraint	\$50.00 ⁴	PMC	\$15-552c
Failure to Dim Headlights	\$150.00		\$47-12-222
Failure to Pay Taxes due State	\$150.00		\$47-1151

Parking

Unsafe Start from Stop	\$100.00	PMC	\$15-528
Opening door into traffic	\$100.00	PMC	\$15-529
Parking in excess of posted time	\$100.00	PMC	\$15-703
Parking where sign prohibited	\$100.00	PMC	\$15-703
Parking in excess of 48 hours	\$100.00	PMC	\$15-704
Failure to Set Brakes	\$100.00	PMC	\$15-705
Failure to obey angle parking	\$100.00	PMC	\$15-707
Parking on sidewalk	\$100.00	PMC	\$15-711A1
Parking in front of private drive	\$100.00	PMC	\$15-711A2
Parking within intersection	\$100.00	PMC	\$15-711A3
Parking within 15' of hydrant	\$100.00	PMC	\$15-711A4
Parking on a crosswalk	\$100.00	PMC	\$15-711A5
Parking within 20' of crosswalk	\$100.00	PMC	\$15-711A6
Parking in alley leaving less 20'	\$100.00	PMC	\$ 15-717
Parking traveled portion of street	\$100.00	PMC	\$ 15-719
Double Parking	\$100.00	PMC	\$ 15-720
One-ton parking in excess of 3 hrs	\$100.00	PMC	\$ 15-721
Parking prohibited vehicles	\$100.00	PMC	\$ 15-721b
Parking vehicle for sale on road	\$100.00	PMC	\$ 15-722
Improper Parking on left side/road	\$100.00	PMC	\$ 15-723
Failure to park vehicle right side	\$100.00	PMC	\$ 15-723

⁴ If 1st offense, \$15.00 fine if purchase approved child restraint system and show court clerk proof of purchase.

Negligent Parking	\$100.00	PMC	\$ 15-724
Parking in Handicap Space	\$200.00	PMC	\$ 15-726

Loads

Operating a MV with unsafe load	\$150.00	PMC	\$ 15-302
Operating an overweight load	\$150.00	PMC	\$ 15-305
Operating an MV - too long	\$150.00	PMC	\$ 15-305
Operating overweight MV	\$150.00	PMC	\$ 15-305
Operating MV to high	\$150.00	PMC	\$ 15-305
Driver's View Obstructed	\$150.00	PMC	\$ 15-305

Motorcycles

Unlawfully carrying passengers	\$150.00	PMC	\$ 15-518
Operating w/out required equip	\$150.00	PMC	\$ 15-519
Under 18 w/out helmet	\$150.00	PMC	\$ 15-519b
Operating with modified exhaust	\$150.00	PMC	\$ 15-519c

Bicycles

Bicyclist fails to obey lights	\$100.00	PMC	\$ 15-1103
Bicyclist w/out proper lamps	\$100.00	PMC	\$ 15-1511

Pedestrians

Failure to yield to pedestrian	\$175.00	PMC	\$15-1002
Pedestrian's failure to yield	\$100.00	PMC	\$ 15-1005
Pedestrian unlawfully cross high	\$100.00	PMC	\$ 15-1009

Miscellaneous Rules of the Road

Interfering with Driver's View	\$150.00	\$47-11-1104
Failure to comply with fireman	\$250.00	PMC \$ 15-204
Unlawfully crossing fire hose	\$150.00	PMC \$ 15-214
Driving thru funeral processions	\$150.00	PMC \$ 15-510
Using Fireworks w/in City	\$100.00	PMC \$ 15-704
Storing Fireworks in City	\$100.00	PMC \$ 15-704b
Texting while driving	\$70.00	PMC \$ 15-229

Uniform Violations

Alcohol & Drug Violations

Failure to Display License/Permit	\$250.00	PMC \$ 3-201
-----------------------------------	----------	--------------

Drinking alcoholic beverage in public place	\$150.00	PMC \$ 3-202
Public Intoxication	\$250.00	PMC \$ 3-203
Minors, Parents, Guardians and Alcohol	\$500.00	PMC \$3-204
Transportation of Open Container	\$500.00	PMC <u>\$</u> 3-208
Prohibited Acts	\$500.00	PMC \$3-210
Possession of Marijuana	\$400.00	PMC \$ 10-804
Possession of Drug Paraphernalia	\$500.00	PMC \$ 10-805
Consuming (inhaling) substances	\$500.00	PMC \$ 10-806

Crimes Against Public

Assault & Battery on Police Off.	\$500.00*	\$ 21-649
Aggravated Assault & Battery	\$500.00	\$ 21-646
Assault	\$250.00	PMC \$10-201
Battery	\$500.00	PMC \$10-202
Fighting	\$250.00	PMC \$10-203
Concealing weapons on pub property	\$150.00	PMC \$10-302
Criminal Trespass	\$250.00	PMC\$10-303A
Trespassing (public)	\$250.00	PMC \$10-302
Trespassing (private)	\$250.00	PMC \$10-303
Tampering with Property	\$250.00	PMC \$10-304
Petit Larceny	\$500.00	PMC \$10-305
Obtaining property by fraud	\$500.00	PMC \$10-306
Obtaining property by bogus check	\$500.00	PMC \$10-306a
Obtaining Utility Service W/out	\$500.00	PMC \$10-307
Disorderly Conduct	\$250.00	PMC \$10-501
Disturbing the Peace	\$250.00	PMC \$10-501
Failure to Disperse upon command	\$250.00	PMC \$10-502
Fighting Words	\$250.00	PMC \$10-504
Disturbing by Loud Noise	\$150.00	PMC \$10-504
Reporting False Alarms	\$250.00	PMC \$10-505
Driving through private driveway	\$150.00	PMC \$10-533
Obstructing an Officer	\$500.00	PMC \$10-601
Resisting Arrest	\$500.00	PMC \$10-602
Aiding in an escape	\$500.00	PMC \$10-603
Escape from Custody	\$500.00	PMC \$10-604
Impersonating a police officer	\$500.00	PMC \$10-605
Vehicular Trespassing	\$250.00	PMC \$10-718
Urinating or Defecating in Public	\$200.00	PMC \$10-412

Minors

Contributing to Delinquency/Minor	\$500.00	\$ 21-856
-----------------------------------	----------	-----------

Minor in Possession of Alcohol	\$200.00	PMC	\$3-204
Furnishing alcohol to minor	\$500.00	PMC	\$3-206
Curfew - minor	\$150.00	PMC	\$10-901
Curfew - parent	\$150.00	PMC	\$10-901
Minor in Possession of Tobacco 1 st	\$70.00	PMC	\$10-1003
Minor in Possession of Tobacco 2 nd	\$85.00	PMC	\$10-1003
Minor in Possession of Tobacco 3 rd	\$100.00	PMC	\$10-1003
Truancy - Minor or Parent	\$250.00	PMC	\$11-1101

Failure to Appear or Obey

Malicious Prosecution	\$200.00	PMC	\$6-133
Failure to Appear or Obey Promise	\$500.00	PMC	\$6-134
Failure perform community service	Jail	PMC	\$6-137
Failure to comply w/lawful order	\$500.00	PMC	\$15-204

Code Violations

Accumulation Weeds and Trash	\$250.00	PMC	\$8-101
Unlawful to deposit rubbish	\$200.00	PMC	\$8-108
Abandoned refrigerator/appliance	\$200.00	PMC	\$8-114
Junked motor vehicle	\$200.00	PMC	\$8-401
Storing/Parked/leaving Junk MV	\$200.00	PMC	\$8-403
Violation of Building Code	\$250.00	Chapter	5
Violation of Lake Provisions	\$100.00	Chapter	11
Violation of Zoning Ordinance	\$250.00	Chapter	12

Animals

Permitting Animals to Run at large	\$150.00	PMC	\$4-102
Unlawful keeping of livestock	\$150.00	PMC	\$4-104
Violation of Hobby Chicken/Ducks	\$200.00	PMC	\$4-104A
Permitting Animal to Scatter Trash	\$150.00	PMC	\$4-105
Maintaining Loud Animal	\$150.00	PMC	\$4-105
Maintain animal that chase	\$150.00	PMC	\$4-106
Failure to have animal vaccinated	\$150.00	PMC	\$4-120
Maintaining vicious animal	\$250.00	PMC	\$4-123
Cruelty to animals	\$250.00	PMC	\$4-140
Poisoning an animal	\$250.00	PMC	\$4-141
Keeping wild animal without permit	\$150.00	PMC	\$4-150
Refusal to Quarantine Animal	\$250.00	PMC	\$4-175
Littering	\$200.00	PMC	\$8-111
Littering from vehicle	\$200.00	PMC	\$8-112
Licenses Required	\$100.00	Chapter	9
Soliciting w/out permit	\$200.00	PMC	\$9-903

Attempting to commit offense	\$200.00	PMCS10-101
Aiding and Abetting an Offense	\$200.00	PMCS10-102
Indecent exposure	\$500.00	PMCS10-401
Nudity in Public Place	\$500.00	PMCS10-401
Obstruction of business street	\$150.00	PMCS10-503
Obstructing Street/sidewalk	\$150.00	PMCS10-503
Unlawful barricade removal	\$200.00	PMCS10-506
Driving on sidewalk	\$150.00	PMCS10-516
Using water restrictions	\$200.00	PMCS17-412
Unlawful dumping	\$200.00	PMCS17-606

Weapons

Carrying weapon posted property	\$200.00	PMCS10-302
Reckless conduct with firearm	\$200.00	PMCS10-702
Discharging in City Limits	\$200.00	PMCS10-703
Carrying dangerous weapons	\$200.00	PMCS10-707

* Offenses carry fine and/or thirty (30) days in jail.

Except as otherwise provides, court costs of Thirty Dollars (\$30.00) shall be collected on cases excepting parking, standing and seatbelt violations (but not to include violations of child restraint systems).

The Municipal Judge is authorized to charge a fine up to the bond amount in each case; provided however, the Municipal Judge shall charge a fine, fee and/or court costs in an amount as the Municipal Judge determines in his/her sole discretion furthers the interest of justice and fairness.

All traffic violations not otherwise listed shall be bonded for \$200.00 and costs, unless the fine for the same offense in district court is less than \$200.00, in which case the fine shall be amount charged in district court for the same offense.

All Criminal violations not otherwise listed shall be bondable for \$500.00 and costs, unless the fine for the same offense in district court is less than \$500.00, in which case the fine shall be amount charged in district court for the same offense.

In addition to the above-mentioned fines and costs, all appropriate state assessments are required to be paid.

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. The maximum fine requiring a jury trial if demanded shall be a fine greater than Five Hundred Dollars (\$500.00), excluding court costs. 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 ADOPTION OF TITLES 21, 37, 37A AND CERTAIN SECTIONS OF 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 and 37A of the Oklahoma Statutes, as amended, are hereby adopted and incorporated herein by reference, but only to the extent such sections provide for criminal misdemeanor offenses and are enforceable by the city within the city limits as if set out at length herein. Unless otherwise specifically provided otherwise in this Code, all violations of such sections shall be punishable by a maximum fine of \$500.00, plus court costs, fees and state assessments, provided however, if the penalty including costs for the state offense is less than the amount as provided hereinabove, then the fine and costs shall not exceed the amount charged by statute for the same offense.

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

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

E. Drugs and Related Substances:

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

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

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

2. Possession of Illegal Drugs:

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

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

3. Possession of Marijuana:

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

b. 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.

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

Section 1-113 MONTHLY TRANSFER OF PORTION OF NON-JUVENILE FINES TO RESTRICTED CASH ACCOUNT FOR CAPITAL EXPENDITURES.

Effective April 1, 2011, twenty-five percent (25%) of the amount of all non-juvenile fines collected each successive month shall be transferred to a restricted cash account to be used exclusively for capital expenditures.

Section 1-114 TECHNOLOGY FEE.

There is hereby established a technology fee in the amount of Twenty-five Dollars (\$25.00). The fee shall be in addition to and not in substitution for any and all fines and penalties otherwise provided for by law for all offenses and assessed on every citation disposed of in the municipal court except those that are voided, declined for prosecution, dismissed without costs, or the defendant is acquitted. The revenues generated by this fee shall be deposited in a nontransferable interest-bearing account and used solely and exclusively for the acquisition, operation, maintenance, repair and replacement of data processing equipment and software related to the administration of the criminal justice system and costs of prosecution.

ARTICLE 2

CORPORATE LIMITS

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

The map of the city dated February 7, 2022, showing its territorial limits is hereby designated as the official map of the city, which map shall be on file in the office of the City Clerk, 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.

That from and after February 7, 2022, the location and

boundaries of the four wards of the City of Perry, Oklahoma, are located specifically in accordance with the map and plat, filed in the office of the City Clerk, and attached hereto, and are described by boundaries, with all boundary lines described following the center line of the streets and extending to the furthestmost point within the corporate limits of the City or to a further point without the corporate limits of the City, if necessary, to include any portion of the City within said described ward, further described as follows:

WARD 1 - That portion of southeast Perry, Oklahoma, which lies south and east of the following described line which line extends to the furthestmost limits of the City, or to a further point without the corporate limits of the City, if necessary, to include any portion of the City within said described ward, described as follows:

Beginning at a point on the South corporate boundary at 9th Street, then North to Jackson Street, then East to 7th Street, then North to Locust Street, then East to 4th Street, then South to Ivanhoe Street, then East to the eastern extent of the corporate boundary.

WARD 2 - That portion of southwest Perry, Oklahoma, which lies south and west of the following described line which line extends to the furthestmost limits of the City, or to a further point without the corporate limits of the City, if necessary, to include any portion of the City within said described ward, described as follows:

Beginning at a point on the South corporate boundary at 9th Street, then North to Ivanhoe, then West to 11th Street, then North to Kaw Street, then West to 15th Street, then South to Fir Street, then West to the western extent of the corporate boundary.

WARD 3 - That portion of northwest Perry, Oklahoma, which lies north and west of the following described line which line extends to the furthestmost limits of the City, or to a further point without the corporate limits of the City, if necessary, to include any portion of the City within said described ward, described as follows:

Beginning at a point on the North corporate boundary where an extension of 9th Street intersects the northern-most point on

the corporate boundary, then south to the intersection of Locust Street, then east to 7th Street, then south to Jackson Street, then west to 9th Street, then south to Ivanhoe Street, then West to 11th Street, then North to Kaw Street, then West to 15th Street, then South to Fir Street, then West to the western extent of the corporate boundary.

WARD 4 - That portion of northeast Perry, Oklahoma, which lies north and east of the following described line which line extends to the furthestmost limits of the City, or to a further point without the corporate limits of the City, if necessary, to include any portion of the City within said described ward, described as follows:

Beginning at a point on the North corporate boundary where an extension of 9th Street intersects the northern-most point on the corporate boundary, then South to Locust Street, then East to 4th Street, then South to Ivanhoe Street, then east to the eastern extent of the corporate boundary.

Attached hereto is a map of the new ward boundaries which is incorporated herein by reference as if fully set out and is on file in the Office of the City Clerk.

State Law Reference: Requirements for establishing wards, 11 O.S. Section 2-105; Review after each federal census, 11 O.S. Section 20-101.

PAGE LEFT INTENTIONALLY BLANK

CHAPTER 2: ADMINISTRATION AND GOVERNMENT

ARTICLE 1

GOVERNMENT ORGANIZATION

Section 2-101 HOME RULE CHARTER FORM OF GOVERNMENT.
Section 2-102 ELECTIONS.

ARTICLE 2

MAYOR AND CITY COUNCIL

Section 2-201 MAYOR, DUTIES.
Section 2-202 ELECTED OFFICERS; POWERS AND DUTIES;
COMPENSATION; RESOLUTIONS, ORDINANCES AND
MOTIONS.
Section 2-203 OPEN MEETINGS
Section 2-205 QUORUM.
Section 2-206 PLACE OF MEETINGS OF THE COUNCIL.
Section 2-207 RULES OF PROCEDURE.
Section 2-208 OFFICIAL OATH, BOND.
Section 2-209 ELECTION OF VICE MAYOR; DUTIES OF VICE MAYOR.
Section 2-210 VACANCIES IN OFFICE.

ARTICLE 3

CITY MANAGER

Section 2-301 COUNCIL TO APPOINT CITY MANAGER.
Section 2-302 GENERAL POWERS AND DUTIES OF THE CITY MANAGER.
Section 2-303 OATH AND QUALIFICATIONS.
Section 2-304 SPECIAL POWERS AND DUTIES OF THE CITY MANAGER.
Section 2-305 PURCHASING ORDINANCE; CITY MANAGER RESPONSIBLE
FORENFORCEMENT.
Section 2-306 COUNCIL NOT TO INTERFERE IN APPOINTMENTS,
REMOVALS OR ADMINISTRATION.
Section 2-307 POLITICAL ACTIVITY OF CITY EMPLOYEES.

ARTICLE 4

OTHER OFFICERS AND MISCELLANEOUS MATTERS

Section 2-401 CHIEF FINANCIAL OFFICER.
Section 2-402 CITY CLERK

Section 2-403 CITY ATTORNEY.
Section 2-404 HEALTH DEPARTMENT; DIRECTOR
Section 2-405 CERTAIN PERSONNEL TO BE BONDED.
Section 2-406 OATHS.
Section 2-407 REIMBURSEMENT OF MEMBERS.
Section 2-408 CITY OFFICES OPEN, WHEN.
Section 2-409 UTILITY CREDIT TO CERTAIN PERSONNEL
Section 2-410 COMPENSATION.
Section 2-411 NO APPOINTMENT FOR DEFINITE TIME.
Section 2-412 CONFLICT OF INTEREST.
Section 2-412 OFFICERS TO CONTINUE UNTIL THEIR SUCCESSORS ARE
ELECTED OR APPOINTED AND QUALIFY.
Section 2-413 AMENDMENT; PROPOSAL, RATIFICATION, APPROVAL.
Section 2-414 COUNCILMEMBERS CANNOT ACCEPT NEWLY CREATED OFFICE
OR EMPLOYMENT.
Section 2-415 OFFICERS MAY ADMINISTER OATHS.
Section 2-416 AUDITING OF ACCOUNTS AND PUBLICATION OF SAME.
Section 2-417 LAND USE POWERS.
Section 2-418 RIGHT TO ENGAGE IN BUSINESS AND OTHER POWERS.
Section 2-419 SALE OF WATER, SEWER OR ELECTRIC UTILITIES.
Section 2-420 REAPPORTIONMENT.
Section 2-421 REVIEW OF CHARTER.
Section 2-422 ORDINANCE CONTINUED; PENDING ACTIONS AND
PROCEEDINGS; FINANCINGS

ARTICLE 5

SOCIAL SECURITY

Section 2-501 DECLARATION OF POLICY TO COME UNDER COVERAGE
Section 2-502 EXECUTION OF AGREEMENT WITH STATE AGENCY
Section 2-503 WITHHOLDINGS
Section 2-504 CONTRIBUTIONS
Section 2-505 RECORDS AND REPORTS
Section 2-506 EXCLUSIONS
Section 2-507 POLICE INCLUDED

ARTICLE 6

RETIREMENT AND PENSIONS

DIVISION 1

FIRE PENSION SYSTEM

Section 2-601 FIRE PENSION SYSTEM
Section 2-602 FUND TO BE OPERATED IN ACCORDANCE WITH LAW
Section 2-603 CONTRIBUTIONS TO FUND

DIVISION 2

POLICE PENSION SYSTEM

Section 2-610 POLICE PENSION SYSTEM
Section 2-611 BOARD OF TRUSTEES
Section 2-612 STATE LAWS ADOPTED

DIVISION 3

EMPLOYEE RETIREMENT SYSTEM

Section 2-620 EMPLOYEE RETIREMENT SYSTEM CREATED
Section 2-621 ADMINISTRATION
Section 2-622 FUND
Section 2-623 APPROPRIATIONS
Section 2-624 EXECUTION
Section 2-625 CONFLICTING LAWS

ARTICLE 7

CITY RECORDS

Section 2-701 PURPOSE
Section 2-702 STATEMENT OF POLICY
Section 2-703 APPOINTMENT OF OPEN RECORD AND RECORD RETENTION
CUSTODIANS
Section 2-704 OPEN RECORD REQUESTS
Section 2-705 PROCESSING RECORD REQUESTS
Section 2-706 SCOPE OF RECORDS SEARCH
Section 2-707 RECORDS IN STORAGE
Section 2-708 COMPUTER RECORDS
Section 2-709 FEES FOR RECORDS

Section 2-710 ACCOUNTABILITY FOR FUNDS
Section 2-711 OPEN RECORD FORM ADOPTED
Section 2-712 LEGAL QUESTIONS
Section 2-713 RESERVED
Section 2-714 DESTRUCTION OF PUBLIC RECORDS; SCANNING AND
STORING PUBLIC RECORDS

ARTICLE 8

ETHICS

Section 2-801 CODE OF ETHICS.

CHAPTER 2: ADMINISTRATION AND GOVERNMENT

ARTICLE 1

GOVERNMENT ORGANIZATION

Section 2-101 HOME RULE CHARTER FORM OF GOVERNMENT.

The city is governed by its Home Rule Charter approved by the voters on November 7, 2006 and approved by the Governor on January 4, 2007. The Charter is made a part of this code by reference and shall be the supreme document governing its form of government and business.

State Law Reference: Charter Form 11 O.S. Section 13-111 et seq.

Section 2-102 ELECTIONS.

1. The Noble County Election Board shall administer all elections for the City, and unless otherwise provided herein, shall conduct such elections in compliance with the general laws of the State of Oklahoma.

2. The following positions shall be filled at the April 2007 General Election: Mayor, Ward 1, Post 1, Ward 2, Post 1, Ward 3, Post 1, and Ward 4, Post 1, all of whose terms shall be for a four (4) year period. The following positions shall be filled at the April 2009 General Election: Ward 1, Post 2, Ward 2, Post 2, Ward 3, Post 2, and Ward 4, Post 2, all of whose terms shall be for a four (4) year period. Those persons that hold the positions as Councilmembers from Ward 1, Post 2, Ward 2, Post 2, Ward 3, Post 2, and Ward 4, Post 2, on the day that the Council gives notice to the Noble County Election Board to conduct the April 2007 election, shall continue to hold such positions under the new government and until their successors are appointed or elected and qualified. On the first Monday in May 2007, the elected positions for City Clerk, Street Commissioner, City Treasurer and City Marshal are abolished.

3. The term of office of an elected official shall begin on the third Monday in April following the general municipal election, after being duly sworn, and such official shall serve until his successor is appointed or elected and qualified,

unless he is removed or forfeits his office under other provisions of this Charter. If a newly elected official does not qualify within thirty (30) days after his term of office begins, the office shall become vacant and shall be filled in the manner provided by law. In order to complete the unexpired term, the office of an official who is holding over shall be filled at the next general election in accordance with the general election laws of the state.

4. For the purpose of filing for, and election to, the positions of Councilmember, only persons who have (i) been duly registered to vote in accordance with state law within the City and (ii) duly resided in the ward from which they seek election, for a period of one (1) year prior to the first day of the filing period, shall be eligible to seek election as Councilmember.

5. For the purpose of filing for, and election to, the position of Mayor, only persons who have been duly registered to vote in accordance with state law within the City and who have been a resident of the City for one (1) year prior to the first day of the filing period, shall be eligible to seek election as Mayor.

6. The person who receives the most votes for any City office shall be certified as having been elected to that office. There shall be no City run-off elections.

ARTICLE 2

MAYOR AND CITY COUNCIL

Section 2-201 MAYOR, DUTIES.

The Mayor shall preside at meetings of the Council, performing legislative and any required ceremonial duties as are necessary in conducting City business. The Mayor shall be recognized as the official head of the City by the courts for the serving of civil processes, and by the Governor for military purposes. In time of public danger or emergency the Mayor may, with the consent of the Council, take command of the police, maintain order, and enforce the laws. The Mayor is counted for quorum purposes and shall have all powers, rights, privileges, duties, and responsibilities of a Council member; and shall have

the right to vote on questions. He shall have such other powers and duties as may be prescribed by law or ordinance.

Section 2-202 ELECTED OFFICERS; POWERS AND DUTIES; COMPENSATION; RESOLUTIONS, ORDINANCES AND MOTIONS.

1. There shall be a Council of nine (9) members, which shall consist of a Mayor elected at large, and two (2) Councilmembers from each of the four (4) wards of the City, as the wards are now constituted or as they may be hereinafter constituted from time to time. The Mayor and Councilmembers shall be registered voters and each Councilmember shall be actual residents of their respective wards. Removal of a council member from the ward for which he was elected shall cause an immediate vacancy. All members of the Council shall be elected at large. Except in exercising the powers of initiative and referendum, all legislative power shall be vested in the Council. All references in the Charter to "Councilmembers" or "City Councilmembers" shall be construed to mean the Mayor as well as those persons elected or appointed to Council positions.

2. Five (5) members of the Council shall constitute a quorum, and the affirmative vote of at least five (5) members shall be necessary to adopt any motion, resolution or ordinance or pass any measure, unless a greater number is required by a specific provision of the Charter.

3. The Mayor and Councilmembers shall be paid a reasonable compensation as they may determine by majority vote; provided in no case shall the salary or emoluments of the Mayor or any Councilmember be changed after his election or appointment, or during his term of office, unless by operation of law enacted prior to his election or appointment. The Mayor and Councilmembers may also be reimbursed for expenses incurred in the discharge of their official duties.

4. Except as otherwise provided in the Charter, all powers of the City, including the determination of all matters of policy, shall be vested in the Council. The Council shall have the power:

A. To appoint, supervise and remove the City Manager, City Attorney, City Auditor, Chief Financial Officer, and such

additional temporary and specific appointments as required to conduct the business of the City;

B. To appoint the Municipal Judge, as provided in the charter;

C. To enact municipal legislation by ordinance and perform all other legislative and policy making functions;

D. To raise revenue and make appropriation, to adopt the budget, to regulate bond elections, the issuance of bonds or other evidences of indebtedness, sinking funds, the refunding of indebtedness, and to approve salaries, wages and benefits as specifically provided herein and oversee all other fiscal affairs of the City;

E. To appoint and remove the members of all Commissions, Boards, agencies, authorities and all other entities, now or when and if established, as provided by ordinance, law, or written instrument, and to prescribe the method of appointing or electing and removing them;

F. To inquire into the conduct of any office, department, or agency of the city government, and to investigate municipal affairs, either en banc or by a duly appointed committee; and for this purpose, to subpoena witnesses, take testimony and require the production of evidence;

G. To regulate elections to carry out the initiative, referendum, and recall; and

H. To create, change, and abolish all offices, departments, agencies, commissions, boards, authorities and all other entities of the city government other than the offices, departments, and agencies created by the Charter; and to assign additional powers, duties and functions to offices, departments and agencies created by the Charter or by Council action.

5. All power not otherwise delegated to another by the Charter is reserved to the City Council.

6. A roll call vote shall be called and recorded on every motion, resolution, or ordinance. Every motion, resolution or ordinance shall be reduced to writing and the title of all resolutions and ordinances shall be read aloud before the final

vote is taken. The Mayor shall have no power to veto any measure, and he shall have a vote on all questions. Every resolution or ordinance shall bear the approval of the City Manager as to content, the City Attorney as to form, and upon approval by a majority of Councilmembers, be signed by the Mayor or by the Vice Mayor, acting in that capacity, and every ordinance shall be published in full or by number, title, and brief gist in a newspaper of general circulation within the city within ten (10) days following adoption except as otherwise hereinafter provided. The procedures set out in State law shall govern the adoption, publication, codification, and enforcement of municipal ordinances.

Section 2-203 OPEN MEETINGS

The regular meetings of the Council shall be held on the first and third Mondays of each month unless a different regular meeting date is otherwise set by the Council; provided that regular meetings must be held at least semi-monthly. The Council may be called in special session, or any item of business may be placed on any regular meeting, by the City Manager, Mayor or by three (3) Councilmembers. All meetings, regular or special, of the City Council or other public bodies (as defined by the Oklahoma Open Meeting Act ("Act") or as the Act may be hereinafter amended) shall be open to the public, as provided by the Act, subject to such exceptions and exemptions as provided by the Act.

Section 2-205 QUORUM.

In all cases, it shall require a majority of the council members elected to constitute a quorum to do business; but a smaller number may adjourn from day to day and may compel the attendance of absent members in such manner and under such penalties as the council may by ordinance have previously prescribed.

Section 2-206 PLACE OF MEETINGS OF THE COUNCIL.

Every meeting of the council shall be held in the council chamber in the city hall unless, in case of an emergency, the mayor or council members calling a special meeting designates another place in the city for the holding of the special meeting. An adjourned meeting may be held at any other place within the city designated by the city council.

Section 2-207 RULES OF 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 member is absent from more than one-half ($\frac{1}{2}$) 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 shall be as posted on the agenda for the meeting.

C. Robert's Rules of Order shall govern matters not included or covered in this code or in rules adopted by the city council.

Section 2-208 OFFICIAL OATH, BOND.

Upon entering the duties of their offices, the Mayor and Councilmembers shall take the oath of office prescribed by the Constitution of Oklahoma. The Council shall require the Chief Financial Officer, other appropriate financial officer, and/or any officer or employee designated by ordinance or resolution, to sign municipal warrants or municipal checks, and any other officers and employees as the Council may designate by ordinance, to give bond for the faithful performance of such officer or employee's duties within ten (10) days after election or appointment, in such amount and form as the Council shall prescribe. The City shall pay the premiums on such bonds.

Section 2-209 ELECTION OF VICE MAYOR; DUTIES OF VICE MAYOR.

On the first regularly scheduled Council meeting in May of each odd-numbered year, the Council, by a majority vote of all Councilmembers, shall elect one of the Councilmembers to be Vice Mayor of the City for a term of two years and until his successor is elected and qualified. The Vice Mayor shall act as Mayor in the absence of the Mayor. In case of the absence of both the Mayor and the Vice Mayor, the remaining Councilmembers shall elect one of their number to act as Mayor until the return of the Mayor or Vice Mayor.

Section 2-210 VACANCIES IN OFFICE.

1. A vacancy in the office of a member of the Council shall exist whenever the holder thereof:

A. Ceases to possess some qualification for the office, prescribed by this Charter or by applicable law;

B. Dies,

C. Resigns,

D. Is removed from office by proceedings of a Court of competent jurisdiction, including but not limited to a violation and conviction of Article III, Section 6;

E. Is declared legally incompetent by a Court of competent jurisdiction; or

F. Ceases to reside in the ward where elected or appointed, except that no vacancy shall occur whenever a Councilmember is rendered a non-registered voter of the ward represented by reason of reapportionment carried out by the Council;

G. 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.

2. When a vacancy occurs in an office of an elected municipal official, except the Mayor, the governing body shall appoint, by a majority vote of the remaining members, a person to fill the vacancy until the next general municipal election, and to serve until a successor is elected and qualified. Any vacancy shall then be filled at the next general municipal election by election of a person to complete the balance of any unexpired term. If the vacancy has not been filled within sixty (60) days after it occurs, the governing body shall call for a special election for the purpose of filling the vacancy for the duration of the unexpired term, unless said vacancy occurs or said election would occur within one hundred twenty (120) days prior to the first day of the filing period for the next general municipal election. When a vacancy occurs in the office of the Mayor, the governing body shall call for a special election for the purpose of filling the vacancy for the duration of the

unexpired term, unless said vacancy occurs or said election would occur within one hundred twenty (120) days prior to the first day of the filing period for the next general municipal election. If a vacancy is not filled by the special election, it shall be filled by appointment.

3. To be eligible for appointment to fill a vacancy in an elected municipal office, a person must meet the same qualifications required for filing a declaration for candidacy for that office.

4. The procedure for filling any governing body vacancy shall be conducted as follows:

A. An agenda item soliciting nominations from members of the governing body, together with the possible appointment by majority vote of the remaining members of a nominee, shall be placed on every regular meeting agenda following the occurrence of the vacancy, if legally possible.

B. At each such regular meeting and until an appointment occurs or an election must be called, oral nominations from the remaining members of the governing body will be received. A written ballot procedure shall be conducted to determine which nominee will receive the most votes for appointment. Pre-printed ballots with the names of all members of the governing body shall be distributed. Each remaining member of the governing body present at such meeting shall vote for one nominee by writing the nominee's name on the written ballot. The City Clerk shall collect the written ballots and announce the vote. In the event of a tie vote, additional balloting shall occur and until one nominee receives the most votes. The written ballots shall be retained as a part of the official minutes of the City Clerk. After hearing the vote, the remaining members may fill the vacancy by appointment or take such other action as may be deemed appropriate. This procedure shall be strictly followed in providing for the filling of governing body vacancies.

ARTICLE 3

CITY MANAGER

Section 2-301 COUNCIL TO APPOINT CITY MANAGER.

1. By majority vote of all Councilmembers, the Council shall appoint a City Manager. He shall be chosen by the Council solely upon the basis of his executive and administrative qualifications, without regard to age, gender, race, color, creed, national origin, or disability (provided he is qualified and meets the requirements applicable to his employment), and he need not, when appointed, be a resident of the City or State; but during his tenure of office, he shall reside within the corporate boundaries of the City or within one (1) mile of the corporate limits. limits of Perry.

2. No member of the Council shall, during the time for which he is elected, be chosen City Manager, nor for two years after he ceases to be a member.

3. The City Manager shall be removable at any time, upon a vote of a majority of all the Councilmembers, which action shall be final, it being the intent of this Charter to vest all authority and fix all responsibility for removal of the City Manager with the Council.

4. By letter filed with the City Clerk, the City Manager may appoint a qualified acting City Manager during the temporary absence or disability of the City Manager. For purpose of this subsection:

The following words shall have the following meanings:

"Temporary absence" shall mean absence of the City Manager from the corporate limits of the City of Perry for more than two (2) business days, or whenever the City Manager is out-of-state;

"Disability" shall mean anytime the City Manager is hospitalized, undergoing a procedure or surgery or anytime the City Manager is unable to perform the essential functions of his job description.

The Council may appoint a qualified acting City Manager whenever;

- a. The manager fails to make such designation;
- b. The Council suspends the City Manager; or
- c. There is a vacancy in the office of City Manager.

5. The City Manager shall be a contract employee and all the terms, conditions, wages, and benefits (including any severance consideration) shall be set out in a written employment contract.

Section 2-302 GENERAL POWERS AND DUTIES OF THE CITY MANAGER.

The City Manager shall be the chief executive officer of the municipal government responsible only to the Council. The City Manager shall not, during the term of office, be an employee of, or perform any duties for any person, firm, corporation or institution other than the City of Perry or its public authorities and shall not be interested in the profits or emoluments of any contract, job, work, or service of the City or its public authorities.

Section 2-303 OATH AND QUALIFICATIONS.

Before entering upon the duties of his office, the City Manager shall take the official oath and be bonded, if required by his contract. The City Manager shall be or become a member of national and state professional organizations pertaining to employment and abide by the organizations' ethical codes.

Section 2-304 SPECIAL POWERS AND DUTIES OF THE CITY MANAGER.

1. Being at all times directly responsible to the Council for the proper administration of the City Government, the City Manager shall have the following powers and duties:

A. To ensure that all laws and ordinances governing the City are enforced;

B. To appoint and remove all directors or heads of departments and all subordinate officers and employees in such departments. Such appointments shall be made solely upon the basis of merit and fitness, including training, education and experience in the work to be performed, and without regard to

age, gender, race, color, creed, national origin, or disability (provided he is qualified and meets the requirements applicable to his employment); provided however, the standard for removal for non-probationary full-time, part-time, temporary, probationary or seasonal employees shall not be upon the basis of merit and fitness, but shall be based upon the good of the service, creating employment "at will", and shall be effective from and after the approval of this amendment by majority vote of the electorate. This amendment will not apply to any non-probationary full-time employees, who have completed their probation period prior to the date this amendment becomes effective whose standard for removal shall remain merit and fitness for employment.

C. To manage and supervise all departments of the City Government, and to exercise all other executive functions, except as the Charter may otherwise provide;

D. To supervise and manage and have general charge over the construction, operation, maintenance and repair of City-owned public works, utilities, streets, sidewalks, bridges, grounds, and buildings within or without the corporate limits of the City, except as otherwise herein provided;

E. To make timely and informative reports to the Council, including a monthly report, and attend all meetings of the Council unless excused therefrom, taking part in discussions, but without voting privileges;

F. To recommend to the Council the adoption of such measures as he may deem necessary or expedient;

G. To keep the Council fully advised as to the financial conditions and future needs of the City, making appropriate recommendations;

H. To ensure that all franchise rights and provisions are justly enforced;

I. To prepare and submit to the Council an annual budget as required by the Charter;

J. To prepare, or cause to be prepared, an agenda of business for each Council meeting, including his recommendations;

K. To respond to written and oral requests of Councilmembers pertaining to the City's business;

L. To perform such other duties as may be prescribed by law or ordinance; and

2. If the City Manager gives an order to or requests certain action of an employee or department head, and such order or requested action is disputed by such employee or department head, the City Manager may be requested by said employee or department head to place such order or action in writing.

Section 2-305 PURCHASING ORDINANCE; CITY MANAGER RESPONSIBLE FOR ENFORCEMENT.

The Council shall by ordinance duly passed, prescribe a purchasing ordinance setting such limits, terms and requirements including exemptions and exceptions from such requirements, as may be deemed appropriate and efficient for the administration of the City Government, and pertaining to purchases not otherwise controlled by the terms of the Public Competitive Bidding Act of 1974, in effect at the time that this Charter is approved or as hereinafter amended. Such purchasing ordinance and terms thereof shall at all times be considered a local matter or concern. The City Manager shall be responsible for ensuring compliance with the Purchasing Ordinance.

Section 2-306 COUNCIL NOT TO INTERFERE IN APPOINTMENTS, REMOVALS OR ADMINISTRATION.

Except for purpose of inquiry or comment, neither the Council, nor any of its members, shall direct or request the appointment of any person to, or his removal from office or employment by the City Manager or any of his subordinates, or in any manner take part in the appointment or removal of officers and employees in the administrative services of the City, (which appointments are reserved to the City Manager), except that the Council may direct the City Manager, by resolution, to investigate charges of misconduct or incompetence against any City employee and to report the result thereof. The Councilmembers shall deal with the administrative service solely through the City Manager, and no Councilmember, individually or collectively, shall give orders to any subordinate of the City Manager, either publicly or privately. Violation of any of the

provisions of this section by any Councilmember shall constitute grounds for removal by a court of competent jurisdiction.

Section 2-307 POLITICAL ACTIVITY OF CITY EMPLOYEES.

Political activity of City employees shall be covered by general state statutes. However, no person employed by the City may file a declaration of candidacy for, nor serve as, Councilmember or Mayor.

ARTICLE 4

OTHER OFFICERS AND MISCELLANEOUS MATTERS

Section 2-401 CHIEF FINANCIAL OFFICER.

1. Purpose.

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

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

3. Duties. The Chief Financial Officer shall:

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 (at least a monthly review for obvious posting and account balancing errors) and preparation of subsidiary schedules for the City Auditor, and (iii) the presentation of such financial statements to the Council each month or whenever requested;

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

C. Assist in the preparation of the budget;

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

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

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

Section 2-402 CITY CLERK

The City Clerk shall be appointed and removed by the City Manager. The City Clerk shall:

1. Be the Clerk for the Council;

2. Keep the journal of the proceedings of the Council;

3. Enroll the ordinances and resolutions passed by the Council in a book or set of books kept for the purpose;

4. Have custody of documents, records, and archives, as may be provided for by law or by ordinance, and have custody of the seal of the City;

5. Attest and affix the seal of the City to documents as required by law or by ordinance; and

6. Have such other powers and functions related to his duties as may be prescribed by law or by this code.

Section 2-403 CITY ATTORNEY.

A. Appointment and removal of City Attorney. The Mayor, with the consent and approval of a majority of all the members of the Council, shall appoint the City Attorney. The City Attorney may be removed by a majority vote of all the members of the City Council.

B. Duties of the City Attorney. The City Attorney shall have such qualifications, powers, and duties as are prescribed by law. It shall be the City Attorney's duty to advise the Council and each member thereof, and the City Manager, upon all legal questions and the City Attorney shall give opinions in writing when requested and shall represent the City as counsel in all litigation, in all courts and shall perform such other legal services on behalf of the City, its officers or employees, as may be required by the Council. Although the City Attorney is appointed by the Council, he shall also perform the work as may be directed by the City Manager. The foregoing provision shall not be deemed to prevent the City Manager, with the approval of a majority of the City Council, from employing private counsel as it is deemed necessary.

Section 2-404 HEALTH DEPARTMENT; DIRECTOR

The city-county health department of the county and its director shall have the powers of a city health department and city health officer respectively for the city unless another person is designated by the council. References to health department and health officer or director of the health department in this code and in other ordinances of the city mean the cooperative health department and its director unless the context clearly indicates another meaning.

Section 2-405 CERTAIN PERSONNEL TO BE BONDED.

Before entering upon their official duties, the following personnel of the city government shall provide bonds for the faithful performance of their official duties, payable to the city, with a surety company authorized to operate within the state: any employee or officer receiving, disbursing or having charge of public funds.

The council, by motion or resolution, may require other officers and employees in such positions as it may designate to

be bonded. The bond shall be in the minimum amount of \$10,000.00 or such greater amount as provided by the council. The city shall pay the premiums on such bonds.

State Law Reference: Bonds of officers, treasurer, and other officers to give bond, 11 O.S. Section 8-105.

Section 2-406 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 required to take and subscribe to a loyalty oath prescribed by state law.

Section 2-407 REIMBURSEMENT OF MEMBERS.

The city shall reimburse its officers and employees for actual and necessary expenses incurred in the performance of their duties upon verified claims submitted by the officer or employee incurring the same to the City Council. Such reimbursement shall be made from funds legally available for that purpose.

Section 2-408 CITY OFFICES OPEN, WHEN.

The offices of the city shall be open at 8:00 a.m. each day except Saturday, Sunday, city legal holidays and any other day designated by the City Manager. The offices of the city shall close at 4:00 p.m. each day. The City Manager is authorized to make further adjustments to the operating hours, of city hall and other city facilities, necessary to protect the health, safety and welfare of the employees and the public.

Section 2-409 UTILITY CREDIT TO CERTAIN PERSONNEL

Any full-time employee, elective or appointive, who has retired from or is still employed by the City and who has worked twenty (20) years or more for the City, to include the employee's surviving spouse (hereinafter referred to as the "employee"), shall be given a monthly credit of not to exceed Eighty Dollars (\$80.00) to be applied toward such employee's combined city utility bill at such employee's residence served by the City of Perry utility services, for so long as such

employee actually lives in such residence. Such utility credit is given as consideration for the employee's twenty or more years of service with the City, in a like manner as such employee's pension is treated.

Section 2-410 COMPENSATION.

A. The Council shall fix the compensation of all officers and employees that it is charged with appointing.

B. Subject to fiscal budgetary appropriations, the City Manager shall fix the number, salaries and compensation of all officers and employees that he is charged with appointing.

C. No full-time employee shall be permitted under any circumstances to draw more than one salary from the City for any and all purposes.

Section 2-411 NO APPOINTMENT FOR DEFINITE TIME.

No employee shall be appointed to an office or position in the City for any definite time.

Section 2-412 CONFLICT OF INTEREST.

1. Neither the Mayor, Councilmember nor the City Manager, shall sell or barter anything to the City or to a public authority with the City as beneficiary (for purpose of this section to be collectively referred to as the "City") or to a contractor to be supplied to the City; or to make any contract with the City (excepting a City Manager employment agreement); or purchase anything from the City other than those things that the City offers generally to the public (i.e., at auctions or competitive sales or utility services or airport hangar or similar leases) and then only on the same terms as are offered to the public. Any officer or employee violating this section, upon conviction thereof, shall, in addition to any other penalty or fine, thereby forfeit his office or employment. Any violation of this section, with the knowledge, express or implied, of the person, firm or corporation contracting with the City, shall render the contract voidable by the City Manager or the Council. This subsection shall not apply in cases where the City acquires property by condemnation or threat of condemnation.

2. The Council, by ordinance, or the City Manager, by personnel rules, may further regulate conflict of interest and ethics of officers and employees of the City.

3. The general laws contained in Title 11 of the Oklahoma Statutes, as amended, which pertain to conflict of interest for municipal officers and employees are hereby re-adopted as if fully set out herein.

Section 2-412 OFFICERS TO CONTINUE UNTIL THEIR SUCCESSORS ARE ELECTED OR APPOINTED AND QUALIFY.

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

Section 2-413 AMENDMENT; PROPOSAL, RATIFICATION, APPROVAL.

The Charter may be amended by proposals thereof submitted by the Council or by the Mayor upon initiative petition of the electors as provided by the State Constitution, at a general or special election, ratified by a majority of the qualified electors voting thereon, and approved by the Governor as provided by the State Constitution. If more than one amendment is proposed, all of them, except those which are so interrelated that they should be ratified or rejected together, shall be submitted in such a manner that the electors may vote on them separately. A proposition to amend the Charter may be either in the form of a proposed amendment to a part or parts of the Charter or of a proposed new Charter.

Section 2-414 COUNCILMEMBERS CANNOT ACCEPT NEWLY CREATED OFFICE OR EMPLOYMENT.

No Councilmember shall be appointed to any office or employment created by the Council during that member's term until the expiration of two (2) years after that member's term of office on the Council shall have ended.

Section 2-415 OFFICERS MAY ADMINISTER OATHS.

The Mayor, Municipal Judge and the City Clerk shall have

the power to administer oaths.

Section 2-416 AUDITING OF ACCOUNTS AND PUBLICATION OF SAME.

At the end of each fiscal year, and at such other time as it may deem necessary, the Council shall cause a full and complete examination of all the books and accounts of the City, including the accounts of municipally owned utilities, to be made by a competent, independent Certified Public Accountant who shall be the City Auditor.

Section 2-417 LAND USE POWERS.

The City of Perry shall have full power to promote the public health, safety, morals, and general welfare by regulating the use of real property and by controlling and directing the development of the City, through the exercise of the complete powers necessary and proper to carry out and maintain these and all powers into full effect, within the City limits, to the fullest extent permissible under the Constitution of the United States and the Constitution of this State. The exercise of the powers of planning, zoning, development and subdivision regulation within the City shall be always in pursuance of this grant of authority and not under state statutes or law, except with respect to those matters of general state concern as to which state law controls under the State Constitution. The City also may exercise powers of planning, zoning, development and subdivision regulation granted by the State in respect to matters of general state concern, as aforesaid, and also in respect to property situated outside the City limits, including but not limited to real property owned, leased or controlled by the City. The City shall have the power to exercise its power to protect the health, safety and welfare of the public on real property owned by the City and located outside of the City's corporate limits, including but limited to the power to enforce municipal ordinances.

Section 2-418 RIGHT TO ENGAGE IN BUSINESS AND OTHER POWERS.

The City shall have the right to:

1. Engage in any lawful business or enterprise and to do all things necessary and proper in the discretion of the Council pursuant to the authority granted to it by the Constitution,

state laws and the Charter, to maintain said business, or enterprise for the benefit of the City.

2. Acquire, own and maintain, within or without its corporate limits, real estate for sites and rights-of-way for any municipal purpose, including but not limited to public utility and public parks, and other public purposes, and for the location thereon of buildings, appurtenances and facilities associated with electricity, natural gas, telecommunications, waterworks, sanitary sewer, drainage and any and all other utilities owned, leased or controlled by the City, and for the purpose of any other lawful business or enterprise of the City. The City may acquire, erect, construct and own all necessary poles, wire, lines, pipelines, mains, channels, together with necessary appurtenances, apparatus and substations, and acquire right of ways, and do all other things necessary and proper in carrying on the business both inside and outside the corporate limits of the City. The City may construct or acquire lines, pipelines, mains, or channels together with necessary appurtenances by purchase or otherwise and may sell such service to any person, firm or corporation located inside or outside of its corporate limits.

3. Exercise the power and right of eminent domain for any municipal or proper public purpose, within and without its corporate limits.

4. Engage in economic and tourism development, historic preservation, the promotion of aesthetics, and beneficial environmental efforts, and to expend public monies in pursuit of the same, provided that all such efforts are pursuant to written agreements providing for adequate consideration, safeguards and accountability.

5. Engage in all other activities and exercise all such additional powers as permitted by the general laws of the State of Oklahoma, and as currently provided or as hereinafter amended.

Section 2-419 SALE OF WATER, SEWER OR ELECTRIC UTILITIES.

The City may not sell, lease, convey or otherwise dispose of, in whole or in part, its water, sewer or electric utilities unless such sale, lease, conveyance, or other disposal of such utility shall be authorized by vote of a 2/3rd of the registered

voters of the City voting on the question at an election to be held for such purpose. This section shall not apply to any sale or lease to a public trust with the City as sole beneficiary. The sale in whole of any of the foregoing public utilities, if authorized by the vote as provided hereinabove, must be at least equal to or greater than the fair market value price determined by an independent appraisal expert selected by the City. Unless restricted by written instrument, the sale or lease of any real or personal property not constituting or a part of the aforementioned public utilities, upon which a public use has previously been made, may be sold or leased, in whole or in part, without such vote and election.

Section 2-420 REAPPORTIONMENT.

1. As soon as practicable, following each federal census, the Council shall review the wards and ward boundaries of the City. Any change in the boundaries of wards shall be made by ordinance with due regard to the convenience and contiguity of the wards. The effective date of a change in the names or boundaries of wards shall be the effective date of the ordinance making the change unless the Council provides otherwise.

2. When territory is annexed to the City, the Council shall by resolution incorporate it into the adjacent ward or wards or shall readjust the wards and boundaries in the manner provided hereinabove, as it deems appropriate.

Section 2-421 REVIEW OF CHARTER.

The City Charter shall be reviewed from time to time to ensure its efficiency and relevancy to current events and needs of the residents. The City Clerk shall record and separately segregate all public comments and other suggestions concerning potential charter changes or amendments. At a minimum, the City Charter shall be reviewed at least every ten (10) years. The Council shall appoint a committee of residents to perform this function. Suggested amendments, deletions and additions shall be recommended by the committee to the City Council if deemed appropriate. The Council should consider whether to place such recommendations to a vote of the people at the next general or special election.

Section 2-422 ORDINANCE CONTINUED; PENDING ACTIONS AND PROCEEDINGS; FINANCINGS.

1. All ordinances, insofar as they are not inconsistent with the Charter, shall continue in effect until they are repealed or until they expire by their own limitations.

2. The adoption of the Charter shall not abate or otherwise affect any action or proceeding, civil or criminal, pending when it takes effect, brought by or against the municipality, or any office, department, agency, or officer thereof.

3. The adoption of the Charter shall not abate or otherwise affect, in any manner, any City (or public trust authority with the City as beneficiary) financing, indebtedness, note, obligation or any other financial matter in effect at the time of the adoption of the Charter.

ARTICLE 5

SOCIAL SECURITY

Section 2-501 DECLARATION OF POLICY TO COME UNDER COVERAGE.

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 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. Section 125.

Section 2-502 EXECUTION OF AGREEMENT WITH STATE AGENCY.

The City Manager is authorized and directed to execute all necessary agreements and amendments with the State Department of Human Services to accomplish the provisions of Section 2-501 of this code.

Section 2-503 WITHHOLDINGS.

Withholdings from salaries or wages of employees and officials for the purposes provided in Section 2-501 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 2-504 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 2-505 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 2-506 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; or

3. Firemen and call-firemen.

Section 2-507 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 6

RETIREMENT AND PENSIONS

DIVISION 1

FIRE PENSION SYSTEM

Section 2-601 FIRE PENSION SYSTEM.

There is hereby created the fire pension and retirement system of the city for the purpose of providing pension benefits for retired and disabled fire personnel, their widows, and children in accordance with state law governing police retirement.

Section 2-602 FUND TO BE OPERATED IN ACCORDANCE WITH LAW.

The city's firefighters' pension and retirement system and fund shall be operated in accordance with state law relating to the fund and system.

State Law Reference: Firefighters' retirement and pension law, 11 O.S. Section 49-101 et seq.

Section 2-603 CONTRIBUTIONS TO FUND.

A. The clerk shall deduct from the salaries or wages of each full-time employee of the fire department, an amount as provided by state law, and pay same monthly to the Oklahoma Firefighters Pension and Retirement Board. The treasurer of the city shall deposit monthly in the Oklahoma Firefighters Pension and Retirement Board the amounts deducted pursuant to this subsection. Any amounts deducted from the salary or wages of a fire department member shall be made at the time of each payroll. The deductions shall be set forth in the payroll so that each member may be able to ascertain the exact amount which he is contributing.

B. The city treasurer shall deposit monthly from the general fund with the Oklahoma Firefighters Pension and

Retirement Board a percentage of the member's monthly pay, such percentage provided by state law, for all full-time employees of the fire department.

C. For each volunteer member of the fire department, the city treasurer shall deposit yearly with the Oklahoma Firefighters Pension and Retirement Board the amounts of money which are required by applicable state law. These amounts may be revised according to actuarial studies and amounts as set by the Oklahoma Firefighters Pension and Retirement Board.

State Law Reference: Firefighters pension law, 11 O.S. Section 49-122.

Cross Reference: Fire department and services, Section 13-101 of this code.

DIVISION 2

POLICE PENSION SYSTEM

Section 2-610 POLICE PENSION SYSTEM.

There is hereby created the police pension and retirement system of the city for the purpose of providing pension benefits for retired and disabled police personnel, their widows, and children in accordance with state law governing police retirement.

State Law Reference: Authority to establish system for above persons, 11 O.S. Section 50-101 et seq.

Section 2-611 BOARD OF TRUSTEES.

A board of trustees of the police pension and retirement system shall be formed according to law and it shall administer such system and carry out any and all duties assigned to or granted it by law, including the distribution of money received by it from the state or from other sources.

Section 2-612 STATE LAWS ADOPTED.

The provisions of state law, and amendments made thereto, are hereby adopted by reference as a part of this division as though literally rewritten and restated herein, insofar as such

statutes pertain to police retirement.

DIVISION 3

EMPLOYEE RETIREMENT SYSTEM

Section 2-620 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 city employees and thereby promote public efficiency, there is hereby authorized, created, established, approved and adopted, effective as of July 1, 1988, the funded pension plan designated "Employee Retirement System of Perry, Oklahoma" (hereinafter called "system"), and as amended from time to time, an executed counterpart of which is marked "Exhibit A" to ordinance adopting and amending same.

Note: Exhibit A is on file in the city clerk's office and is subject to public inspection. This system is adopted and amended pursuant to ordinance and referral to all amendments approved by ordinance but not contained in this code is recommended.

State Law Reference: Authority of city to establish retirement systems, procedure, 11 O.S. Section 48-101 et seq.
Section 2-621 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" as mentioned in Section 2-620.

Section 2-622 FUND.

A 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 treasurer, who shall be the treasurer of the system. Such funds shall be pooled for purposes of management and investment with similar funds of other incorporated cities and towns in the state as a part of

the Oklahoma Municipal Retirement Fund, in accordance with a duly executed contract for such purpose which contract shall be executed by the city council as soon as feasible. The city treasurer 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 non-fiscal. The fund and system shall be valued each year for actuarial soundness by a qualified actuarial firm.

Section 2-623 APPROPRIATIONS.

The city 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 is hereby authorized to appropriate annually such amounts as are required in addition to employee contributions, to maintain its amended retirement system and the fund on a sound actuarial basis in accordance with the respective annual actuarial valuation. Any appropriation so made to maintain the system and fund shall be for deferred wages or salaries and/or the payment of necessary expenses of operation and administration, including separate annual appropriations to be transferred to the Oklahoma Municipal Retirement Plan.

Section 2-624 EXECUTION.

A. The City Manager and the city clerk be and they are each hereby authorized and directed to execute (in counterparts, each of which shall constitute an original) the original system instrument, and all amendments thereto, and to do all other acts and things necessary, advisable and proper to put the system and amendments and related trust into full force and effect, and to make such changes therein as may be necessary to qualify the same under Section 401(a) and 501(a) of the Internal Revenue Code of the United States. The counterpart marked as Exhibit A, which has been duly executed as aforesaid simultaneously with the passage of this chapter is hereby ratified and confirmed in all respects and is on file in the Office of the City Clerk.

B. This city council hereby agrees 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 according to the terms of the trust indenture of the Oklahoma Municipal

Retirement Fund, a public trust. The city council shall manifest approval of such contract and the execution thereof by the City Manager and city clerk by a formal resolution.

Section 2-625 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 7

CITY RECORDS

Section 2-701 PURPOSE.

All records of the City of Perry, Oklahoma, and its boards, authorities, and commissions shall be open to inspection by citizens as provided by the applicable laws of Oklahoma. Accordingly, the purpose of this Article is to adhere to these mandates to provide the public prompt, reasonable access to the City's public records, and to establish reasonable procedures to protect the integrity and organization of the City's records, while preventing excessive disruptions of its essential functions.

Section 2-702 STATEMENT OF POLICY.

The City of Perry, Oklahoma, and its boards, commissions, or authorities (collectively referred to as the "City") and its officers, officials, and employees (collectively "Public Officials") will comply with the Oklahoma Open Records Act, Title 51, Oklahoma Statutes §24A. 1 et seq ("Open Records Act" or "Act") and other related federal and state laws. Subject to the Open Records Act's requirements, limitations, and/or exceptions, and those provided for in federal and other state laws, all records generated by or in the custody, control, or possession of Public Officials in connection with the transaction of public business, the expenditure of public funds, or the administration of public property, will be open for inspection, copying, and/or mechanical reproduction during regular business hours, provided that records subject

to discretionary exemptions under the Act shall be managed according to the decision framework described in Appendix A.

Section 2-703 APPOINTMENT OF OPEN RECORD AND RECORD RETENTION CUSTODIANS.

A. The City Manager shall designate in writing the primary and secondary open record custodians for every department and every board, commission, or authority of the City ("Public Body"), who are authorized to release its public records, and primary and secondary record retention custodians, who are charged with maintaining City records (collectively "Record Custodians"). Record Custodian appointments shall be sufficient in number to ensure that at least one authorized person is always available to release public records during regular business hours. Every Public Body having parts of its public records at locations remote from its main administrative office shall post at each remote location a public notice identifying the location where its appointed Record Custodians are located for the purpose of releasing public records during regular business hours.

B. The City Clerk (used throughout herein to mean any designee of the Office of the City Clerk) shall maintain a continually updated list of Record Custodians and shall organize and facilitate a network of all active Record Custodians for the purpose of establishing a forum for instruction and collaboration regarding record retention and open records issues.

Section 2-704. OPEN RECORD REQUESTS.

A. Intake. Excluding requests for documents or records specifically prepared for public distribution by any Public Body, all requests for City public records must be submitted in writing on a form provided by the City Clerk and submitted to the Record Custodian or City Clerk or their designee, whose names and locations will be listed on the City's web page and set out in the notice required to be posted in the public access area of the City Clerk's Office, the lobbies of City Hall and the Municipal Court/Police Station Building, and in the Noble County Clerk's Office. .

B. Reasonable specificity.

1. All record requests must describe the records sought with reasonable specificity; that is, to a degree that the Record Custodian can be reasonably certain that the records produced for inspection, copying and/or mechanical reproduction are responsive to the request. Relevant considerations include whether the request:

a. Specifies at least a general time frame within which the requested records would have been created or transmitted;

b. Seeks identifiable records, rather than general information without any qualifiers or other specifications; and/or

c. Includes search terms that are sufficiently specific that they do not generate an unreasonably large number of records (e.g. thousands of pages of emails).

2. The City Clerk or a Record Custodian may ask the requestor to clarify a request that is unreasonably vague, open-ended, or otherwise does not describe the requested record with reasonable specificity. If a request is not described with reasonable specificity after the City Clerk or Record Custodian has asked the requester to clarify the request, the request may be denied.

3. If the request is for electronic mail, text messages, or similar electronic communications, and if the request does not identify a date range of six months or less and either the originator, the recipient, or the general subject matter of the message, the City Clerk or Record Custodian will ask for clarification. Without more specific information, such open-ended searches, as well as the reviews and (if necessary) redactions they would necessitate, are presumed to cause excessive disruption to the City's essential functions.

Section 2-705 PROCESSING RECORD REQUESTS.

A. Record Custodians will provide prompt, reasonable access to their open records. The processing of a record request, in all cases, must ensure the integrity and security of City records, and every request shall be processed in a manner which avoids excessive disruption of the essential functions of the office in which the records are maintained.

B. The date and time when a request is submitted and the date and time when the requested records are produced should be noted on the processed record request.

C. Records Custodians may provide regular, timely updates on the status of request responses.

D. Records Custodians will track all billable time for record search and processing.

E. The City Clerk shall track the status of all pending requests and provide periodic reports on the status of requests, when appropriate, to the Record Custodians, City Manager, and City Attorney.

Section 2-706 SCOPE OF RECORDS SEARCH.

The responsibility of a Record Custodian shall include only those records maintained by the Public Body responsible for the custodian's appointment. In no instance shall a Record Custodian be responsible for the production of records which are not subject to his/her authority. Record custodians receiving a misdirected record request seeking the production of records not under the custodian's control shall, if known by the custodian, inform the City Clerk and the requesting party the identity and location of the City department, office, board, authority or commission which is most likely to have the requested City records.

Section 2-707. RECORDS IN STORAGE.

Records of any City department or City Public Body placed in either permanent or temporary storage shall remain the responsibility of the City department or Public Body placing the records in storage.

Section 2-708 COMPUTER RECORDS.

Any City department or Public Body responsible for creating computer records or data files shall be responsible for administering the appropriate release of such records or files, notwithstanding the circumstance that they may be located within a centralized City record system or centralized City data storage file system.

Section 2-709 FEES FOR RECORDS.

This Article adopts the schedule of Open Record Act fees appearing at Appendix B. No charge shall be assessed or collected for any City public record which was specifically prepared for public distribution. A copy of this fee schedule shall be posted online and made available in the City Clerk's office.

Section 2-710 ACCOUNTABILITY FOR FUNDS.

Record custodians shall be responsible for the collection of required fees and accountable for their deposit, as follows:

A. Record custodians collecting money at City Hall shall deposit all collected money with the City Clerk or her assignee on a daily basis.

B. Record custodians collecting money at any office not located within City Hall shall deposit all collected money with the City Clerk or her designee on the date of receipt of the same.

Section 2-711 OPEN RECORD FORM ADOPTED.

The Open Record Form on file in the Office of the City Clerk and attached hereto as Appendix C is hereby adopted as the form to be used to request and process public records from the City.

Section 2-712 LEGAL QUESTIONS.

Any Record Custodian having a question concerning whether a requested document is a "public record" as defined by Oklahoma's Open Records Act or whether a record is otherwise exempt, or a question relating to the amount of the charge which should be collected pursuant to Appendix B to this order, is directed to contact the City Attorney for guidance.

Section 2-713 RESERVED.

Section 2-714 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. Statute Adopted by Reference. The City of Perry hereby adopts by reference Tit. 11, Sec. 22-131 of the Oklahoma Statutes, as amended, and declares that all public records shall be retained for the time periods provided by such statute 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/Trust 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, and city and authority meeting minutes. In addition, the following records must be retained for the following periods and thereafter may be deleted:

1. Social Media, including but not limited to Facebook, LinkedIn, Twitter, Instagram or other similar platforms, any post, content, message or comment initiated on behalf of the City is authorized to be removed, destroyed and not retained after one day. The City is not responsible for maintaining posts, comments or messages by any person, whether affiliated with the Town or not, beyond such one-day period.

2. Electronic mail and text messages, electronic audio files and browsing history, including any message or electronic message sent or received by a public official or employee using a city email account or electronic device paid by with public funds, or while created while on duty with the city, may be deleted upon receipt unless required to be maintained by state law.

3. Voice Mail messages recorded on the city phone system may be deleted upon receipt unless required to be maintained by state law.

C. Other Records. Public records not addressed in subsection B hereinabove, may be destroyed by their legal custodian, with

written approval from the City/Trust Manager, seven (7) years after their creation.

D. 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/Trust 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.

ARTICLE 8

ETHICS

Section 2-801 CODE OF ETHICS.

A. The citizens and businesses of the City of Perry, Oklahoma, are entitled to responsible, fair, and honest local government which has earned the public's full confidence for integrity. For purpose of this section "City official" shall mean every City of Perry elected or appointed officer, and all persons appointed by the City Council to any position in the government. The City Manager may also consider extending this definition and policy to include those persons subject to his appointment. The proper operation of democratic government requires that decision-makers be independent, impartial, and accountable to those they serve. Accordingly, the Perry City Council has adopted this section to: 1) Describe the standards of behavior to which its leaders aspire; 2) Provide an ongoing source of guidance to City officials in their day-to-day service to the City; and 3) Promote and maintain a culture of ethics. This Code of Ethics builds upon the City of Perry's ideals, which include:

1. Respect for the Individual; namely

a. City officials will treat their fellow City officials, staff and the public with patience, courtesy, and civility, even when City officials disagree on what is best for the community.

b. City officials will promote consistency, equity, and non-discrimination in public agency decision-making.

2. Honor of the Public Trust as Stewards of the Community; namely

a. City officials shall honor the Public Trust.

b. City officials shall recognize that they are stewards of the public trust.

c. City officials shall understand that the community expects City officials to serve with dignity and respect for their office or employment, as well as to be agents of the democratic process acting in the public interest.

d. City officials shall avoid actions that might cause the public to question their independent judgment.

e. City officials shall not use their office, employment, or the resources of the City for financial or political gain.

f. As prudent stewards of public resources, City officials shall actively consider the impact of their decisions on the financial and social stability of the City and its residents.

g. City officials shall make decisions in the public's best interest based on the merits and substance of the matter at hand, and to take responsibility for their actions, whether those decisions are popular or not.

h. City officials are dedicated to the highest ideals of honor and integrity in all public and personal relationships in order that the city official may merit the respect and confidence of other city officials, city employees and the public generally. City officials shall recognize that the chief function of local government at all times is to serve

the best interest of the persons who work, reside and/or visit the community.

i. City officials should acknowledge that personal aggrandizement or profit secured by confidential information or by misuse of public time or funds is dishonest.

3. Open and Honest Communication.

a. City officials are honest and forthright with fellow City officials, the public and others, even when it is uncomfortable to do so.

b. City officials encourage diverse public engagement in their decision-making processes and support the public's right to know.

c. City officials hold themselves as individuals and the City of Perry's organization as a whole accountable for acting consistently with this Code of Ethics.

B. City officials shall comply with the laws of the United States, the State of Oklahoma, and the City of Perry in the performance of their public duties. These laws include but are not limited to the United States and Oklahoma Constitutions; Oklahoma statutes, Perry City Charter, Perry Municipal Code, applicable laws, and regulations pertaining to conflicts of interest, election campaigns, financial disclosures, employer responsibilities, and policies. City officials shall recognize that their primary responsibility and allegiance is to support and serve the municipal corporation and its best interests.

C. Within thirty (30) days of the adoption of this section, every City official shall sign an oath or affirmation promising to abide by the terms of this section during the tenure of their public service with the City of Perry, Oklahoma.

CHAPTER 3

ALCOHOLIC BEVERAGES

ARTICLE 1

ALCOHOLIC BEVERAGES AND OCCUPATION TAX

SECTION 3-101 DEFINITIONS
SECTION 3-102 OCCUPATION TAX LEVIED
SECTION 3-131 PAYMENT REQUIRED; PENALTY
SECTION 3-104 ANNUAL REPORT
SECTION 3-105 APPLICATION FOR CERTIFICATES; INVESTIGATION
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
SECTION 3-205 POSSESSION OR CONSUMPTION OF ALCOHOLIC BEVERAGES
PROHIBITED IN OTHER LOCATIONS WITHOUT PERMISSION
SECTION 3-206 PERMITTING OR ALLOWING GATHERINGS WHERE MINORS
ARE CONSUMING ALCOHOLIC BEVERAGES
SECTION 3-207 LOCATION OF RETAIL PACKAGE STORE, MIXED BEVERAGE
ESTABLISHMENTS, BEER OR WINE ESTABLISHMENTS OR
BOTTLE CLUB
SECTION 3-208 TRANSPORTATION OPEN CONTAINERS OF ALCOHOLIC
BEVERAGES
SECTION 3-209 MUNICIPALITY MAY INITIATE LICENSE SUSPENSION
SECTION 3-210 PROHIBITED ACTS

CHAPTER 3: ALCOHOLIC BEVERAGES

Article 1

Alcoholic Beverages and Occupation TaxSection 3-101 DEFINITIONS:

All 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.

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 Perry, 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	\$100.00
Small Brewer	\$100.00
Small Brewer Self-Distribution	\$100.00
Brew Pub	\$100.00
Pub Self-Distribution	\$100.00
Distiller	\$100.00
Winemaker	\$100.00
Winemaker Self-Distribution	\$100.00
Small Farm Winery	\$75.00

Wine and Spirits Wholesaler	\$100.00
Beer Distributor	\$100.00
Retail Spirits	\$100.00
Retail Wine	\$100.00
Retail Beer	\$100.00
Mixed Beverage Initial	\$100.00
Mixed Beverage Renewal	\$100.00
Mixed Beverage/Caterer Combination	\$100.00
On Premises Beer and Wine Initial	\$100.00
On Premises Beer and Wine Renewal	\$100.00
Bottle Club Initial	\$100.00
Bottle Club Renewal	\$100.00
Caterer	\$100.00
Caterer Renewal	\$100.00
Annual Special Event	\$55.00
Quarterly Special Event	\$55.00
Hotel Beverage Initial	\$100.00
Hotel Beverage Renewal	\$100.00

Charitable Auction	\$1.00
Charitable Alcoholic Beverage	\$55.00
Annual Public Event	\$100.00
One-time Public Event	\$100.00

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 Perry, 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 one hundred dollars (\$100.00) 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 Perry.

Section 3-202 DRINKING IN PUBLIC.

It is unlawful for any person to drink any alcoholic beverage, to include beer and wine (hereinafter "alcoholic beverage"), while such person is upon any public street, alley, or other public highway, or in any public building or other public place within the City. This Section shall not prohibit a person who is of age from drinking such beverage in a place licensed to sell it for consumption on the premises or any person who is of age who is consuming any alcoholic beverage at any special event from an authorized seller, which special event is authorized in writing by the City Manager. The specific site at any such authorized special event wherein alcoholic beverages shall be permitted to be consumed shall be plainly and clearly marked with signage warning the public that no consumption is permitted outside the area completely encircled with appropriate barriers and any person who shall consume alcoholic beverages outside the designated barrier or who shall consume alcoholic beverages from any source other than an authorized seller and not in an otherwise authorized location shall be guilty of an offense of Section 3-202.

Section 3-203 PUBLIC INTOXICATION AND DRINKING PROHIBITED.

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

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 non-religious 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.

PAGE LEFT INTENTIONALLY BLANK

CHAPTER 4: ANIMALS

ARTICLE 1

ANIMAL REGULATIONS

DIVISION 1

GENERAL PROVISIONS

Section 4-101 DEFINITIONS
Section 4-102 ANIMALS RUNNING AT LARGE PROHIBITED
Section 4-103 TURNING ANIMALS AT LARGE UNLAWFUL
Section 4-104 KEEPING OF LIVESTOCK AND FOWL PROHIBITED;
EXCEPTIONS
Section 4-104A HOBBY CHICKENS/HOBBY DUCKS
Section 4-105 ANIMALS WHICH DISTURB, CONSTITUTE NUISANCE
Section 4-106 BUILDINGS FOR ANIMALS; CONSTRUCTION AND
CONDITIONS
Section 4-107 INSPECTIONS
Section 4-108 POLICE DOGS

DIVISION 2

DOG AND CAT VACCINATION, TAGS AND TAX

Section 4-120 DOGS AND CATS TO BE VACCINATED
Section 4-121 RESERVED.
Section 4-122 RESERVED.
SECTION 4-123 SUMMONS AND COMPLAINT.
SECTION 4-124 HEARING.
SECTION 4-125 DETERMINATION.

DIVISION 3

ANIMAL CONTROL SHELTER

Section 4-130 SHELTER ESTABLISHED; FEEDING ANIMALS
Section 4-131 IMPOUNDING ANIMALS
Section 4-132 ANIMALS TO BE IMPOUNDED
Section 4-133 BREAKING ANIMAL CONTROL SHELTER
Section 4-134 FEES FOR IMPOUNDING
Section 4-135 OWNER MAY REDEEM
Section 4-136 SALE OR DESTRUCTION OF IMPOUNDED ANIMALS
Section 4-137 OWNER MAY CLAIM EXCESS MONEY

Section 4-138 ADOPTION FROM SHELTER, DEPOSIT,
STERILIZATION REQUIREMENTS
Section 4-139 SHOOTING OF ANIMAL AUTHORIZED

DIVISION 4

CRUELTY TO ANIMALS

Section 4-140 CRUELTY TO ANIMALS
Section 4-141 POISONING ANIMALS
Section 4-142 ENCOURAGING ANIMALS TO FIGHT

DIVISION 5

WILD, EXOTIC OR DANGEROUS ANIMALS

Section 4-150 KEEPING OF WILD, EXOTIC OR DANGEROUS ANIMALS

DIVISION 6

ZONING ORDINANCE TO PREVAIL

Section 4-160 ZONING ORDINANCE TO PREVAIL

DIVISION 7

PROCLAMATION OF RABIES

Section 4-170 DOGS AND CATS CONFINED; WHEN
Section 4-171 QUARANTINE OF ANIMALS FOR OBSERVATION
Section 4-172 SECURING SUPPORT INFORMATION ON DIAGNOSED ANIMALS
Section 4-173 RABIES CRISIS DECLARATION
Section 4-174 DESTRUCTION OF ANIMALS UNDER CRISIS PERIOD
Section 4-175 SURRENDER OF ANIMALS UNDER SUSPECT

ARTICLE 2

MISCELLANEOUS

DIVISION 1. GENERALLY

Section 4-200 PURPOSE AND DEFINITIONS
Section 4-200A NUMBER OF DOGS, CATS AND ASIAN POT-BELLIED PIGS
PERMITTED

Section 4-200B FAILURE TO PROVIDE HUMANE CARE AND TREATMENT OF
ANIMALS IS PROHIBITED

DIVISION 2. KENNEL LICENSES

Section 4-201 KENNEL LICENSE REQUIRED

Section 4-202 REVOCATION AND SUSPENSION OF LICENSE

DIVISION 3. KENNEL REQUIREMENTS

Section 4-301 SUBMISSION OF KENNEL PLANS AND SPECIFICATIONS

Section 4-302 CONTENTS OF PLANS AND SPECIFICATIONS

Section 4-303 SEPARATION OF CERTAIN AREAS

Section 4-304 PHYSICAL FACILITIES

Section 4-305 PRIMARY ENCLOSURE STANDARDS

Section 4-306 SANITATION

Section 4-307 FOOD AND WATER

Section 4-308 APPLICATION OF REQUIREMENTS TO EXISTING
FACILITIES

Section 4-309 INSPECTION OF FACILITIES

CHAPTER 4: ANIMALS

ARTICLE 1

DIVISION 1

GENERAL PROVISIONS

Section 4-101 DEFINITIONS.

The following words and phrases when used in this chapter shall have the meanings prescribed in this Section except in those cases where the context clearly indicates a different meaning:

1. "Animal" means any and all types of animals, domesticated and wild, and including but not limited to any horse, mule, donkey, pony, cow, sheep, goat, hog, dog, cat, rabbit, chicken, goose, duck, turkey, or other animal, including fowl;

2. "At large" means off the premises of the owner or keeper and neither enclosed within a building, fence or other enclosure of sufficient strength and construction to restrain and keep the animal within the building, fence or other enclosure, nor securely restrained and controlled by a person by a leash or harness with handhold;

3. "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;

4. "Dangerous animal" means any animal 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 officer in writing and the animal 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 officer in writing and the animal thereafter kills or severely injures a domestic animal.

Animals shall not be declared 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 animal, or was tormenting, abusing, or assaulting the animal or has, in the past, been observed or reported to have tormented, abused, or assaulted the animal or was committing or attempting to commit a crime. Dangerous animal does not include a police dog while the police dog is being used to assist law enforcement officers in the performance of their duty;

5. "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;

6. "Health officer" means the director of the county health department or his authorized agent and shall also include the city animal control officer;

7. "Keeper" means any person, family, firm, or corporation owning or actually keeping, having, using, or maintaining any of the animals herein referred to;

8. "Large animals" means horses, mules, donkeys, cattle, goats, sheep or any other animal of similar size or stature;

9. "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;

10. "Neuter" means to render a male dog or cat unable to reproduce;

11. "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 or menacing fashion which annoys the comfort, repose, health or safety of the people in the community; unconfined in season; or a dangerous animal not confined as required by this chapter;

12. "Owner" or "keeper" means any person, firm or corporation owning, controlling, harboring, or keeping an animal. The occupant of any premises on which a domesticated or tamed animal remains, or to which it customarily returns, for a period of ten (10) days or more, shall be deemed to be harboring or keeping the animal;

13. "Permit" includes but is not limited to the failure to take adequate precautions to prevent an animal from being at large; and

14. "Potentially dangerous animal" means any animal that:

a. inflicts a bite on a human either on public or private property, or

b. kills or severely injures a domestic animal either on public or private property;

c. chases or approaches a person upon any public or private property (not under the ownership or control of the owner or keeper of the potentially dangerous animal) in a menacing fashion or apparent attitude of attack, or any animal with a known propensity, tendency, or disposition to attack unprovoked, to cause injury or otherwise to threaten the safety of humans or domestic animals.

15. "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;

16. "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;

17. "Severe injury" means any physical injury that results in broken bones or lacerations requiring multiple sutures or cosmetic surgery;

18. "Spay" means to remove the ovaries of a female dog or cat in order to render the animal unable to reproduce;

19. "Vaccination" means an injection of United States Department of Agriculture approved rabies vaccine administered by a licensed veterinarian;

20. "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.

Section 4-102 ANIMALS RUNNING AT LARGE PROHIBITED

The owner or keeper of any fowl or any animal shall keep such animal under restraint at all times and shall not permit such animal to be at large.

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 the animal at large, or in any manner to turn the animal at large.

Section 4-104 KEEPING OF LIVESTOCK AND FOWL PROHIBITED; EXCEPTIONS.

A. For the purpose of this Section, "livestock" means horses, mules, cows, goats, sheep, swine, farm animals, fowl, and any other animal commonly considered as livestock and fowl.

B. No livestock shall be kept within the city, except temporarily in a stockyard or other enclosure awaiting transportation and except as otherwise permitted by this Section and the city's zoning ordinance.

C. It is unlawful for any person, firm, or corporation to keep any livestock within the city limits except when the following conditions have been first complied with:

1. For horses and cattle, a lot or pen of not less than forty thousand (40,000) square feet in area shall be provided and the lot or pen shall have substantial fence. No part of the lot or pen shall be within fifty (50) feet of any private dwelling or place used for residential purposes;

2. For all other livestock or farm animals, a lot or pen of not less than two hundred thousand (200,000) square feet in area shall be provided and the lot or pen shall have a substantial fence. No part of the lot or pen shall be within five hundred (500) feet of any private dwelling or place used for residential purposes;

3. When shown by certification of a duly licensed medical doctor within the state that it is necessary for reasons of health of a person or a member of his family it shall be lawful to have one or more goats provided that the goat or goats shall be contained in a lot or pen of not less than forty thousand (40,000) square feet in area and the lot or pen shall have substantial fence and no part of the lot or pen shall be within fifty (50) feet of any private dwelling or place used for residential purposes;

4. Each of the lots or pens shall be kept clean at all times and manure kept in a pile and removed not less often than once in each period of one week; and

5. The barn, shed, feed room and other premises in use for the keeping of the livestock and animals shall be kept clean and sanitary.

D. Except as otherwise provided in Section 4-104A or on any agricultural zoned property, it is unlawful for any person, firm, or corporation to keep any fowl within the city limits. For purpose of this article the term "fowl" shall mean chickens, geese, ducks, turkeys, swans, guinea fowl and other domesticated barnyard fowl. Excluded from the definition of "fowl" are caged birds, including parakeets, parrots, canaries, finches, lovebirds, myna birds and other birds ordinarily kept in cages in household; provided however, wild birds captured or rescued and kept in cages shall be considered "fowl".

E. No person shall keep or maintain swine within the limits of the city except temporarily in a stockyard or other enclosure awaiting transportation and except as otherwise permitted by this Section and the city's zoning ordinance. This section shall not apply to the keeping within the limits of the city of Asian pot-bellied pigs, subject to the following:

1. each Asian pot-bellied pig shall be a pet, that is to be kept for personal enjoyment and not raised for human consumption;
2. each Asian pot-bellied pig shall be registered through a bona fide registry firm;
3. each Asian pot-bellied pig shall not exceed seventy-five (75) pounds in weight and twenty inches in height;
4. there shall be not more than two (2) Asian pot-bellied pigs of more than six months of age per residence;
5. every person who owns or has charge, care, custody, possession or control of any Asian pot-bellied pig over the age of six (6) months shall register the Asian pot-bellied pig with the National Swine Registry, and in addition, register it annually with the Animal Control Department. No Asian pot-bellied pig shall be registered until after it has been tested and examined by a licensed veterinarian against infectious disease and a certificate signed by such licensed veterinarian certified to such inoculation shall have been presented to the Animal Control Department for the period of the registration, and from time to time, and prior to the time the period of inoculation has run out.
6. every person who owns, has charge, care, custody, possession or control of any Asian pot-bellied pig within the City shall confine the Asian pot-bellied pig to the premises owned or controlled by him. Confinement shall be accomplished by means of a substantial fence or similar enclosure of sufficient strength and height to prevent the Asian pot-bellied pig from escaping therefrom, or inside a house or other building, or by a leash consisting of a metal chain or other material of sufficient strength to prevent the Asian pot-bellied pig from escaping from the premises when the leash is stretched to its full length. All of the provisions of this municipal code

relating to animals shall be followed with respect to Asian pot-bellied pigs, including but not limited to the provisions contained in Section 4-106 concerning buildings for animals, construction and conditions, Section 4-107 concerning inspections and Section 4-200B concerning the failure to provide humane care and treatment of animals is prohibited.

SECTION 4-104A HOBBY CHICKENS AND HOBBY DUCKS

A. This section provides an additional exception to the restrictions contained in Section 4-104 of this code regarding the keeping of fowl within the city limits. This exception pertains to the keeping "hobby chickens" defined as and 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 by right in an agriculture district. An additional exemption pertains to keeping "hobby ducks" defined as any of various species of relatively small, short-necked, large-billed waterfowl raised for noncommercial purposes, more specifically, the gathering of eggs for personal use.

B. All persons intending to keep hobby chickens or hobby ducks 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 or hobby ducks shall be permitted in multi-family housing, to include duplexes. Hobby chickens and hobby ducks shall only be permitted in residential zoned property and any other zoned properties which may allow housing with single family residential uses. A property owner or person in custody or control of any property may keep hobby chickens or hobby ducks, in accordance with this section, but not both hobby chickens and hobby ducks.

D. No person may slaughter any chicken or ducks within city limits under any circumstance, except as permitted by right in an agricultural zone.

E. Not more than five (5) hobby chickens or hobby ducks may be kept per residential tract containing one dwelling unit.

F. No person shall allow such hobby chickens or hobby ducks 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 or hobby ducks 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. Hobby ducks shall be confined within a duck 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. A small pool or other body of water shall be provided for hobby duck swimming needs.

c. It is unlawful for any person to confine any such hobby chickens or hobby ducks 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.

2. Maintenance of Coop or Enclosure:

a. Every keeper of hobby chickens or hobby ducks 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 or hobby ducks 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 or hobby ducks 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 or hobby ducks shall cause the litter and droppings therefrom to be collected daily in a container or receptacle of such type that, when closed, is ratproof 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 chicken or hobby ducks shall cause all feed provided therefor to be stored and kept in a ratproof, fly tight building, box, container, or receptacle.

6. Inspection: The premises where hobby chickens or hobby ducks 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.

Section 4-105 ANIMALS WHICH DISTURB PROHIBITED, CONSTITUTE NUISANCE.

A. The following conditions are hereby declared to be a nuisance:

1. Any dog or other animal which, by barking, howling or otherwise, disturbs the peace and quiet of any person;

2. Any dog or other animal, which goes into any garbage

can or other waste vessel, or turns the same over or scatters the contents of the same on the ground; and

3. Any dog or other animal which chases cars, motorcycles, bicycles, or any other motor vehicle or intimidate joggers, pedestrians, or children.

B. Any dog or other animal alleged to be a nuisance, as defined in this Section, may be proceeded against in the municipal court after a complaint has been duly filed therein by any person having knowledge thereof, and if the court shall find that such dog or other animal is a nuisance, then the court may order the owner or person in possession to prevent and abate such nuisance, or the court may order such dog or animal impounded and the owner or person in possession may have the dog or other animal returned upon paying all costs of impounding and giving good and sufficient bond, in the sum as set by the city, conditioned that he will prevent and abate such nuisance. Thirty (30) days thereafter, such owner or person in possession may present to the court evidence that the nuisance has been abated and prevented and the court may, upon such hearing, order the bond returned.

Cross Reference: Nuisances generally, Sections 8-301 et seq.

Section 4-106 BUILDINGS FOR ANIMALS, CONSTRUCTION AND CONDITIONS.

A. Every building or structure wherein any animal is kept within the city shall be constructed of such material and in such manner that it can be kept clean and sanitary at all times.

B. Every such building housing any livestock or fur-bearing animals, including but not limited to any horse, mule, donkey, cow, goat or sheep, if located within two hundred (200) feet of any apartment house, hotel, restaurant, boarding house, retail food store, building used for educational, religious, or hospital purposes or residence other than that occupied by the owner or occupant of the premises upon which such animal is kept, shall be provided with a watertight and fly-tight receptacle for manure, of such size as to hold all accumulations of manure. 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.

Section 4-107 INSPECTIONS.

The animal control officer, the health officer, or any police officer, upon complaint of any person, shall inspect any structure or place where an animal is kept, and may do so on his own initiative. He may issue any such reasonable order as he may deem necessary to the owner of the animal to cause the animal to be kept as provided in this chapter or in a manner so as not to constitute a nuisance. He may make a complaint before the municipal judge against any person for violation of any provision of this chapter or of any such reasonable order, but this procedure shall not abridge the right of others to make such complaint.

Section 4-108 POLICE DOGS.

A. Teasing, Striking or Tampering with Police Dogs Prohibited. It shall be unlawful for any person to willfully or maliciously taunt, torment, tease, beat, strike, administer or subject any desensitizing drugs, chemicals or substance to any dog used by a law enforcement officer in the performance of his/her functions or duties, or when placed in a kennel off duty; or to interfere or meddle with any such dog used by law enforcement department or agency or any handler thereof in the performance of the duty or functions of said department or agency.

B. Injury or Killing Police Dogs Prohibited. It shall be unlawful for any person to willfully or maliciously torture, mutilate, injure, disable, poison or kill any dog used by a law enforcement department or agency in the performance of the functions or duties of such department or when placed in a kennel off duty. However, a police officer or veterinarian may perform euthanasia in emergency situations when delay would cause the dog undue suffering and pain.

DIVISION 2

DOG AND CAT VACCINATION, TAGS AND TAX

Section 4-120 DOGS AND CATS TO BE VACCINATED.

The owner or person in lawful possession of a dog or cat which is located in the City shall, before it is six (6) months old, have such dog or cat vaccinated against rabies by a veterinarian such that the dog or cat is at all times protected against rabies in accordance with the vaccine administered. The veterinarian shall furnish a certificate or statement of vaccination showing 1) the date the vaccine was administered, 2) the type of vaccine and 3) the length of the effectiveness of the vaccine, to the owner or person in lawful possession, together with a rabies tag. The owner shall cause the tag received from the veterinarian for the rabies vaccination to be affixed to the collar of the dog or cat so that the tag can easily be seen by officers of the city. The owner shall ensure that the tag is worn by the dog or cat at all times.

Section 4-121 RESERVED.

Section 4-122 RESERVED.

SECTION 4-123 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 or potentially dangerous; and

6. Other facts and circumstances of the incident.

SECTION 4-124 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 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 4-125 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 not dangerous, in which event the animal control officer shall cause the animal 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 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 the animal and the posting of the premises with a clearly visible warning sign that there is a dangerous or potentially dangerous animal 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 animal and at a minimum states in capital bold lettering "BEWARE OF 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 Two Hundred and Fifty Thousand Dollars (\$250,000.00) 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 Ten Dollar (\$10.00) per year registration fee to the City.

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. It is unlawful for an owner to have a dangerous or potentially dangerous animal in the City without complying with the following court ordered requirements:

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

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

3. 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 owner to any victim of an attack by the animal. However, insurance payments may not be considered as an offset.

4. The animal is not registered, or the annual fee has not been paid to the City.

5. An owner whose animal is adjudged to be a dangerous or potentially dangerous 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 Noble

District Court in the same manner as other appeals from actions of the municipal court.

Any dangerous or potentially dangerous animal not in compliance with any court ordered requirement shall be immediately confiscated by the animal control officer.

6. Any owner or keeper of a dangerous or potentially dangerous animal who allows an animal to be in violation of Section 4-102 of this code (Animal Running at Large Prohibited) shall be guilty of an offense, and upon conviction, shall be fined as provided in this section.

7. Any owner or keeper of a dangerous or potentially dangerous animal who violates Section 4-120 of the code (Dogs and Cats to be Vaccinated) shall be guilty of an offense, and upon conviction, shall be fined as provided in this ordinance.

8. The Municipal Judge shall make determinations regarding whether an animal is deemed dangerous or potentially dangerous and all other related orders to protect the health, safety and welfare of the public.

DIVISION 3

ANIMAL CONTROL SHELTER

Section 4-130 SHELTER ESTABLISHED; FEEDING ANIMALS.

A city animal control shelter is hereby established under the jurisdiction of the animal control officer or of such other person as may be officially designated. The person in charge of the animal control shelter shall provide proper sustenance for all animals impounded and shall treat them in a humane manner.

Section 4-131 IMPOUNDING ANIMALS.

A. The animal control officer, or any other city officer or employee shall catch, or take up, and impound in the city pound any animal which is at large within the city or in violation of this code. When an animal is so impounded, it shall be humanely kept and treated, and may be redeemed and disposed of, as other impounded animals are kept, treated, and redeemed or disposed of. A description of the animal shall be kept and if the owner is known, the city shall attempt to notify

the owner of the impoundment orally or in writing.

B. In any prosecution charging a violation of any part of this Section proof that the animal described in the complaint was at large as defined herein and that the defendant named in the complaint was the owner of the animal shall constitute in evidence a prima facie presumption that the owner permitted his animal to be at large in violation of this chapter.

State Law Reference: State law on disposal of animals, applicable to cities over 10,000, 4 O.S. Section 501 - 508.

Section 4-132 ANIMALS TO BE IMPOUNDED.

A. The animal control officer, a police officer, or such other officer or employee of the city as may be authorized:

1. Shall take into custody and impound any animal running at large in violation of any provision of the ordinances of the city; and

2. May enter upon the premises of the owner or other private premises to take such animal into custody.

B. Any other person may take such animal into custody and present it to the authority in charge of the animal control shelter for impounding.

Section 4-133 BREAKING ANIMAL CONTROL SHELTER.

No unauthorized person shall:

1. Break or attempt to break open the animal control shelter, or take or let out any animal therefrom;

2. Take or attempt to take from any officer or employee of the city any animal taken into custody as provided by this chapter; or

3. In any manner interfere with or hinder an officer or employee in the discharge of his duties relating to the taking into custody and impounding of animals as provided in this chapter.

Section 4-134 FEES FOR IMPOUNDING.

A. The city council shall determine the fees to be charged for impounding and keeping animals. In computing the fee, a fraction of a day during which an animal has been fed shall be deemed a full day.

B. Any person redeeming an impounded animal shall pay the required fees to the city and present his receipt therefore to the person in charge of the control shelter before the latter releases the animal.

C. Any person redeeming a dog not licensed as required by Sections 4-120 through 4-126 of this code shall pay the required license tax to the city and secure a tag and present the receipt therefore and the tag to the person in charge of the control shelter before the latter releases the dog. If a dog has been licensed but is not wearing the tag, the person in charge of the control shelter shall require adequate evidence of the proper licensing of the dog before releasing it.

Cross Reference: See city's fee schedule.

Section 4-135 OWNER MAY REDEEM.

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. However, when in the judgment of the animal control officer, an animal should be destroyed for humane reasons, such animal may not be redeemed.

Section 4-136 SALE OR DESTRUCTION OF IMPOUNDED ANIMALS.

A. As soon as practicable after any animal has been impounded, the animal control officer or other employee or officer impounding the animal, shall post a notice thereof at the police office or animal control shelter of the city. The notice shall describe the animal and notify the owner to pay the charges thereon and remove the same prior to a designated time. The notice shall also state that, unless the animal is redeemed, the animal will be sold or destroyed as provided in this chapter.

B. Except as otherwise provided in this chapter, an

impounded animal shall be held for seventy-two (72) hours during which time it may be redeemed pursuant to this chapter. No animal may be destroyed or sold until after this period.

C. Sales herein provided for shall be for cash and shall be conducted by, or under the direction of the chief of police. In no case shall the price of an animal be less than the fees, set out in this chapter, which have accrued against the animal. If an impounded animal cannot be sold, the animal shall be destroyed, in a humane manner, or otherwise disposed of in a legal manner.

D. The purchaser of an animal at a sale held as provided herein shall acquire absolute title to the animal purchases.

E. The animal control officer shall pay to the city any money received from the sale of impounded animals.

State Law Reference: Authorized means of destroying animals in animal shelters, 4 O.S. Section 501 to 508.

Section 4-137 OWNER MAY CLAIM EXCESS MONEY.

The owner of an impounded animal sold as provided herein may claim the excess of the sale price of the animal above the fees for impounding and keeping the same and a fee of Five Dollars (\$5.00) to reimburse the city for any expense it has had in making the sale, at any time within thirty (30) days after the sale. If a claim is so made and approved by the council, the city treasurer shall pay him such excess. If a claim is not made, the excess shall belong to the city.

Section 4-138 ADOPTION FROM SHELTER, DEPOSIT, STERILIZATION REQUIREMENTS.

A. For the purpose of this Section, the following terms shall have the meanings ascribed to them:

1. "Keep or harbor" means to maintain, possess, control and use;
2. "Neuter" means to render a male dog or cat unable to reproduce;
3. "New owner or owner" means a person legally competent

to enter into a contract acquiring a dog or cat from the city's animal shelter;

4. "Pound" means an establishment for the confinement of animals seized either under the provisions of this chapter or otherwise;

5. "Spay" means to remove the ovaries of a female dog or cat in order to render the animal unable to reproduce; and

6. "Sterilization" means to spay or neuter a dog or cat.

B. No dog or cat may be released for adoption by the animal shelter unless the animal has been surgically spayed or neutered; or unless the adopting party signs an agreement to have the animal sterilized, and deposits funds with the city to ensure that the adopted animal will be spayed or neutered. A deposit shall be required as set by the council by motion or resolution.

C. The funds deposited with the city shall be refunded to the adopting party upon the adopting party's presentation of a written statement signed by a licensed veterinarian that the adopted animal has been spayed or neutered. However, no refunds shall be made unless the animal was spayed or neutered within sixty (60) days of adoption in the case of adult animals or, in the case of infant animals, within thirty (30) days of the date a female animal attained the age of six (6) months, or a male animal attained the age of eight (8) months.

D. Upon presentation of a written report from a licensed veterinarian stating that the life or health of an adopted animal may be jeopardized by surgery, the supervisor of the animal shelter shall grant a thirty (30) day extension of the period within which spay or neuter surgery would otherwise be required. Further extensions may be granted upon additional veterinary reports stating their necessity.

E. If requested to do so, the city shall refund deposited funds to the adopting party upon reasonable proof being presented to the animal shelter by the adopting party that the adopted animal died before the expiration of the period during which the spaying or neutering was to be completed.

F. Funds which have been forfeited by adopting parties

shall be placed in a separate account, which shall be an interest-bearing account whenever feasible and the city shall allocate funds from the account to programs which directly promote, subsidize or otherwise reduce the cost of spaying or neutering animals released by the animal shelter. The city shall maintain accurate records of accounts which fund spay/neuter programs.

G. This Section shall not be construed to require sterilization of dogs and cats which are being held by the animal shelter which might be claimed by the rightful owner.

Section 4-139 SHOOTING OF ANIMAL AUTHORIZED

A. The animal control officer and his assistants and officers of the police department are authorized to shoot with a tranquilizer gun any animal which is vicious, running in a public park or public cemetery or which they are unable to take up and impound.

B. Police officers may kill or destroy any animal which is vicious, running in parks or which they are unable to take up and impound.

C. Neither the city, nor police officers, nor the animal control officers, nor any of his assistants, shall be liable for any damages caused by any person by the shooting of any animal.

DIVISION 4

CRUELTY TO ANIMALS

Section 4-140 CRUELTY TO ANIMALS.

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

B. The premises on or in which any animals are kept shall be subject to inspection by the health officer or any of his representatives, at any reasonable hour of the day, for the purpose of enforcing this chapter.

C. Any police officer or animal control officer may enter the premises where any animal is kept in a reportedly cruel or inhumane manner and demand to examine such animal and take possession of such animal when, in his opinion, it requires humane treatment.

State Law Reference: Cruelty to animals, 21 O.S. Section 168.

Section 4-141 POISONING ANIMALS.

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

Section 4-142 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.

DIVISION 5

WILD, EXOTIC OR DANGEROUS ANIMALS

Section 4-150 KEEPING OF WILD, EXOTIC OR DANGEROUS ANIMALS.

A. For the purpose of this Section, a wild, exotic or dangerous animal means an animal of the larger variety which is usually not a domestic animal and which can normally be found in the wild state, with or without mean or vicious propensities, including, but not limited to, lions, tigers, leopards, panthers, bears, wolves, alligators, crocodiles, apes, foxes, elephants, rhinoceroses, and all forms of poisonous or large snakes or reptiles, including those considered dangerous such as boas and pythons, lynxes, raccoons, skunks, monkeys, and other like animals.

B. It is unlawful to keep any wild and dangerous animal within the city limits, however, such animals may be kept for temporary periods of time for exhibition purposes only by

circuses, zoos, and educational institutions. The term "temporary periods of time" as used in this subsection shall be defined as, and shall be limited to, a period of time not to exceed one week per year per applicant.

C. Applicants for a permit or license shall file with the city clerk in duplicate a sworn application in writing, on a form to be furnished by the clerk, which shall give the following information:

1. Full name, description, birth date and social security number of each individual applicant;

2. Address, both local and elsewhere;

3. Nature of business or operation;

4. If employed by another, the name and address of applicant's employer, together with a brief description or credentials showing the exact relationship;

5. Length of time for which the right to do business or operate is desired;

6. If applicant is a corporation, partnership, limited partnership, or other business entity other than a sole proprietor, doing business without a fictitious name, applicant shall, in addition to the other information required hereby, provide the names of all shareholders, officers, and directors, of a corporation, or the names of all partners or other individuals or entities in partnership or association, if a business entity, other than a corporation; and

7. A statement as to whether or not the applicant or any person as specified in Paragraph 6 above, has or have been convicted of a felony, the nature of the offense, and the punishment or penalty assessed, therefore.

D. A permit or license fee shall be required to be paid as of the time the application is submitted for the permit or license.

DIVISION 6

ZONING ORDINANCE TO PREVAIL

Section 4-160 ZONING ORDINANCE TO PREVAIL.

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

Cross Reference: Zoning ordinance, Section 12-201 et seq. of this code.

DIVISION 7

PROCLAMATION OF RABIES

Section 4-170 DOGS AND CATS CONFINED; WHEN.

A. When the health officer or chief of police determines and certifies that a dog, a cat, or other animal in the city or within five (5) miles of the city is or was infected with rabies and that an epidemic of rabies threatens the city, the council, by resolution, may order all dogs to be confined, and if deemed desirable, all cats to be confined, during a period of time to be determined by the council. Such resolution or an adequate notice of its passage shall be published in a newspaper of general circulation within the city and shall go into effect on the day following such publication unless the resolution prescribes a later time.

B. While such resolution is in effect, it is unlawful for any owner to permit a dog or cat to be at large in violation of such resolution, or for any dog or cat to be at large in violation thereof.

Section 4-171 QUARANTINE OF ANIMALS FOR OBSERVATION.

A. The identity and address of the owner of any animal that bites a person shall be promptly furnished to the animal control officer and the county health department. The animal, regardless of its immunization status, shall be securely quarantined at a veterinary hospital of the owner's choice at the owner's expense. The animal shall be observed by a licensed veterinarian for a period of ten (10) days and may not be released until such reasonable determination has been made that the animal is not infected with rabies, unless the bite was a

severe bite by an unimmunized animal. In circumstances of a severe bite (bite on the head, face, neck or upper extremities; or deep laceration; or multiple bite wounds) by an unimmunized animal, the biting animal should be humanely killed immediately, without damaging the head, and the head should be humanely shipped, under refrigeration, for examination at the Oklahoma State Department of Health. If the animal is not immediately available for testing, the individuals exposed should consult with their physicians concerning the need for immediate initiation for rabies prophylaxis. In case of animals whose ownership is unknown, such quarantine shall be at the city animal shelter. If an owner becomes known, the animal may be reclaimed by the owner if adjudged free of rabies, and such owner shall then pay any related charges for confinement. Signs of rabies in wild animals cannot be interpreted reliably; therefore, any wild animal that exposes a person should be killed at once (without unnecessary damage to the head) and the head submitted for examination for evidence of rabies.

B. 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.

C. 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 4-172 SECURING SUPPORT INFORMATION ON DIAGNOSED ANIMALS.

When an animal under quarantine has been diagnosed as being rabid or is suspected of having rabies by a licensed veterinarian and dies while under such observation, the animal control officer, veterinarian, the city health officer, or other designated emissary shall immediately send the necessary part of such animal to the state health department for pathological examination and shall notify the proper public health officer of any reports of human contact.

Section 4-173 RABIES CRISIS DECLARATION.

When a report gives a suspected or a positive diagnosis of

rabies, or when the city, county or state health officials feel that a rabies crisis may be imminent, the health officials may recommend to the City Manager citywide quarantine, and upon the invoking of such quarantine by the City Manager no animal shall be taken into the streets or permitted to be in the streets, except for short periods of exercise under leash and control of a competent adult. During the quarantine, no animals may be taken or removed from the city without written permission of the animal control officer. This declaration must be made by notice in a general circulated newspaper of the community and will last as long as health officials determine the situation requires such action.

Section 4-174 DESTRUCTION OF ANIMALS UNDER CRISIS PERIOD.

A. During the period of rabies quarantine as mentioned every animal bitten by an animal adjudged to be rabid shall be forthwith destroyed, or at the owner's expense and option, shall be treated for a rabies infection by a licensed veterinarian, or held under six (6) month quarantine by the owner in the same manner as a female in season. The period of quarantine may be extended from time to time.

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

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

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

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

Section 4-175 SURRENDER OF ANIMALS UNDER SUSPECT.

No person shall remove from the city any animal suspected

of having been exposed to rabies, or any animal which has bitten a human, except as herein provided. The carcass of any dead animal exposed to rabies shall be surrendered to the animal control officer upon demand, and the animal control officer shall direct disposition of the animal. No person shall refuse to surrender any animal for quarantine or destruction when such demand is lawfully made by the animal control officer.

ARTICLE 2

DIVISION 1. GENERALLY

Section 4-200 PURPOSE AND DEFINITIONS

A. Purpose. The intent of this Article is to prevent and reduce the transmission of diseases from animals, particularly, dogs and cats, to preserve the peace, and to promote the health, safety and welfare of the citizens of the City by establishing rules and regulations over all kennel operations within the City.

All Federal, State, and municipal facilities and license veterinarians shall be exempt from the provisions of this Article.

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

1. Primary enclosures are those areas in which an animal normally rests or sleeps, and which allow the exercise of normal postural movement.

2. Puppy or kitten means an immature dog or cat under the age of six months.

3. Run is a large area designed to allow an animal to move about and exercise freely.

4. Secondary enclosure means the room or structure which houses or contains primary enclosures.

Section 4-200A NUMBER OF DOGS, CATS AND ASIAN POT-BELLIED PIGS PERMITTED

A. Prohibition. No person shall harbor or keep more than a total of four (4) dogs, cats or Asian Pot-Bellied Pigs (aggregate) over the age of six (6) months in any household; provided however, any Asian Pot-Bellied Pig permitted in the City pursuant to Section 4-104 shall be spayed or neutered and unable to produce piglets. The owner, occupant or person in lawful possession or control of the premises shall be responsible for any violation of this section by any of the members of the household.

B. Exception. Businesses located in properly zoned commercial districts may operate kennels wherein more than a total of four (4) dogs, cats or Asian Pot-Bellied Pigs (aggregate) over the age of six (6) months may be kept.

Section 4-200B FAILURE TO PROVIDE HUMANE CARE AND TREATMENT OF ANIMALS IS PROHIBITED

A. Prohibited Conduct. It shall be unlawful for any person owning an animal to fail to provide said animal with humane care and treatment in accordance with the standards provided in this section.

B. Standards of Human Care and Treatment. The following standards of humane care and treatment are established for all animals within the City:

1. Food Requirements. Food shall be free from contamination and of sufficient quantity and nutritive value to maintain an animal in good health. An animal shall be fed at least one per day except as dictated by hibernation, veterinary treatment, normal fasts or other professional accepted practices. All food receptacles shall be kept clean and sanitary.

2. Water Requirement. Safe clean water shall be provided as often as necessary for the health and comfort of each animal. Frequency of watering shall consider age, species, condition, size, and type of animal. All water shall be provided in sturdy, stable receptacles of adequate size for the animal and shall be kept clean and sanitary.

3. Space Requirements. Enclosures or shelters for animals shall be constructed and maintained to provide sufficient space for each animal to make normal postural and

social adjustments and to provide each animal with adequate freedom of movement to maintain good physical condition.

4. Outdoor Shelter Requirements. Natural or artificial shelters appropriate to the local climate conditions for the particular species of animal shall be provided for all animals kept outdoors or for animals left out of doors during inclement weather. A suitable method of drainage shall be provided to rapidly eliminate excess water. A shelter for a dog or cat shall consist of a moisture proof and wind proof structure of suitable size to accommodate the animal and to allow retention of body heat. It shall be made of durable material and shall be provided with a sufficient quantity of suitable bedding material to provide insulation and protection against cold and dampness and to promote retention of body heat.

5. Sanitation Requirements. All shelters, enclosures, cages, and litter boxes shall receive necessary cleaning to remove excreta, waste materials, direct and trash to minimize disease hazards and to reduce odors. Litter in litter boxes and shaving or other materials used in cages

6. Veterinary and other Care Requirements. All animals shall have veterinary and other care to prevent suffering.

C. Leaving an Animal in a Motor Vehicle without adequate ventilation or protection from extreme weather is prohibited. It shall be unlawful for any person to leave any animal in any standing or parked vehicle without providing for adequate ventilation nor shall a person allow an animal to be exposed to extreme temperatures while confined in a vehicle.

D. Animal Control Officer May Impound Animal and/or Provide Terms and Conditions for Care.

1. Whenever the Animal Control Officer finds that any animal is without humane care or treatment, such officer may, at the owner's expense, impound the animal for protective care. In the event the sickness or injury of the animal and upon the advice of the Police Chief or his designee, may take appropriate action to relieve pain and suffering, including the option of the immediate humane euthanasia of the animal.

2. The Animal Control Officer may issue a citation to the owner for a violation of this section and/or may specify the terms and conditions under which the owner may regain or

maintain custody of the animal, which terms and conditions statement shall be signed by the owner. Violation of the terms and conditions by the owner is an offense against the City and shall be cause for the issuance of a citation and may result in the impoundment of the animal.

DIVISION 2

KENNEL LICENSES

Section 4-201 KENNEL LICENSE REQUIRED

No person shall operate a kennel without a license. The cost of a license shall be One Hundred Dollars (\$100.00).

Section 4-202 REVOCATION AND SUSPENSION OF LICENSE

In addition to any other penalties prescribed by ordinance, the City may revoke or suspend a kennel license for any violation of these regulations pursuant to the provisions of Chapter 5, Article 10 of this code.

DIVISION 3

KENNEL REQUIREMENTS

Section 4-301 SUBMISSION OF KENNEL PLANS AND SPECIFICATIONS

In addition to any other requirements of this Code, detailed plans and specifications shall be submitted to the Code Enforcement Officer to construct or remodel any kennel. Approval of plans and specifications must be obtained prior to any construction or remodeling.

Section 4-302 CONTENTS OF PLANS AND SPECIFICATIONS

Any plans and specifications shall be in compliance with this article and must include descriptions of the proposed ventilation system, plumbing equipment, and finishes of floors, walls, and ceilings.

Section 4-303 SEPARATION OF CERTAIN AREAS

Animal housing areas must be physically separated from

areas in which food and/or drink for human consumption is prepared, served, or stored and from any living and/or sleeping areas of kennel personnel.

Section 4-304 PHYSICAL FACILITIES

A. Interior building surfaces. Interior building surfaces shall be constructed and maintained so that they are impervious to moisture and may be readily cleaned.

B. Electric power. Reliable and adequate electric power shall be provided. Electrical wiring must meet all requirements of Chapter 5 of this Code.

C. Water. Adequate potable water shall be provided. Back flow preventers shall be installed on any threaded faucets.

D. Heating. Indoor housing for pet animals shall be sufficiently heated when necessary to protect pet animals from cold, and to provide for their health and comfort. The ambient temperature shall be made consistent with the requirements of the particular species.

E. Ventilation. Indoor housing of animals shall be adequately ventilated with fresh air to minimize odors and moisture and to provide for the health and comfort of the animals at all times. Auxiliary ventilation, such as exhaust fans and vents or air conditioning, shall be provided when the ambient temperature is 85 degrees Fahrenheit or higher.

F. Lighting. Adequate lighting must be provided with a minimum of eight hours per day. Such lighting shall provide a minimum of 25-foot candles of illumination for 30 inches above floor level and must be uniformly distributed. Enclosures must be placed to protect animals from excessive illumination.

G. Drainage. A suitable method shall be provided to rapidly eliminate excess water from animal housing facilities. If drains are used, they shall be properly constructed and kept in good repair. If closed drainage systems are used, wastewater shall be disposed of by connection to a sanitary sewer or any approved sewage disposal system.

Section 4-305 PRIMARY ENCLOSURE STANDARDS

A. Generally. All enclosures shall be structurally sound and maintained in good repair to protect the animals from injury, to contain them and to prevent vermin from entering. They shall be constructed and maintained to enable the animals to remain dry and clean and to provide convenient access to clean food and water.

B. Flooring. The floors of the enclosures shall be constructed to prevent injury to animals' feet and legs. Enclosures for dogs and cats may have wire flooring provided, however, that (1) the wire is of adequate gauge to prevent sagging under the weight of the animals and (2) the wire mesh is small enough to prevent their feet from falling through the mesh.

C. Space requirements. Enclosures must be constructed to provide sufficient space to allow each animal to exercise normal postural movements.

D. Additional requirements for cats. A receptacle containing sufficient clean litter shall be provided to contain excreta.

E. Exercise areas. One run must be provided for every 18 primary enclosures. The run must be of sufficient size to allow an animal to break into a run. At least two exercise periods per day of 20 minutes each shall be provided.

Section 4-306 SANITATION

A. Cleaning of animal enclosures. Animal waste shall be removed from enclosures daily and/or as often as may be necessary to prevent contamination of the animals and to reduce disease hazards and odors. Cages shall be cleaned as often as may be necessary to maintain sanitary conditions by washing all surfaces with a detergent solution followed by a safe and effective sanitizer. Animals must be removed from the enclosures during the cleaning process and precautions taken to avoid cross contamination.

B. Equipment cleaning. Water and food containers and all other utensils shall be cleaned and sanitized using generally acceptable methods such as the use of heat or chemical sanitizing solution. These containers shall be cleaned and sanitized as often as necessary to maintain sanitary conditions.

C. Waste disposal. Animal and food wastes, bedding, dead animals, debris, and other organic wastes must be disposed of in order that vermin infestation, odors, disease hazards and nuisances are minimized.

D. Premises, generally. The kennel premises shall be kept clean, in good repair, and free of trash.

E. Pest control. An effective program for the control of insects, ectoparasites and avian and mammalian pests shall be maintained.

F. Storage of food and supplies. Supplies of food and bedding shall be stored:

1. Off the floor; or
2. In waterproof closed containers and adequately protected against infestation or contamination by vermin.

G. Dead animals. Animals that die at the facility shall be stored and disposed of in a manner that will not cause a disease hazard or nuisance.

Section 4-307 FOOD AND WATER

A. All animals shall be fed at least once a day and shall be provided potable water at all times except when under special veterinary care. The food and water shall be free from contamination, palatable, and of sufficient quality and nutritive value to meet the normal daily requirements for the condition and size of the animal. Refrigeration shall be provided for perishable food.

B. Food and water containers shall be accessible to the animal and located to minimize contamination by excreta. These containers shall be cleaned daily. Self-feeders and self-waterers may be used if cleaned regularly.

Section 4-308 APPLICATION OF REQUIREMENTS TO EXISTING FACILITIES

Existing properties properly zoned and used as a kennel as herein defined, shall be given until January 1, 2007, to meet the structural standards required by this article.

Section 4-309 INSPECTION OF FACILITIES

A. All kennels or animal shelters must be inspected by the Code Enforcement Officer prior to the issuance of a license under this article. The Code Enforcement Officer or its designated representatives may make periodic inspections of all facilities licensed under this article.

B. Federal, State, and municipal facilities shall be exempt from the provisions of this article.

C. Classification and separation of animals.

1. Restrictions. Animals housed in the same enclosure shall be maintained in compatible groups, with the following additional restrictions:

2. Females. Females in season (estrus) shall not be housed in the same primary enclosure with males, except for breeding purposes.

3. Puppies or kittens. Puppies or kittens shall not be housed in the same primary enclosure with adult dogs or cats other than their dams, except when permanently maintained in breeding colonies.

4. Dogs shall not be housed in the same primary enclosure with cats, nor shall dogs or cats be housed in the same primary enclosure with any other species of animals.

5. Boarded animals shall not be housed in the same primary enclosure with those from another household unless the owners have been informed of and consented to that arrangement.

PAGE LEFT INTENTIONALLY BLANK

CHAPTER 5: BUILDING REGULATIONS AND CODES

ARTICLE 1

BUILDING CODE AND REGULATIONS

Section 5-101	INTERNATIONAL BUILDING CODE ADOPTED
Section 5-102	ADDITIONS AND CHANGES TO BUILDING CODE
Section 5-103	PENALTY
Section 5-104	BUILDING OFFICIAL
Section 5-105	FIRE DISTRICTS DEFINED
Section 5-106	SPECIFIC PERMITS REQUIRED; BUILDING PERMIT REQUIRED; FEE
Section 5-107	NUMBERING OF BUILDINGS
Section 5-108	PERMIT REQUIRED FOR MOVING BUILDING, BUILDING WITH TRAILER OR MOBILE HOME
Section 5-109	INTERNATIONAL PROPERTY MAINTENANCE CODEADOPTED
Section 5-110	INTERNATIONAL RESIDENTIAL CODE ADOPTED
Section 5-111	INTERNATIONAL EXISTING BUILDING CODE ADOPTED
Section 5-112	RESIDENTIAL BUILDING CONTRACTOR; REGISTRATION AND INSURANCE REQUIRED; STATE FEE TO BE ASSESSED.
Section 5-113	BOARD OF APPEALS
Section 5-114	TEMPORARY STORAGE CONTAINERS
Section 5-115	CONSTRUCTION AND TRADE WORK; RECOGNITION OF STATE LAW EXEMPTIONS; PERMIT AND AFFIDAVIT REQUIREMENTS

ARTICLE 2

PLUMBING CODE

Section 5-201	ADOPTION OF THE INTERNATIONAL PLUMBING CODE
Section 5-202	ADDITIONS, INSERTIONS AND CHANGES TO THE INTERNATIONAL PLUMBING CODE
Section 5-203	PLUMBERS; REGISTRATION
Section 5-204	PLUMBING, PERMITS AND INSPECTIONS
Section 5-205	PLUMBING INSPECTOR; APPOINTMENT; POWERS AND DUTIES

ARTICLE 3

ELECTRICAL CODE

Section 5-301	DEFINITIONS
Section 5-302	NATIONAL ELECTRICAL CODE AND NATIONAL ELECTRICAL SAFETY CODE ADOPTED

Section 5-303 UNDERWRITERS LABORATORIES, INC
Section 5-304 CITY COUNCIL MAY MAKE SPECIAL RULINGS
Section 5-305 PERMIT REQUIRED FOR ELECTRICAL INSTALLATIONS;
ISSUANCE
Section 5-306 INSPECTION FEE
Section 5-307 ELECTRICIAN'S REGISTRATION REQUIRED, BOND
Section 5-308 COMPLIANCE WITH REGULATIONS
Section 5-309 INSPECTION OF WORK; REMOVAL OF DEFECTIVE
INSTALLATIONS
Section 5-310 DISCONTINUING CURRENT FOR FAILURE TO COMPLY WITH
CHAPTER
Section 5-311 OFFICE OF ELECTRICAL INSPECTOR

ARTICLE 4

MECHANICAL CODE

Section 5-401 INTERNATIONAL MECHANICAL CODE ADOPTED
Section 5-402 DEFINITIONS
Section 5-403 REGISTRATION REQUIRED
Section 5-404 MECHANICAL PERMITS AND INSPECTIONS
Section 5-405 OFFICE OF MECHANICAL INSPECTOR

ARTICLE 5

LIQUEFIED PETROLEUM GAS

Section 5-501 CODE ADOPTED
Section 5-502 STANDARDS FOR USE AND INSTALLATION OF LIQUEFIED
PETROLEUM GAS EQUIPMENT
Section 5-503 LPG TANKS, PERMIT REQUIRED TO HAVE VEHICLE
REPAIRED
Section 5-504 PARKING OF LPG TRUCKS PROHIBITED; EXCEPTION.

ARTICLE 6

INTERNATIONAL FUEL GAS CODE

Section 5-601 INTERNATIONAL FUEL GAS CODE

ARTICLE 7

HOUSING CODE

Section 5-701 ADOPTION OF HOUSING CODE

ARTICLE 8

OIL AND GAS REGULATIONS

DIVISION 1

RULES FOR NON-WATERSHED AREAS

Section 5-801	OIL, GAS, AND OTHER MINERALS
Section 5-802	DEFINITIONS
Section 5-803	DRILLING PERMIT, FEE
Section 5-804	PERMIT APPLICATION
Section 5-805	SITE PLAN TO BE SUBMITTED
Section 5-806	REVIEW OF SITE PLAN
Section 5-807	INSPECTION
Section 5-808	RULES ADOPTED
Section 5-809	POLLUTION, CLEAN-UP
Section 5-810	SPACING REQUIREMENTS
Section 5-811	BONDS AND INSURANCE REQUIRED
Section 5-812	ANNUAL INSPECTION PERMIT, FEE
Section 5-813	CORPORATION COMMISSION RULES AND REGULATIONS
Section 5-814	ZONING
Section 5-815	ADDITIONAL CONDITIONS AND REQUIREMENTS

DIVISION 2

PERRY WATERSHED DRILLING OPERATION/PRODUCTION RULES

Section 5-820	LOCAL REGULATIONS IN ADDITION
Section 5-821	PROHIBITED LOCATIONS
Section 5-822	REGULATIONS
Section 5-823	INSURANCE
Section 5-824	MINIMUM STANDARDS
Section 5-825	SURVEYOR

ARTICLE 9

FAIR HOUSING

Section 5-901	PURPOSES; DEFINITIONS
Section 5-902	ACTS PROHIBITED
Section 5-903	EXEMPTIONS
Section 5-904	FAIR HOUSING BOARD CREATED
Section 5-905	PROCEDURE

Section 5-906 NOTICE
5-115

ARTICLE 10

PENALTY AND SUSPENSION OR REVOCATION OF REGISTRATION

Section 5-1001 PENALTY
Section 5-1002 RELIEF IN COURT
Section 5-1003 SUSPENSION OR REVOCATION OF REGISTRATIONS
ISSUED BY CITY

CHAPTER 5: BUILDING REGULATIONS AND CODES

ARTICLE 1

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 Perry, Oklahoma, being marked and designated as the International Building Code, 2018 Edition, without the adoption of any appendices or amendments to such Code unless such appendices or amendments have been specifically adopted and made law by the State of Oklahoma, as published by the International Code Council, be and is hereby adopted as the Building Code for the City of Perry, 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 therefore; 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 Perry, 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, 2018 Edition is hereby revised as follows:

[A] 109.4 Work commencing before permit issuance. Any person who commences any work on a building, structure, electrical, gas, mechanical or plumbing system before obtaining the necessary permits shall be subject to a fee equal to double the

amount of the cost of the required permits, which shall be in addition to the cost of the required permit fees.

All references to jurisdiction shall be amended to mean the City of Perry, Oklahoma.

All amendments made by the Oklahoma Uniform Building Code Commission to this Code are hereby incorporated by reference as herein set out.

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 have the powers and duties prescribed from the "building official" 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 DISTRICTS DEFINED.

The fire districts of the city are hereby established as follows:

Beginning at the intersection of Fir Avenue and Eighth Street, thence east along Fir Avenue to its intersection with the St. Louis and San Francisco Railroad, thence

southwestward and westward along the railroad to its intersection with Eighth Street, thence north along Eighth Street to its intersection with Fir Avenue, the point of beginning.

SECTION 5-106 SPECIFIC PERMITS REQUIRED; BUILDING PERMIT REQUIRED; FEE.

A. SPECIFIC PERMITS REQUIRED. Any owner, authorized agent or person in lawful possession and control of any building or structure, who intends to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical, or plumbing system, the installation of which is regulated by the City's adopted building code(s), or cause any such work to be done, shall first make application to the Building Official and obtain the required specific permit. Work exempt from this permit requirement shall be as provided in the City's applicable adopted building code. No person, corporation or other entity shall commence or continue any work for which a permit is required, without having received such permit and paid the fees required therefore.

B. BUILDING PERMIT REQUIRED. Any owner, authorized agent or person in lawful possession and control of any building or structure, who intends to construct, enlarge, alter, repair, move, demolish or change the occupancy of a building or structure, the installation of which is regulated by the City's adopted building code(s), or cause any such work to be done, shall first make application to the Building Official and obtain the required building permit. Work exempt from this permit requirement shall be as provided in the City's applicable adopted building code. No person, corporation or other entity shall commence or continue any work for which a building permit is required, without having received such permit and paid the fees required therefore. A person desiring a building permit shall submit an application therefore to the Building Official containing the following information:

1. A plot plan legibly drawn to scale, showing the exact size, shape, and dimensions of the lot to be built upon, the exact size and location on the lot of all existing buildings and structures, and the exact size and location on the lot of the structure or building proposed to be constructed, enlarged, altered, repaired, moved, demolished or changed and 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 compliance with this Section, including a survey, prepared by an engineer registered in the State of Oklahoma, of the boundaries of the lot on which the improvement is proposed to be located may be required by the Building Official where the boundaries of the lot are not clearly defined by survey pins and monuments.

4. Any additional information relating to the proposed improvement needed to determine compliance with these regulations.

C. PERMIT ISSUANCE; FEES.

1. If the application is in accordance with the requirements of the ordinances and laws, the clerk shall issue the permit upon the payment by the applicant of the fees as set out in Chapter 18 of this Code.

2. Contractors with an established payment record of at least six (6) months with the City shall be permitted to secure permits for their work by telephone, fax, or the Internet. The purpose of this section is to allow the Contractors the greatest flexibility in securing permits so that it reduces time and cost to their clients. The City will bill the Contractors on a monthly basis for such permits and include in such monthly mailing a copy of the unsigned permits. The Contractor shall promptly sign all such permits and return them with the payment. If any Contractor fails to comply with any term of this subsection, the City Manager or designee may require the Contractor to thereafter follow sub-section 1 hereinabove in securing permits.

D. If construction or work authorized under a permit does not begin within sixty (60) days after issuance of the permit, the permit is automatically canceled.

E. A record of such applications, plot plans and approvals shall be kept in the office of the Building Official.

Note: Section amended by Ordinance No. 2012-06 approved on January 3, 2012.

Section 5-107 NUMBERING OF BUILDINGS.

A. It is the duty of the city to number all buildings in the manner herein set forth, which numbers shall be maintained in such manner and in good condition by owners and occupants of all buildings situated in the city until otherwise provided by the City Council.

1. Every building fronting upon any of the streets in the city running east and west, shall be numbered commencing with Boundary Street on the east as the unit or base of enumeration, setting apart one hundred numbers for each block facing the same street and shall be nearly consecutive as possible, commencing with odd numbers in each block. Commencing at Ash Street as a unit for base of enumeration and numbering north and south from Ash Street, one hundred numbers shall be set apart for each block commencing with even hundreds. All even numbers shall be given to the buildings on the south side and all odd numbers shall be assigned to buildings on the north side of streets running east and west. On all streets running north and south, the odd numbers shall be assigned to buildings on the west side and the even numbers on the east side, provided that one number shall be assigned for each twenty-five (25) feet in business lots and one number shall be assigned for each fifty (50) foot lot in the residence Sections;

2. Each of the figures of every number shall be so marked as to be distinctly and easily read from the street or sidewalk in front of the building and shall be so placed that it will be conspicuous and easily seen; and

3. It is the duty of each and every owner or occupant who owns or occupies any building which has no number on the same as herein provided or who has a number which does not comply with the provisions therein set forth to place or cause to be placed and maintained upon the front of his building, in plain, distinct figures, not less than two and one half (2 ½) inches vertical length, the proper number as required by this Section.

B. It is an offense for any person who after being notified to comply with the provisions of this Section shall fail within ten (10) days from the notice to comply with same and upon conviction shall be punished accordingly. Each day of such failure to comply herewith after the expiration of the time allowed in the notice shall be a separate offense and shall be punished accordingly.

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 Perry, Oklahoma, being marked and designated as the International Property Maintenance Code, 2018 Edition, without the adoption of any appendices or amendments to such Code unless such appendices or amendments have been specifically adopted and made law by the State of Oklahoma, 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 therefore; 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 Perry, 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:

All references to jurisdiction shall be amended to mean the City of Perry, Oklahoma.

All amendments made by the Oklahoma Uniform Building Code Commission to this Code are hereby incorporated by reference as herein set out.

SECTION 5-110 INTERNATIONAL RESIDENTIAL CODE ADOPTED.

That a certain document is on file in the Office of the City Clerk of the City of Perry, Oklahoma, being marked and designated as the International Residential Code, 2018 Edition, without the adoption of any appendices or amendments to such Code unless such appendices or amendments have been specifically adopted and made law by the State of Oklahoma, as published by the International Code Council, be and is hereby adopted as the Residential Code of the City of Perry, 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 Perry, 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 Perry, Oklahoma
Section 103.5 Fees. The fees for activities and services performed by the City carrying out its responsibilities under this code shall be as otherwise set in Chapter 18 and elsewhere as applicable in this municipal code.

Appendix Q entitled Tiny Houses is hereby adopted by reference

with the following amendments:

The definition of a Tiny House shall be a dwelling that is a minimum of 500 square feet and a maximum of 700 square feet in floor area excluding lofts; requiring a traditional recognized foundations as defined by Chapter 3 of the International Residential Code and restricting the location of Tiny Houses in R-G Residential/Tiny House Overlay District as provided in Section 12-266.

All references to jurisdiction shall be amended to mean the City of Perry, Oklahoma.

All amendments made by the Oklahoma Uniform Building Code Commission to this Code are hereby incorporated by reference as herein set out.

Section 5-111 INTERNATIONAL EXISTING BUILDING CODE ADOPTED.

That a certain document is on file in the Office of the City Clerk of the City of Perry, Oklahoma, being marked and designated as the International Existing Building Code, 2018 Edition, without the adoption of any appendices or amendments to such Code unless such appendices or amendments have been specifically adopted and made law by the State of Oklahoma, as published by the International Code Council, be and is hereby adopted as the Residential Code for the City of Perry, State of Oklahoma, 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 Building Code on file in the office of the City Clerk of the City of Perry, 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:

All references to jurisdiction shall be amended to mean the City of Perry, Oklahoma.

All amendments made by the Oklahoma Uniform Building Code Commission to this Code are hereby incorporated by reference as herein set out.

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

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. Residential Building Contractors shall pay an annual registration fee as provided in Chapter 18, Section 5-112 of the Perry Municipal Code.

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. 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 times 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.

Section 5-113 BOARD OF APPEALS.

Notwithstanding other provisions of this Code adopting the

various building codes, including any subsequently adopted building code, this section providing for a Board of Appeals and hereby replaces and supersedes any reference to a Board of Appeals found in the International Building Code or any subsequent or other adopted building code. The duties and powers shall be as follows:

1. Upon proper application, the Board of Appeals has the duty and the power to hear and decide appeals of orders, decisions or determinations made by the Building Official, Zoning Officer, or by any administrative official for the City relative to the application and interpretation of the adopted building and related codes of the City. The Board of Appeals shall adopt rules of procedure for conducting business and shall render all decisions and findings in writing to the appellant and shall provide a duplicate to the Building Official, Zoning Officer, or other administrative official whose order, decision or determination was appealed.
2. The Board of Appeals shall consist of five (5) members, nominated by the Mayor and appointed by the City Council, who shall be qualified by experience and training to pass on matters relating to building and construction codes and are not employees of the City. The members of the Board 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. Board members shall hold office for a term of three (3) years with the exception that beginning with the initial appointments made on or after February 21, 2012, two (2) shall be appointed to serve a term of two (2) years and three (3) for a term of three (3) years; appointments thereafter shall be made for a term of three (3) years. The Board will include individuals who represent the professions or disciplines of engineering, architecture, plumbing contracting, electrical contracting, mechanical heat, and air contracting and local builders.

Any person shall have the right to appeal the decision of the Building Official to the Board of Appeals. An application for an appeal shall be based on a claim that (1) the true intent of the adopted building code and

related codes, or the rules legally adopted thereunder, have been incorrectly applied or improperly interpreted, (2) the provisions of those codes do not fully apply, and/or (3) an equally good or better form of construction is proposed. The Board of Appeals shall not have the authority to waive any requirements of the adopted building and related codes. Such notice of appeal shall be in writing and filed in the Office of the City Clerk within ten (10) days from the date of the decision, notice or order served by the Building Official, Zoning Officer, or by any administrative official, and by paying a non-refundable fee of One Hundred Dollar (\$100.00). Written Notice of Appeal shall include all pertinent information, engineering files, test results, manufacturer's specifications and/or installation requirements to substantiate the Written Request for Appeal.

3. The Board shall select one (1) of its members to serve as Chairman.
4. A member shall not hear an appeal in which that member has any personal, professional, or financial interest.
5. All hearings before the Board shall be open to the public. The appellant, the appellant's representative, the Code Official, and any person whose interests are affected shall be given the opportunity to be heard.
6. It shall take a concurring vote of three (3) Board members to modify or reverse the decision of the Code Official.
7. Upon the rendering of a final decision, the Building Official for the City shall take immediate action in accordance with the decision of the Board. No appeal shall be had from the decision of the Board of Appeals.
8. Any provision regarding a board of appeals found in any adopted model building code is hereby superseded by this ordinance.

Section 5-114 TEMPORARY STORAGE CONTAINERS

A. DEFINITION

For purpose of this section, the word "TSC" shall mean a box-

like Temporary Storage Container transported by truck, trailer, boat or train 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 TSC REGULATED.

Except as otherwise specifically provided herein, one (1) TSC or similar container may 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 TSC or similar container is permitted for a reasonable period of not to exceed an additional ninety (90) 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 TSC or similar 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 TSC or similar container shall be kept closed except when loaded or unloaded, and otherwise maintained so as to minimize unsightly appearances to neighboring properties. Except as otherwise specifically provided herein, no TSC or similar 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 TSC or similar container shall conform to this section.

C. Any owner or person in lawful possession of any real property who shall have a TSC or similar container lawfully located on such owner or person's real property and in use as a storage shed or other use in the backyard of said real property on or before the date that this section becomes effective (as demonstrated by the issuance of a building permit as an accessory structure), such owner or person in lawful possession of such real property may permit such TSC or similar 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.

D. Any owner or person in lawful possession of any real property located in any Agricultural, Residential, Commercial or Special Use Zoning District desiring to locate a TSC or similar container on such owner or person's real property as a storage shed or accessory building or for any other purpose or time period not provided under this section, shall file an application, and pay a fee in the same amount as a zoning application, together with all costs with the building official, and after public notice as provided herein and at least one public hearing held before the Planning Commission, the City Council may authorize the location of the TSC or similar container in any particular zone for a purpose and/or time period not provided by this section. Any evidence as may be necessary to enable the Planning Commission and City Council to properly consider the request should accompany the application. The subject property shall be posted at least ten (10) days prior to the public hearing. In addition, at least ten (10) days 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 TSC or similar container. 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 the nature, purpose and time period sought by the applicant for the TSC or similar container, and
3. Date, time, and place of the public hearing.

No TSC or similar container shall be authorized by the City Council until it finds that the value and qualities of the neighborhood surrounding the TSC or similar container's location are not substantially injured by the placement of the TSC or similar container. The City Council can approve the application with any conditions that may be appropriate, and which conditions shall be provided on the face of the permit issued under this procedure.

E. If approved, the location of the TSC or similar container in such location shall thereafter be lawful, subject to any future enactment of an ordinance further regulating or governing the location and/or use of TSC or similar container.

F. Any owner or person in lawful possession of any real property who shall by act or omission violate this section by the placement of a TSC or similar container in violation of this section, or fail to remove such unlawfully placed TSC or similar container after being directed by the building official, or by the violation of any other term or condition of this section, by act or omission, shall be guilty of an offense and if convicted shall be subject to a maximum fine of Two Hundred and Fifty Dollars (\$250.00) plus the payment of court costs, fees and penalty assessments; provided however, each day the violation shall continue shall be considered a subsequent offense.

G. This section shall not be applicable to the location of TSC or similar container in industrial zoning districts, subject to compliance with any required building permit. This section shall further not be applicable to the location of TSC or similar container on real property owned or leased by the United States of America, the State of Oklahoma, County of Noble, the City of Perry or its public trust authorities.

Section 5-115 CONSTRUCTION AND TRADE WORK; RECOGNITION OF STATE LAW EXEMPTIONS; PERMIT AND AFFIDAVIT REQUIREMENTS.

A. Purpose and Intent. The purpose and intent of this section is to recognize exemptions from licensures contained in Title 59 of the Oklahoma Statutes and clarify when certain work may be performed without engaging a state-licensed plumbing, electrical, or mechanical contractor or a locally registered residential building contractor. The section does not expand or restrict any exemption granted by state law. Finally, the section provides that when state law mandates licensure, state law shall control.

B. General Construction

1. No person or other entity shall engage in the occupation of 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 as provided by Section 5-112 of this municipal code.

2. Except as provided in Subsection B.1, property owners may perform construction work on property owned by that person, subject to the acquisition or provision of required permits, inspections and compliance with all state and/or local adopted codes.

3. If construction work is performed for compensation by a person engaged in the business of contracting, the provisions of Section 5-112 of this municipal code shall apply.

C. Plumbing

1. Exempt Work - Any Person

The following work is exempt from the Plumbing License Law and City Registration and the requirement to obtain a permit:

a. Minor repairs consisting of repairing or replacing faucets or minor working parts of plumbing fixtures;

b. Automatic irrigation sprinkler systems beginning where water is exclusively dedicated to such systems as defined by statute;

c. The construction, installation, maintenance, repair, renovation, and/or removal of pipe or piping systems and related mechanical appurtenances including backflow preventers⁵, appliances and/or equipment used in connection therewith, directly or indirectly within or without any building or structure, or from a point or location at a source of potable water supply at which point or location there exists any backflow preventer, provided that said pipe and/or piping systems are for 1) heating, except radiant-floor heating systems as defined in subparagraph d of paragraph 9 of Section 1003 of this title, 2) cooling, 3) air conditioning, 4) refrigeration, or 5) boilers and other pressure vessels of whatsoever kind and character.

Notwithstanding the above exemptions, a gas shut off valve,

5 As defined by Title 59, Section 1017.5 of the Oklahoma Statutes as amended

if not present, shall be installed by a licensed and registered contractor prior to the installation of any natural gas fueled appliance.

2. Owner Residence Exemption. In addition to plumbing work exempted by Subsection C.1 hereinabove, pursuant to 59 O.S. § 1017(6), an individual may perform plumbing work on such individual's property of residence subject to compliance with Subsection C.3.

3. Permit and Affidavit Requirement - Owner Residence Plumbing

When plumbing work is performed under the property-of-residence exemption:

- a. A permit shall be obtained;
- b. Inspections, if required, shall be completed;

c. The applicant shall execute a notarized affidavit stating that the applicant is the property owner of record; the property is the applicant's property of residence; the work will be personally performed by the applicant; the property is not being improved for immediate sale, lease, or rental; the applicant accepts responsibility for compliance with applicable plumbing codes.

Note: See Title 59, Section 1017 of the Oklahoma Statutes as amended.

D. Electrical

1. Exempt Work - Any Person

The following are exempt from the Electrical License Act License Law and City Registration and requirements to obtain a permit:

- a. Minor repairs consisting of repairing or replacing outlets or minor working parts of electrical fixtures;
- b. Installation, maintenance, repair, or replacement of water supply pumps from the output side of a fused disconnect or breaker;

c. Other exemptions for persons or entities as provided by state law.

2. Property Owner Exemption. Pursuant to 59 O.S. § 1692(B)(3), an individual is not required to hold a license or registration before performing electrical work on his or her own property or residence. The City hereby permits such work subject to compliance with Subsection D.3.

3. Permit and Affidavit Requirement - Owner Electrical Work

When electrical work is performed by a property owner performing electrical work on his or her own property or residence:

a. A permit shall be obtained;

b. Inspections, if required, shall be completed;

c. The applicant shall execute a notarized affidavit stating that the applicant is the property owner of record; the work is being performed on the applicant's property; the work will be personally performed by the applicant; the applicant accepts responsibility for compliance with adopted electrical codes.

Note: See Title 59, Section 1692 of the Oklahoma Statutes as amended.

E. Mechanical

1. Minor Repair - Property Owner. Pursuant to 59 O.S. § 1850.10(B)(1), a property owner of record or his or her authorized representative is not required to hold a license or registration before performing minor repair on his or her own property, including but not limited to cleaning, adjusting, calibrating and repair of mechanical system part and replacement of fuses and room thermostats and other minor repairs not affecting safe operation of the equipment. Such person shall comply with the provisions of Subsection E.4 hereunder.

2. Additional Exempt Work - Any person.

The following work is exempt from the requirement to hold a license or registration or obtain a permit:

- a. Installation of portable, self-contained, ductless air conditioners or heaters;
- b. Setting or connecting detached air conditioning units utilizing flexible ductwork on a manufactured home.
- c. Other exemptions for particular persons or entities as provided by state law.

3. Work Requiring Licensure and Registration.

The following require licensure under state law and registration under city ordinance:

- a. Installation, replacement, or repair of gas piping;
- b. Installation, replacement, or repair of floor furnaces or wall heaters;
- c. Installation, replacement, or repair of radiant-floor heating systems.

4. Permit and Affidavit Requirement - Owner Minor Mechanical Work

When minor repair is being performed by a property owner of record or his or her authorized representative under Subsection E.1 hereinabove:

- a. A permit shall be obtained where required by adopted codes;
- b. Inspections, when required, shall be completed;
- c. A notarized affidavit shall be executed affirming the applicant is the property owner of record or his or her authorized representative; the work constitutes minor repair as Subsection E.1 hereinabove; the applicant understands licensure is required for non-exempt mechanical work; and the applicant accepts responsibility for code compliance.

Note: See Title 59, Section 1850.10 of the Oklahoma Statutes as amended.

F. Enforcement

The City may issue stop-work orders for work performed in violation of this Section. Upon violation of this Section, the City may issue a stop-work order; suspend or revoke permits; and deny issuance of future permits. Any person violating this Section shall, upon conviction, be subject to a fine not exceeding Two Hundred Dollars (\$200.00) plus court costs, fees, and assessments. Each day a violation continues shall constitute a separate offense.

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 Perry, Oklahoma, being marked and designated as the International Plumbing Code, 2018 Edition, with all variances adopted by the State of Oklahoma, without the adoption of any appendices or amendments to such Code unless such appendices or amendments have been specifically adopted and made law by the State of Oklahoma, as published by the International Code Council, be and is hereby adopted as the Plumbing Code of the City of Perry, 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 Perry, 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 are hereby revised:

All references to jurisdiction shall be amended to mean the City of Perry, Oklahoma.

All amendments made by the Oklahoma Uniform Building Code Commission to this Code are hereby incorporated by reference as herein set out.

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 Manager.

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 Chapter 18.

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. Section 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 commence 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 and may hold another position in the city government.

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 licensed plumber.

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. Section 1680 to 1696.

Section 5-302 NATIONAL ELECTRIC CODE AND NATIONAL ELECTRIC SAFETY CODE ADOPTED.

A. National Electric Code Adopted. That a certain document is on file in the Office of the City Clerk of the City of Perry, Oklahoma, being marked and designated as the National Electric Code, 2023 Edition, with all appendices and variances adopted by the State of Oklahoma, if any, as published by the National Fire Protection Association, be and is hereby adopted as the Electric Code, regulating and governing wiring and safety standards of all property, buildings and structures in the City of Perry, State of Oklahoma; 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 Electric Code on file in the office of the City Clerk of the City of Perry, Oklahoma, are hereby referred to, adopted, and made a part hereof, as if fully set out in this section. The following sections in the National Electric Code are hereby revised:

All references to jurisdiction shall be amended to mean the City of Perry, Oklahoma.

All amendments made by the Oklahoma Uniform Building Code Commission to this Code are hereby incorporated by reference as herein set out.

B. National Electric Safety Code Adopted. That a certain document is on file in the Office of the City Clerk of the City of Perry, Oklahoma, being marked and designated as the National Electric Safety Code, ANSI C2, 2023 Edition, with all appendices and variances adopted by the State of Oklahoma, if any, as

published by the Institute of Electrical and Electronics Engineers, Inc., be and is hereby adopted as the City's Electric Safety Code, in addition to the National Electric Code, regulating and governing wiring and safety standards of all property, buildings and structures in the City of Perry, State of Oklahoma; 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 Electric Code on file in the office of the City Clerk of the City of Perry, Oklahoma, are hereby referred to, adopted, and made a part hereof, as if fully set out in this section.

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 installation 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 Chapter 18.

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 provisions 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 which is 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 Perry, Oklahoma, being marked and designated as the International Mechanical Code, 2018 Edition, with all variances adopted by the State of Oklahoma, without the adoption of any appendices or amendments to such Code unless such appendices or amendments have been specifically adopted and made law by the State of Oklahoma, as published by the International Code Council, be and is hereby adopted as the Mechanical Code of the City of Perry, 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 Plumbing Code on file in the office of the City Clerk of the City of Perry, 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:

All references to jurisdiction shall be amended to mean the City of Perry, Oklahoma.

All amendments made by the Oklahoma Uniform Building Code Commission to this Code are hereby incorporated by reference as herein set out.

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; and the city's mechanical code.

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 Manager.

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 cause 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 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 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 the 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.

State Law Reference: State rules, LPG, 52 O.S. Section 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 LPG TANKS, PERMIT REQUIRED TO HAVE VEHICLE REPAIRED.

A. Before the owner or operator of any vehicle on which is mounted a tank used in the transportation of any liquefied petroleum gas shall deliver such vehicle, or cause the same to be delivered, to any garage or other establishment for repair, he shall first submit the liquefied petroleum gas tank for inspection by the fire marshal of the city, who shall require that such tank be virtually depleted of its contents, and the pressure therein reduced to the satisfaction of the fire marshal; and upon compliance with such orders of the fire marshal, the latter shall issue a permit to the owner or operator of such vehicle authorizing the delivery of such vehicle to a garage or other institution for repair.

B. No person engaged in the repair of vehicle shall receive into his or its place of business any vehicle on which a liquefied petroleum gas transport tank is mounted unless the owner or operator of such a vehicle shall then and there exhibit the permit from the fire marshal referred to in Subsection A of this Section.

C. During the hours when any repair shop or garage having possession of any vehicle on which a liquefied petroleum gas transport tank is mounted is not open for business, no such vehicle shall be kept within the garage or repair shop building.

Section 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

INTERNATIONAL FUEL GAS 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 Perry, Oklahoma, being marked and designated as the International Fuel Gas Mechanical Code, 2018 Edition, without the adoption of any appendices or amendments to such Code unless such appendices or amendments have been specifically adopted and made law by the State of Oklahoma, 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 Perry, State of Oklahoma, for regulating and governing fuel gas system 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 Plumbing Code on file in the office of the City Clerk of the City of Perry, 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:

All references to jurisdiction shall be amended to mean the City of Perry, Oklahoma.

All amendments made by the Oklahoma Uniform Building Code Commission to this Code are hereby incorporated by reference as herein set out.

ARTICLE 7

HOUSING CODE

Section 5-701 ADOPTION OF HOUSING CODE.

There is hereby adopted by reference the CABO One and Two Family Dwelling Code, the latest edition thereof, as minimum housing code for the city, save and except such portions as are hereinafter deleted, modified or amended, as fully as if set out at length herein. If any provision of the ordinances of the city are in conflict with this provision of the housing code, except as provided in this chapter, the provisions of the dwelling code shall prevail.

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

ARTICLE 8

OIL AND GAS REGULATIONS

DIVISION 1

RULES APPLYING TO NON-WATERSHED AREAS

Section 5-801 OIL, GAS AND OTHER MINERALS.

It is unlawful and an offense for any person, firm, corporation or association hereafter to do or perform, or cause to be done or performed, any work or labor of any kind upon or in connection with the drilling mining or producing of oil, gas, or other minerals within the corporate limits of the city except as permitted under the provisions of this chapter.

Section 5-802 DEFINITIONS.

For the purpose of this chapter, the following terms shall

have the meanings respectively ascribed to them herein:

1. "Blow-out preventer" means a mechanical, hydraulic or pneumatic or other device, or combination of such devices, secured to the top of a well casing, including valves, fittings and control mechanisms connected therewith which completely closes the casing and is designated for preventing blow-outs;

2. "City inspector" means all officers of the city who have responsibility for enforcing this code, or their duly authorized representatives;

3. "City planning staff" includes, but is not limited to, the City Manager, the city attorney, the city building inspector, the city fire chief, and the city council;

4. "Corporation commission" means the Corporation Commission of the State of Oklahoma;

5. "Disposal well" means any well drilled or actually used for injection of saltwater or other substances into the earth at a point other or different than the point of extraction or production thereof from the earth;

6. "Drilling" means digging or boring a hole in the earth for the purpose of exploring for, developing, or producing oil, gas, and other hydrocarbons. Drilling includes all operations through the completion of a well;

7. "Drilling site" means the premises used during the drilling, maintaining, operating, and producing of a well or wells located thereupon, and

8. "Oil or gas well" means any well drilled, operated, or maintained for the production of oil, gas, casing head gas, or any of them or their by-products or derivations.

Section 5-803 DRILLING PERMIT, FEE.

A. It is unlawful for any person to drill or to maintain and operate any oil, gas or disposal well within the corporate limits of the city without first having obtained a permit to do so as hereinafter provided or without paying the drilling fee. A permit issued under the provisions of this Section shall expire six (6) months after the date of issuance thereof, unless

operations for the drilling of an oil, gas or disposal well have been commenced on the land described in the permit prior thereto.

B. Prior to drilling any oil, gas, or disposal well, a drilling permit shall be issued, and a drilling permit fee shall be charged as set by the city.

Section 5-804 PERMIT APPLICATION.

A. Every person, firm, corporation or association desiring to drill, maintain, or operate any oil, gas or disposal well within the city, shall file an application in writing upon the form required by the city inspector and signed by the applicant or his agent authorized to sign the same. Such application shall specify the quarter Section, township, and range, as well as the location within the quarter Section thereof so as to identify the well location within a particular ten (10) acre tract. Attached to each application shall be the certificate of a bonded abstractor listing the names and mailing addresses, as reflected by the current year's tax rolls in the office of the county treasurer, of all persons required to be notified by mail of the public hearing herein.

B. Should a change in ownership of the oil, gas, or disposal well occur after a drilling permit has been issued, the drilling permit as issued shall be considered to be transferrable to the person, firm, corporation or association purchasing and taking over operation of the oil, gas, or disposal well, provided that the person, firm, corporation or association meet and comply with the provisions of this chapter to include, but not limited to, those provisions relating to bonds and insurance required in Section 5-810 of this code.

C. If the holder of a permit fails to comply with any provision, restriction or regulation of Sections 5-801 et seq. of this code, as applied to the permit, the permit issued to such holder may be revoked by the city council after giving written notice to such holder an opportunity to show compliance with all lawful requirements for the retention of the permit. Any such holder whose permit has been revoked may apply for a new permit upon a showing of compliance with all requirements of the Sections 5-801 et seq.

D. The city is not a guarantor of the competence of the

permittee as to drilling operations. A permit is not an expression by the city that any proposed oil operation can be done with safety to the operator or other persons or property; all of which risks are assumed by the permittee.

Section 5-805 SITE PLAN TO BE SUBMITTED.

A. In the interest of protecting the health, safety and welfare of the inhabitants of the city, and in order, to protect the quality of residential life within the city, the city shall not issue a drilling permit as defined by this chapter until the city council has reviewed and approved the drill site development plan in accordance with the following regulations:

1. The individual, firm, corporation or association making application shall prepare and submit to the city two (2) drill site development plans, the first of which shall be a drill site development plan covering and including that phase of the oil well operation including drilling operations and the second of which shall cover the completed or producing well phase, and which site development plans shall contain the following information:

- a. Written legal descriptions;
- b. Scale drawings of the property and appropriate dimensions;
- c. Scale, north arrow, date, legend;
- d. Name, address and telephone number of property owner and applicant;
- e. Location and size of existing easements, utilities, and rights-of-way;
- f. Location and dimension of all vehicular entrances, exits and drives;
- g. General drainage system;
- h. Size of site;
- i. Location of all physical facilities to include proposed wells, structures, portable toilets, and

relationship to all buildings within a six hundred sixty (660) foot radius;

j. The site plan shall contain a statement describing all pollution prevention equipment to be utilized; it shall be the policy of the city to require blow-out prevention devices on every drilling operation covered hereunder; and

k. Location of all pits, portable or earthen.

B. The city council shall hold a public hearing for the purpose of reviewing and determining whether to approve or deny the drill site development plan as submitted. Notice of the public hearing shall be given by publication in a newspaper of general circulation within the city not less than twenty (20) days prior to the hearing. In addition, notice of the public hearing shall be given not less than twenty (20) days prior to the hearing by mailing written notices to all owners of property within a three hundred (300) foot radius of the exterior boundary of the drilling site. At the time of the public hearing, the city council shall have the authority, when in interest of the public peace, health, and safety, to amend the plan as originally submitted. The drill site plan shall then be considered to be approved as amended or denied and containing those additional restrictions and regulations as placed on the plan by the city council.

C. The land within the area covered by the drill site development plan shall be developed only in accordance with the drill site development plan as finally approved by the city council. Any change, erasure, modification, revision, or deviation from that plan shall be considered invalid and a violation of the provisions of the article unless the change, erasure, modification, revision or deviation shall have first been submitted to the city and approved according to the above procedure. It is further provided that should a change in property ownership occur after approval of the drill site development plan, the drill site development plan as approved by the city council shall be honored and maintained in its entirety.

D. Prior to operation and maintenance thereof, the applicant having made application, shall prepare and submit to the city a second drill site development plan which shall cover

the completed or producing well phase of the well operation, and which drill site development plan may be the original drill site development plan as submitted to the city with amendments made thereto, or may be a new and original drill site development plan, however, in either case, the drill site development plan shall contain the following information:

1. General location of tank batteries and size of tank battery site;
2. Any oil, gas, or water lines to be utilized;
3. Location of ingress and egress to be utilized by applicant and to include all vehicular entrances, exits and drives;
4. Type of screening devices or construction to be utilized around the pumping site, which screening shall be required to be of such type so as to discourage access, entry, or climbing so as to endanger life and security; all screening shall be required to meet the minimum screening standards of the city zoning code; the gates to any oil operation shall be kept locked with a padlock that cannot be cut with common bolt cutters at all times during which the oil operation site is unattended;
5. The location and size, which shall be not more than twenty-four (24) inches by thirty (30) inches, of a sign which shall contain the name, address and emergency phone number of the oil producing company, and which sign shall be posted at the drilling site for use in any emergency notice which might arise;
6. The filing of the second drill site development plan shall not be required of wells heretofore in operation prior to November 28, 1983.

Section 5-806 REVIEW OF SITE PLAN.

A. The planning staff within fifteen (15) days of receipt, or at next regular scheduled council meeting, whichever is longer, shall review and consider the second drill site development plan as submitted. Upon receipt of the second drill site development plan, the city planning staff shall inform all adjacent property owners of the filing of the second drill site development plan. At the time of the consideration, the city planning staff shall have the authority, when in interests of the public peace, health, and safety, to amend the plan as

originally submitted prior to granting their approval. The site development plan shall then be considered to be approved as amended and containing those additional restrictions and regulations as placed on the plan by the planning staff. The site development plan shall then be considered to be approved and amended, unless a protest is filed with the city building inspector within seven (7) days of the decision complained of, in which case the protestant shall have the right to appeal to the city council.

B. If both the first drill site development plan and the second drill site development plan are submitted at the same time, both plans shall be considered by the city council at the same public hearing.

Section 5-807 INSPECTION.

For purposes of this Section, the city, or its authorized representatives, may inspect any well operation at any time after issuance of a drilling permit for purposes of insuring conformance with the requirements of this chapter. Any applicant for a drilling permit hereunder shall be deemed to have granted the agents of the city the right of entry onto those properties covered by the drilling permit for the purposes of carrying out the inspections as required by the city and which shall be made by the city inspector or an authorized representative of the city code enforcement division and are:

1. An inspection to be made during drilling operations and which inspection shall cover those facets of the drilling operations site plan;

2. An inspection to be during pumping operations and which inspection shall cover those facets of the pumping operations covered by the pumping operation site plan; and

3. An inspection following removal of the well and equipment, which inspection shall be to ensure that the land is returned as nearly as practical to its previous original topography.

The inspection fee shall be as set by the city council by motion or resolution.

Section 5-808 RULES ADOPTED.

There is hereby adopted by the city the rules and regulations of the corporation commission of the state, including but not limited to the general rules and regulations of the oil and gas in the office of the city clerk of the city and the same are adopted and incorporated as fully as if set out at length herein.

Section 5-809 POLLUTION, CLEAN-UP.

A. The premises upon which any oil, gas, or disposal well is drilled, operated, or maintained shall be kept free of all accumulations of rubbish, litter, unused equipment, or discarded materials, and other wastes insofar as the same may be reasonably done in the conduct of operations covered by this chapter.

B. All lands upon which a drilling operation is or has been operated shall within a reasonable length of time, not to exceed one year, be returned, as nearly as practicable to the previous original topography and natural state unless the applicant has paid damages for removal for anything other than ground cover, in which case the applicant must, in lieu of returning the land to its natural state and topography, provide ground cover in the interest of abating erosion thereof.

C. Pits shall be portable tanks, (or possibly other suitable protective liner construction) and all drilling fluids shall be hauled away from the site on completion of the well and disposed of according to EPA regulations. This requirement may be waived by approval of the council.

Section 5-810 SPACING REQUIREMENTS.

A. No well or drilling operation shall be located, drilled, or operated within four hundred (400) feet of any residential dwelling located within the corporate limits of the city. In all commercial or industrial or agricultural zoning districts of the city, no well or drilling operation shall be located, drilled, or operated within four hundred (400) feet of any existing permanent structure or proposed structure or use which has received a site plan approval from the Planning Commission. It is further provided, however, that in the event permission is secured from one hundred percent (100%) of the

owners thereof, which permission shall be evidenced by the signing of a verified petition consenting to and approving of the drilling, operation and location of such well, which petition shall be filed with the first drill site development plan, such well in that case may not be located closer than one hundred fifty (150) feet from any of the above named structures. This amended provision shall not apply to any well or drilling operation that is in full compliance with the terms of this subsection as of June 16, 2003.

B. No oil, gas or disposal well shall be drilled, operated or maintained, nor shall any operations in connection therewith be carried on or conducted within six hundred sixty (660) feet of any public school or hospital building within the city unless the governing body owning the structure consents in writing to a lesser distance, which distance may be set by the governing body.

Section 5-811 BONDS AND INSURANCE REQUIRED.

At the time of filing such application for a drilling permit as required above, the applicant shall file with the city clerk for the city a copy of their certificate of insurance issued by some corporate insurance company licensed to do business within the state, evidencing current insurance of the owner, his driller, agents, and employees conditioned for the payment of all damages due to injury to persons or damage to property resulting from the drilling operations, or maintenance of the proposed well or any structure, machinery, equipment, pipelines, or appurtenances used in connection therewith, in an amount not less than One Million Dollars (\$1,000,000.00). The policy shall further provide that it cannot be canceled until thirty (30) days written notice of such cancellation shall have been given to and filed with the city clerk of the city. Such applicant shall further deposit with the city clerk cash or corporate surety bond in the sum of Twenty-five Thousand Dollars (\$25,000.00) executed by some insurer licensed to do business within the state, conditioned to assure restoration of the land and plugging of the well or wells upon its abandonment according to the rules and regulations and under the supervision of the Corporation Commission and the ordinances of the city. Such sum shall be forfeited to the city in the event of any substantial violation or non-compliance by the owner, driller, their agents or employees, with the provisions of this chapter pertaining to the abandonment of the well; otherwise, the same shall be

refunded or returned in full to the applicant upon abandonment of the well operation.

Section 5-812 ANNUAL INSPECTION PERMIT, FEE.

A. Annual inspection permits for the operation and maintenance of all completed and operating oil, gas, or disposal well, now existing or hereafter drilled, or hereby required, and shall be issued upon the payment of the annual inspection fee provided for herein. Such annual inspection fee shall be paid on or before July 1, of each year of operation after the issuance of the drilling permit, or, if no such permit was required or obtained, within sixty (60) days after the initial effective date of these regulations.

B. No person shall operate or maintain any oil, gas, or disposal well in the city without obtaining an annual inspection permit and paying the annual fee.

C. Upon payment of the annual inspection fee, and upon meeting the drill site development requirements contained in this chapter, if the drill site development requirements contained in this chapter, if the drill site development plan is required, the city clerk shall issue the annual permit contained herein.

Section 5-813 CORPORATION COMMISSION RULES AND REGULATIONS.

The applicant for any such drilling permit or annual inspection permit, the drilling contractor and their agents or employees shall comply with all orders, rules and regulations of the Corporation Commission of the State of Oklahoma where applicable, including but not limited to, all rules and regulations of the commission with respect to drilling, plugging and abandonment of such wells.

Section 5-814 ZONING.

An oil, gas, or disposal well may be drilled, operated, and maintained in all zoning district as a use permit on review in accordance with the provisions of this chapter.

Section 5-815 ADDITIONAL CONDITIONS AND REQUIREMENTS.

In addition to the conditions applying to oil well drilling

operations contained herein, the city council hereby declares that in the interest of protecting the people of the city and the use and enjoyment of their property and providing for their comfort, health and safety, and general welfare, the following conditions and restrictions are adopted:

1. That all well operations which are placed upon the pump shall be powered by electricity so long as electricity is available. If electricity is not available, muffled engine will be used. All permanent equipment shall be painted, where possible, and kept in a neat condition. All production operations shall be as free from noise as possible with modern operations;

2. That all power operations other than drilling and pulling units shall at all times be carried on only by means of electrical power, which power shall not be generated on the drilling site;

3. That an internal combustion engine or electrical equipment may be used in the drilling or pumping operations of the well and if an internal combustion engine is used, that mufflers be installed on all engines so as to reduce noise to a practical minimum;

4. All completion and routine maintenance will be done during daylight hours only except in emergency;

5. That no sign shall be constructed, erected, maintained, or placed on the premises or any part thereof, except those required by law or this code to be displayed in connection with the drilling, maintenance, or operation of the well;

6. That a blow-out prevention device shall be utilized, when practical, at any time the well is open for completion, routine maintenance, termination or plugging operations. If it is deemed impractical to utilize a blow-out prevention device, then and in that event, other blow-out prevention methods and techniques shall be utilized at any time the well is open; and

7. Pits shall be portable tanks (or possibly other suitable protective liner construction) and all drilling fluids shall be hauled away from the site on completion of the well and disposed of according to EPA regulations. This requirement may be waived by approval of the council.

DIVISION 2

PERRY WATERSHED DRILLING OPERATION/PRODUCTION RULES

Section 5-820 LOCAL REGULATIONS IN ADDITION

The following rules and regulations do not replace the present rules and regulations of the Oklahoma State Corporation Commission governing oil field operations but are in addition to those rules. Full compliance with these rules and regulations is a condition precedent to the right to use any public property including but not limited to streets, roads, alleys, or rights-of-way or any other publicly owned real property.

Section 5-821 PROHIBITED LOCATIONS

Except as may be permitted by written agreement by the City and based on special conditions, no well-prospecting for oil, gas or any other substance shall be permitted within 660 feet of CCC Lake or Perry Lake. For the purpose of this regulation, 660 feet shall be measured from the well-prospecting site to the high-water shoreline of CCC Lake or Perry Lake.

Section 5-822 REGULATIONS

Any well permitted under these regulations to be located within one (1) mile of CCC Lake or Perry Lake shall comply with the following rules:

A. The design criteria for all wells shall consider all pertinent factors for well control including formation pressures and casing setting depths such that the well bore can be maintained under control at all times. The application for permit to drill shall include the information indicated by Attachment A, which Attachment A is no file in the Office of the City Clerk and is incorporated herein by reference. A new permit is required in order to change the classification of a well, for example, from producing well to injection well.

B. Prior to the commencement of any drilling operation, an artificial barrier shall be constructed completely surrounding the well site no closer than fifty (50) feet from the well bore. The top of the artificial portion of the barrier to be constructed down drainage from the well shall be level at all points, at a compacted height of not less than two (2) feet

above the ground level at the well bore, in order that any deleterious material from the well or operations thereon would be trapped and stored before such material can enter the drainage to the reservoir. An adequate diversion ditch or dike shall be constructed across and around the uphill edge of the well site so that no surface drainage water can enter the area of the well location. Any fluid trapped within the well site shall be immediately pumped into steel tanks for storage and removal.

C. In addition, the permittee or applicant shall submit a Deleterious Substance Spill Contingency Plan (hereinafter the "Plan") that will be followed in reporting, cleanup, and prevention of the spread of any pollution resulting from a deleterious substance spill which might occur during drilling or production activities. The Plan shall:

1. include the description of procedures, personnel, equipment, and materials which will be used in combating any such spill.

2. address two degrees of response effort (1) a deleterious substance spill resulting in pollutants being carried outside the dike surrounding the well or facility site, and (2) a deleterious substance spill resulting in pollutants being carried into CCC Lake or Perry Lake, as may be appropriate.

3. include provisions to assure that full resource capability is known and can be committed during a spill, including the identification and inventory of applicable equipment and materials which are available locally and regionally.

4. include the establishment of procedures for the purpose of early detection and timely notification of a spill, including a current list of names, telephone numbers and addresses of the responsible persons and alternates on call to receive notification of a spill, and the names, telephone numbers and addresses of regulatory organizations and agencies to be notified when a spill is discovered.

5. include pre-designation of a spill response coordinator who is charged with the responsibility and is delegated commensurate authority for directing and coordinating response operations.

6. include provisions for disposal of recovered spill materials.

7. address the installation of a secondary protection dike located between the well or facility site and the reservoir to be protected. When the City Manager or designee of the City ("Director") considers a secondary dike to be effective and practical, the permittee shall construct and maintain a secondary protection dike at some point between the well site and the reservoir across any drainage channels in such a manner that any fluid flowing downstream from the well or facility site could be trapped. This secondary dike shall contain a simple slide gate or valve, sized to pass surface water, which can be closed by one man. The gate shall be left open at all times except when and if control of the well is lost, in which event the gate in the secondary dike shall be immediately closed and left closed until control of the well is regained. If any contaminants have entered the secondary dike pool, the pool shall be pumped dry and the pool area cleaned of contaminants before the gate in the secondary dike is reopened.

Approval of the Plan by the Director shall be a requirement for obtaining a permit. The Plan shall be reviewed annually by the permittee and revised as appropriate to compensate for any changes in conditions at the well or facility site or at the area to be protected. The permittee shall submit a Plan or revised plan to the Director on an annual basis. Upon written agreement by the City, the Oklahoma Corporation Commission's UPCC Plan can be substituted for the Plan so long as it has been appropriately engineered.

D. No earthen slush pits or reserve pits shall be constructed. When the well is located inside the drainage area of a water reservoir and within one (1) mile of the high water shoreline of CCC Lake or Perry Lake, drilling mud operations shall be conducted in steel tanks, and the drilling mud shall be removed from the property immediately upon completion of the well. Concrete shale removal tanks may be substituted for steel tanks. Concrete shale removal tanks shall be permitted to be constructed at grade upon submission of plans and approval of design of such tanks by the Director.

E. All casing shall meet the American Petroleum Institute (API) specifications, including:

1. Surface casing shall be set at a minimum depth as defined by the Oklahoma Water Resource Board or at a greater depth if required by the Oklahoma Corporation Commission or the Director in order to protect both fresh water-bearing strata and to remove any possibility of contaminating fluids or gasses reaching the surface through vertical fracture systems or along fault planes. Surface casing shall be constructed of steel casing grade J-55, K-55 or higher grade and shall have a minimum burst strength rating of 2940 PSI. The casing shall be suspended off bottom while the cement is placed and allowed to set. The cement shall be circulated to the surface and allowed to set under pressure for at least twelve (12) hours or any longer time required for the cement to reach a compressive strength of 500 PSI before re-entering the well bore. The cement is considered to be under pressure if one or more float valves are used and are shown to be holding or if other means of holding pressure is used. If cement is not circulated to the surface, the cement shall be permitted to set for eighteen hours, and small diameter pipe shall be run down the outside of the surface casing to the top of the hardened cement. Cement shall be pumped down the small pipe to fill the annulus to the surface. The casing shall be pressure tested by applying a surface pressure of 1,500 PSI or 0.2 PSI per foot of vertical depth whichever is greater.

2. Production casing and all related equipment items such as the wellhead, valves, etc., shall have a working pressure rating sufficiently in excess of the highest formation pressure encountered in the well. This string of casing shall be installed before completing the well for production. The casing shall be cemented in a manner to isolate all potentially producible hydrocarbon zones, and the annular space shall be filled with cement at least 500 feet above the uppermost producible hydrocarbon zone. When a liner is used as a production string, the seal between the liner and the next larger casing string shall be tested by a fluid entry or pressure test to determine whether a seal between the liner and the next larger string has been achieved. The test results shall be recorded in the Driller's log. Prior to drilling the plug after cementing and prior to completing the well, the production string shall be tested to 1,500 PSI or 0.2 PSI per foot of vertical depth, whichever is greater, except that eighty percent (80) of the internal yield pressure of the casing shall not be exceeded.

3. Prior to the running or cementing of each casing

string, the Operator shall notify the Director of his intentions to set and to cement casing. Such notice shall be given sufficiently in advance of such operation so as to permit the Director to be present when said casing is run and cemented if he so elects.

F. Blowout preventer and related well-control equipment shall be installed, used, and tested in a manner necessary to prevent blowouts. Prior to drilling below the surface casing and until drilling operations are completed, blowout prevention equipment shall be installed and maintained ready for use as follows:

1. Before drilling below the surface casing strings, the blowout prevention equipment shall include a minimum of one remotely controlled, hydraulically operated blowout preventer with a working pressure which exceeds the maximum anticipated surface pressure. The blowout preventer shall consist of a minimum of one annular type. A choke line and manifold and a separate kill line with working pressures at least equal to 3000 PSI pressure shall be installed ready for use. A fill-up line shall also be installed ready for use, and the fill-up line shall be located above the annular BOP.

2. The Blowout Preventer shall be tested as follows:

- a. Blowout preventer shall be tested with water to the rated working pressure of the stack assembly. The pressure test required for blowout preventer installed on surface casing shall be 1500 PSI.
- b. Pressure tests shall be performed:
 - i) When a BOP is installed.
 - ii) Before drilling out after each string of casing is set.
 - iii) Following repairs that require disconnecting a pressure seal in the assembly.
 - iv) Not less than once each 45 days.
- c. All pressure tests shall be recorded in the Driller's log.
- d. While drill pipe is in use, annular type preventer shall be actuated on the drill pipe

once each week. All actuation of the blowout preventer shall be recorded in the Driller's log.

3. A blowout prevention drill shall be conducted each week for each crew to ensure that all equipment is in working order and to ensure that crews are properly trained to carry out emergency duties. The Director may require a blowout prevention drill at any time, well bore conditions permitting, after conferring with the Operator's representative.

4. All BOP drills shall be recorded in the Driller's log.

5. Blowout preventer shall be installed prior to working-over an old well or testing new zones. If tubing is to be pulled from or installed in a producing well, blowout preventer and related equipment shall be installed and operative.

G. The use of mud and the testing and control of mud properties shall be such as are necessary to maintain pressure control of the well at all times. Quantities of mud and/or mud materials sufficient to ensure well-control shall be readily available for use at all times. Before starting out of the hole with drill pipe, the mud shall be properly conditioned by circulating with the drill pipe near bottom until the annular volume is displaced and the properties of the return mud are within the normal range. When removing drill pipe from the hole, the annulus shall be filled with mud before the mud level drops 100 feet below the flow line. As a minimum, the hole shall be filled every five (5) stands of drill pipe and every stand of drill collars. The number of stands of drill pipe and drill collars that may be pulled before filling the hole shall be determined and posted on the rig floor. The number of barrels of mud (and the number of pump strokes) required to fill the hole corresponding to the determined number of stands of drill pipe and drill collars shall also be posted.

H. In the event any well blows out or becomes out of control, the Operator shall immediately notify the Director by telephone or personal contact, and the Director and his agents shall have full access to the well site and surrounding area. All condensate, oil, mud, salt water, and other wastes from the well shall be blocked off and shall not be permitted to enter the reservoir or surface streams. The operator will anticipate the worst possible blowout or overflow conditions and shall have readily available at all times sufficient materials and

equipment to prevent pollutants from entering the reservoir under any conceivable conditions. The permittee conducting operations shall be solely responsible for all damages and shall restore the surface to its original condition.

I. Drill stem testing is permitted only during daylight hours. Fluid removed from the well during testing must be flowed or pumped into steel pits or tanks and promptly removed from the location at the conclusion of testing. The formation fluids in the hole shall be circulated or reversed-out prior to removing drill stem test tools from the hole.

J. From the time drilling operations are commenced until the well is completed or abandoned, a trained member of the drilling crew, tool pusher, or operator's representative shall maintain rig floor surveillance at all times unless the well is secured with cement plug(s), packer, or blowout preventer.

K. The following information shall be posted on the rig floor at all times after drilling is commenced.

1. Procedure for closing-in the well using blowout preventer when:

- a. the operation is drilling or circulating with the bit on bottom, and
- b. the operation is tripping the drill string.

2. Pre-recorded data which includes the items indicated in Attachment B.

L. Posted data must be revised as conditions change. The circulating pump rates and pressures must be rechecked, and the posted data revised at least once each twenty-four (24) hour period when drilling.

M. The Director shall have access to all information pertaining to a well drilled under these rules.

N. The permit to drill does not include the right to convert the well from a producing well to an input well (injection well, enhanced recovery well or disposal well, etc.).

O. Upon completion of a well, all oil, salt, or other

contaminated soil shall be physically removed from the area.

1. If the well is completed as a dry hole, the area shall be restored to normal and re-seeded to prevent erosion, except that the drilling pad and/or access road may be left in place upon written request by the surface owner.

2. No drains shall be placed in the dike wall and any existing drains shall be removed. Any rainwater or other substance present inside the diked area and outside the tanks shall be promptly removed.

P. The production facility shall consist of piping from the well bore to the tank battery, the tank battery, associated equipment and applicable lease roads. Prior to commencement of operations, a spill prevention control and countermeasure's plan shall be developed pursuant to 40 CFR, Part 112, and submitted to the Director for review. Approval will be received in writing prior to commencement of production activity.

Q. Upon completion of a well, all lines located outside a diked area, including the flow lines, gas lines, water lines, and electric lines shall be buried to a minimum depth of three (3) feet. Unless local codes, or state or federal regulations specify otherwise, all pipelines shall:

1. Be designed, installed, and maintained in accordance with all local codes, state and federal regulations, and API standards and recommended practices.

2. Be designed for a minimum of 150 percent of the maximum anticipated operating pressure.

3. Be effective corrosion control measures shall be employed for both internal and external corrosion, when pipelines are constructed from steel materials. Without regard to the pipe material, when a pipe line is permitted to deteriorate to the point where leaks have occurred or there is a high probability of leaks occurring, in the Director's opinion, with resulting pollution, the Director shall require the pipe line to be replaced.

4. Be pressure tested to the design working pressure using water after being placed in the trench, but before being backfilled. The test leaks shall be corrected, and the test repeated until successful. After being covered, all ditch

rights-of-way shall be planted, sodded, or seeded to restore grass.

5. Clearly indicate their routes with permanent markers. Signs shall be located at each side of any roadway right of ways which the pipeline crosses and at any property lines crossed by the pipeline.

R. Except as may be permitted by written agreement by the City and based on special conditions, no oil or water storage tanks, production separators or similar vessels shall be located within 660 feet of the high-water line of CCC Lake or Perry Lake. When oil or water storage tanks, production separators or similar vessels are located within the flood plain of a river or tributary, as defined by the Federal Insurance Rate Maps showing flood prone areas or as defined by the City's Engineer, the dike enclosing the vessels shall be constructed to a height two (2) feet above the elevation of the 100-year flood plain. Oil storage tank capacity shall not exceed 650 barrels at a tank battery without written approval by the Director. Oil storage tanks, separators, scrubbers, and other vessels shall be designed, constructed, installed, operated, and maintained in accordance with applicable API standards and recommended practices. The overflow lines from tanks and relief lines from pressure separators shall be extended to near ground level to minimize the spread of fluids in the case of an overflow condition; provided however, precautions shall be taken to prevent the overflow of tanks. In addition to the well site dike, all tank batteries, separators, heater treaters, etc., shall be enclosed with earthen retaining walls, dikes or fire walls so that the enclosed area has a storage capacity at least one and one-half (1-1/2) times the liquid capacity of the tanks within the storage area. The floor of the area inside the retaining wall shall be lined with a minimum of eight (8) inches of native clay or other impermeable soil when the natural strata at the depth of interest are rock or permeable soil such as gravel or sand or soil containing a major fraction of sand or gravel, etc.

S. All leaking pumps, stuffing boxes, lines, tanks, and connections shall be promptly corrected and shall not be used while leaking. Drip pans shall be installed where minor leaks are likely to occur.

T. All oil, water, or deleterious substances from wet

strings of tubing shall be drained into steel tanks.

U. All oil cellars and oil sumps shall be promptly pumped out.

V. All leases shall be kept clean of refuse and other deleterious matter.

W. All ditches shall be kept clean and in a good state of repair.

X. Service roads shall be constructed and maintained to control erosion. Upon abandonment of the well, all access roads and locations shall be returned to the original condition. All oil or salt-saturated material shall be physically removed from the property and grass planted in the entire area in order to prevent erosion of the area and consequent silting of the reservoir.

Y. A protective fence shall be installed around surface facilities when required by the Director. The Director shall specify the type of fence required for each facility.

Z. The plugging and abandonment of all wells shall be in accordance with the rules and regulations of the Oklahoma State Corporation Commission and the City of Perry, Oklahoma.

AA. The Director shall have access to the well site for inspection of compliance with these rules. Service companies, including drilling contractors and their employees and agents, shall keep reports of all operations conducted by them and such reports shall be available for inspection by the Director. If a violation is found and if corrective action is not taken immediately, the company conducting the operation shall be notified and shall be subject to work stoppage until the unsatisfactory condition or practice has been corrected.

BB. The operator shall notify the Director sufficiently in advance as to permit the Director to be present when the following work is performed:

1. Running and cementing of surface casing.
2. Clean up of any spillage of oil, gas, or saltwater.

3. Running and cementing of production casing.

CC. The operator shall perform tests as may be required by the Director to ensure that the fresh water bearing zones are not being contaminated by the well. These tests may be required annually or whenever there are indications that the well is causing contamination of the fresh water bearing zone. Testing may include but shall not be limited to pressure testing of injection wells and pressurized lines and the analysis of water samples. The cost of such testing shall be borne by the operator of the oil, gas, or related wells.

DD. Two (2) groundwater monitoring wells shall be installed in the vicinity of the production facility. The wells shall be two inches (2") diameter minimum and extend through the uppermost saturated zone to the first continuing layer (drill until you hit the first recognized aquifer and screen at that point - approximately twenty (20) feet deep). A well screen shall be installed such that the entire saturated thickness is included. The location of the monitoring well should be such that one is up gradient of the facility and one is down gradient and between the facility and the lake. The new well locations shall be submitted to the Director for his approval. The monitoring well shall be sampled initially (before production operations commence) and annually thereafter. The well samples shall be analyzed for the following: Sodium, Chloride and Total dissolved solids. The result of the sampling shall be submitted to the Director for review within ten (10) days of the sampling event.

EE. The tubing-casing annulus of every saltwater disposal, injection, or enhanced recovery well shall be pressure tested to a minimum pressure of 1000 PSI annually. This test shall be witnessed by the Director.

FF. All oil and water storage tanks installed after the effective date of these rules shall be equipped with a liquid level switches and related equipment necessary to automatically shut-in associated wells and pumping equipment to prevent the overflow of such tanks.

GG. Toxic chemicals must be stored in their original containers when used on sites located in the drainage areas of CCC Lake or Perry Lake. The Director shall have the authority to limit the quantity and type of the substances stored or used in

these areas. Permittee shall provide a list of all toxic chemicals used or stored in these areas upon request by the Director.

Section 5-823 INSURANCE

As a condition to issuance of any Permit authorized by the governing body of the City of Perry, Oklahoma, the operator of all oil, gas, disposal or enhanced recovery wells shall first submit proof of insurance which names the City of Perry, Oklahoma, and the Perry Municipal Authority, as additional insureds, and which specifically provides coverage as follows:

1. The insureds are hereby indemnified for all losses, costs, and expenses incurred due to contamination of any reservoir bed, facility, or water stored or capable of being stored in CCC Lake or Perry Lake, said indemnification and loss to include, but not be limited to, reimbursement to the insureds for all costs incurred in clean up or containment of any pollution; in restoring the water reservoirs, including water supply, reservoir bed, facilities, and water supply sources to their previous condition; any additional costs of water treatment or other costs incurred to supplement or continue the insureds' water supply; services prior or subsequent to clean up and restoration; and, any revenues lost by reason of irreparable damage to the reservoir bed or water stored by the insureds or which could have been stored by the insureds.

2. The insureds are hereby indemnified for all losses, costs, and expenses of a sudden and accidental nature incurred due to contamination of any reservoir bed, facility, or water stored or capable of being stored in CCC Lake or Perry Lake, said indemnification and loss to include, but not be limited to, reimbursement to the insureds for all costs incurred in clean up and/or containment of any pollution; in restoring the water reservoirs, including water supply, reservoir bed, facilities, and water supply sources to their previous condition; any additional cost of water treatment or other costs incurred to supplement or continue the insureds' water supply; services prior or subsequent to clean up and restoration; and, any revenues lost by reason of irreparable damage to the reservoir bed or water stored by the insureds or which could have been stored by the insureds.

3. The insureds are hereby indemnified for all losses,

costs, and expenses incurred due to seepage or underground contamination of any reservoir bed, facility, or water stored or capable of being stored in the municipal water reservoirs located in CCC Lake or Perry Lake, said indemnification and loss to include, but not be limited to, reimbursement to the insureds for all costs incurred in clean up or containment of any pollution; in restoring the water reservoirs, including water supply, reservoir bed, facilities, and water supply sources to their previous condition; any additional costs of water treatment or other costs incurred to supplement or continue the insureds water supply; services prior or subsequent to clean up and restoration; and, any revenues lost by reason of irreparable damage to the reservoir bed or water stored by the insureds or which could have been stored by the insureds.

4. The amount of said insurance shall be \$1,000,000.00 per incident; \$2,000,000.00 aggregate. Said insurance shall be maintained in full force and effect from commencement of any operations on lease premises until the well is plugged and abandoned in accordance with these Rules and any other applicable federal or state rules and regulations, including the entire period during which production activities are conducted. The legal description of the well location shall be specified in the insurance policy, or any endorsement thereto, with respect to each well covered by this insurance. Written notification must be given to the City Clerk of the City of Perry, Oklahoma, at least ten (10) days prior to cancellation or termination of any insurance coverage required under the terms of this Section.

Section 5-824 MINIMUM STANDARDS

These rules contain the minimum standards for safety measures for drilling, production, and related operations, and the permit under which these operations are conducted is conditioned upon full compliance with these Rules. Any waiver or variation of or from these Rules may be made only upon written application to and written authorization from the City of Perry, Oklahoma, and/or the Perry Municipal Authority, as applicable. The Director may, if circumstances warrant, require and enforce such other or additional measures as appropriate in order to ensure safe operations and the protection of the City's watershed areas from the risk or danger of pollution and contamination.

Section 5-825 SURVEYOR

When there is a question regarding the location of a well or surface facility which concerns the applicability of these rules, the applicant or owner of the subject well or surface facility shall have a survey performed by a Registered Land Surveyor. The cost of the survey shall be borne by the applicant or owner of the subject well or surface facility.

ARTICLE 9

FAIR HOUSING

Section 5-901 PURPOSES; DEFINITIONS.

A. The general purposes of this Article 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 terms used in the Article shall those contained in Title 25, Section 1451 of the Oklahoma Statutes, as such statute is currently constituted or as it may be hereinafter amended.

Section 5-902 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. 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.

6. 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.

Section 5-903 EXEMPTIONS.

A. Section 5-902 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 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 5-902 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 5-902 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 5-904 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 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 5-905 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 5-906 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 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 part, without having a valid license, permit, certificate, or certificate of registration as required, or who shall fail to do anything required by this part or by any code adopted by this part, or who shall otherwise violate any provision of the chapters in this part or of any code adopted by this part, or who shall violate any lawful regulation or order made by any officers provided for in this part, 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 part shall interfere with the right of the city also to apply to the proper courts of the state for a mandamus, an injunction or other appropriate action against such person, firm, or corporation.

Section 5-1003 SUSPENSION OR REVOCATION OF REGISTRATIONS ISSUED BY CITY.

A. The City Manager 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 part 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 City Manager. 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 the ordinance 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 City Manager 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 City Manager 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

Section 6-101	ORGANIZATION OF MUNICIPAL COURT
Section 6-102	DEFINITIONS
Section 6-103	JURISDICTION OF COURT
Section 6-104	JUDGE; QUALIFICATIONS
Section 6-105	TERM OF JUDGE
Section 6-106	ALTERNATE JUDGE
Section 6-107	APPOINTMENT AND COMPENSATION TO JUDGES
Section 6-108	DISQUALIFICATION OF JUDGE
Section 6-109	PROCEDURE-JUDICIAL NOTICE OF STATUTES AND ORDINANCES-WRITS AND PROCESS-SERVICE OF ARREST WARRANTS
Section 6-110	MUNICIPAL COURT CLERK
Section 6-111	MUNICIPAL ATTORNEY AS PROSECUTOR
Section 6-112	BOND OF CLERK
Section 6-113	RULES OF COURT
Section 6-114	ENFORCEMENT OF RULES
Section 6-115	PROSECUTIONS BY VERIFIED COMPLAINT
Section 6-116	CREATION OF TRAFFIC VIOLATIONS BUREAU
Section 6-117	TRAFFIC BAIL BOND PROCEDURES
Section 6-118	EXCEPTIONS TO BAIL BOND PROCEDURE
Section 6-119	DISHONORED CHECKS OR INSTRUMENTS, WARRANTS
Section 6-120	ARREST, CITATION AND BAIL FOR ORDINANCE VIOLATIONS
Section 6-121	SUMMONS FOR ARREST
Section 6-122	FORM OF ARREST WARRANT
Section 6-123	PROCEDURES FOR BAIL OR BOND
Section 6-124	ARRAIGNMENT AND PLEADINGS BY DEFENDANT
Section 6-125	TRIALS AND JUDGMENTS
Section 6-126	WITNESS FEES
Section 6-127	SENTENCING
Section 6-128	IMPRISONMENT, WORK BY PRISONERS; COST OF INCARCERATION TO BE COLLECTED
Section 6-129	COSTS
Section 6-130	PENALTY ASSESSMENTS
Section 6-131	ISSUANCE OF SUMMONS AND WARRANT
Section 6-132	SECURITY FOR COSTS BEFORE COMMENCEMENT OF PROSECUTION
Section 6-133	MALICIOUS PROSECUTION; COSTS

Section 6-134 FAILURE TO OBEY PROMISE OR NOTICE TO APPEAR;
FAILURE TO OBEY ORDER OF COURT.
Section 6-135 DISPOSITION AND RECORDS
Section 6-136 COMMUNITY SERVICE IN LIEU OF IMPRISONMENT;
FAILURE TO PERFORM
Section 6-137 COMMUNITY SERVICE IN LIEU OF A FINE; FAILURE TO
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 Perry 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. The court shall become operative on and after the 12th day of February 1967.

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 Perry;

4. "Governing body" means the city council of the City of Perry;

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 Perry, 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 the consent and approval of the governing body, may appoint as judge:

1. An attorney licensed to practice law in this state;
2. A suitable person who resides in the county in which the municipality is located or in an adjacent county; or
3. Beginning July 1, 2026, no person may be newly appointed pursuant to paragraph 2 of this subsection as a municipal judge. A municipal judge appointed pursuant to paragraph 2 of this subsection prior to July 1, 2026, who has completed the requirements in subsections D and F of this section, may continue to be reappointed.

C. If the judge of the municipal court is not a licensed attorney and has not complied with the education requirements pursuant to subsection E of this section and the education requirements pursuant to Section 18-101 of Title 47 of the Oklahoma Statutes, the trial shall be to the court, and the court shall not impose a fine of more than Fifty Dollars (\$50.00), and shall not order the defendant imprisoned except for the nonpayment of fines or costs or both.

D. If the judge of the municipal court is not a licensed attorney but has complied with the education requirements of subsection F of this section and the education requirements pursuant to Section 18-101 of Title 47 of the Oklahoma Statutes,

the maximum fine that may be imposed shall be Five Hundred Dollars (\$500.00).

E. In order to impose the fine authorized by subsection D of this section, a nonlawyer judge must, within a period not to exceed the preceding reporting period in this state for mandatory continuing legal education, complete courses held for municipal judges which have been approved by the Oklahoma Bar Association Mandatory Continuing Legal Education Commission for at least six (6) hours of continuing education credit. Verification may be made by a statement of attendance signed by the course registration personnel.

F. 1. Beginning July 1, 2026, any person currently appointed or serving as a municipal judge shall have completed a certification program as approved by the Oklahoma Municipal Judges Association. The certification program shall have a minimum of twelve (12) hours of continuing legal education approved by the Oklahoma Bar Association Mandatory Continuing Legal Education Commission to include laws specific to municipal courts, trial evidentiary matters, criminal cases eligible for municipal courts, and indigency hearings.

2. Any person appointed as a municipal judge after July 1, 2026, shall have one (1) year from the date of appointment to complete the certification program described in paragraph 1 of this subsection.

G. If a municipal judge has not completed the training required pursuant to subsection F of this section, the maximum fine that may be imposed by the municipal court in all traffic and criminal cases shall not exceed Fifty Dollars (\$50.00).

H. A copy of the Oklahoma Municipal Judge certification shall be filed with the county clerk in the county in which the municipality is located and with the municipal court clerk.

I. 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 give rise to or are connected with cases within the

jurisdiction of the court, pending therein or which might become the subject of proceedings therein. Said Municipal Judge shall be entitled to such compensation as may be prescribed by City Council.

Section 6-105 TERM OF JUDGE.

The official term of the judge shall be two (2) years expiring on the 1st day of May 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 of Twenty Dollars (\$20.00).

Section 6-110 MUNICIPAL COURT CLERK.

The municipal court clerk, or deputy designated by such clerk, both of whom must be independent of the municipal police and judicial department, shall be the clerk of the municipal court. 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 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 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 Perry 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 CREATION OF VIOLATIONS BUREAU.

A. There shall be established a violations bureau for the city. The judge may establish rules, consistent with the laws of the state and with the ordinances of this municipality, for the violation's bureau.

B. The violations bureau shall accept fines which may be paid in lieu of a court appearance for such offenses as may be designated by the judge under the court's rules. The schedule of fines shall be as set out in Section 1-110. A copy shall be kept in the clerk's office.

C. Payment of any fine to the violation's bureau shall be

deemed a final determination of the cause against the defendant.

D. 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 defendant'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 driver's 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 driver's 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 Perry to the Police Chief of Perry, 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 _____, 202__.

Judge of the Municipal Court
Perry, 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 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 Five Dollars (\$5.00) 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. 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). Except as otherwise provided, 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. Providing however, court costs shall not be collected on cases involving parking, standing and seatbelt violations (but not to include violations of children 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. Nine Dollars (\$9.00), 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.

C. Any person convicted of possession of marijuana shall be ordered by the court to pay Five Dollars (\$5.00), which shall be paid to the Bureau of Narcotics Drug Education Revolving Fund.

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.

PAGE LEFT INTENTIONALLY BLANK

CHAPTER 7: FINANCE AND TAXATION

ARTICLE 1

FINANCE AND BUDGET ADMINISTRATION

DIVISION 1

GENERAL PROVISIONS

- Section 7-100 FUNDS; ESTABLISHMENT OF NEW FUNDS
- Section 7-101 DEPOSITORIES DESIGNATED; FUNDS TO BE DEPOSITED
- Section 7-102 FUNDS SECURED BY UNIT COLLATERAL SYSTEM
- Section 7-103 CERTAIN OFFICER AND EMPLOYEES PROHIBITED FROM
CONDUCTING CERTAIN BUSINESS WITH MUNICIPALITY-
VIOLATIONS
- Section 7-103A PAYROLL DISBURSEMENTS
- Section 7-104 PURCHASES OF GOODS AND SERVICES (OTHER THAN
PAYROLL AND PAYROLL RELATED EXPENSES)
- Section 7-104A INTERFUND TRANSFERS
- Section 7-105 PETTY CASH
- Section 7-106 DEBT SERVICE, FINANCIAL REPORTING & PUBLIC TRUST
APPLICABILITY
- Section 7-107 STATEMENT OF NON-COLLUSION
- Section 7-108 FINANCIAL PROCEDURES FOR ADMINISTERING FEDERAL
GRANTS
- Section 7-108A RESTRICTED CASH ACCOUNTS TO BE CREATED FOR MONIES
DONATED WITH SPECIFIC PURPOSE.
- Section 7-108B STABILIZATION RESERVE FUND ADOPTED.

DIVISION 2

COMPETITIVE BIDDING

- Section 7-109 PURPOSE AND EFFECT.
- Section 7-110 DEFINITIONS
- Section 7-111 OKLAHOMA PUBLIC COMPETITIVE BIDDING ACT
- Section 7-112 RESERVED
- Section 7-113 FORMAL CONTRACT PROCEDURE
- Section 7-114 WAIVER OF COMPETITIVE BIDDING
- Section 7-115 ENCUMBRANCE OF FUNDS
- Section 7-116 EMERGENCY PURCHASES
- Section 7-117 PROFESSIONAL SERVICES
- Section 7-118 CITY OF PERRY PURCHASING MANUAL ADOPTED

ARTICLE 2

SALES TAX

Section 7-201	CITATION AND CODIFICATION
Section 7-202	DEFINITIONS
Section 7-203	TAX COLLECTOR DEFINED
Section 7-204	CLASSIFICATION OF TAXPAYERS
Section 7-205	SUBSISTING STATE PERMITS
Section 7-206	EFFECTIVE DATE
Section 7-207	PURPOSE OF REVENUES
Section 7-208	TAX IMPOSED; AMOUNT
Section 7-209	EXEMPTIONS; SALES SUBJECT TO OTHER TAX
Section 7-210	TAX DUE WHEN; RETURNS; RECORDS
Section 7-211	PAYMENT OF TAX; BRACKETS
Section 7-212	EXEMPTIONS-GOVERNMENTAL AND NONPROFIT ENTITIES
Section 7-213	SAME-GENERALLY
Section 7-214	SAME-MANUFACTURERS
Section 7-215	SAME-AGRICULTURE
Section 7-216	SAME-BUSINESS TRANSFERS
Section 7-217	TAX CONSTITUTES DEBT
Section 7-218	VENDOR'S DUTY TO COLLECT TAX; PENALTIES
Section 7-219	RETURNS AND REMITTANCES; DISCOUNTS
Section 7-220	INTEREST AND PENALTIES; DELINQUENCY
Section 7-221	WAIVER OF INTEREST AND PENALTY
Section 7-222	ERRONEOUS PAYMENTS; CLAIM FOR REFUND
Section 7-223	FRAUDULENT RETURNS
Section 7-224	RECORDS CONFIDENTIAL
Section 7-225	AMENDMENTS
Section 7-226	PROVISIONS CUMULATIVE

ARTICLE 3

DIVISION 1

Section 7-301	FEE LEVIED ON TELEPHONE EXCHANGES
Section 7-302	FEE TO BE IN LIEU OF OTHER FEES, TAXES

DIVISION 2

Section 7-311-	
Section 7-315	RESERVED
Section 7-316	COOPERATION WITH OTHER GOVERNING BODIES
Section 7-317	FALSE ALARMS; FALSE COMPLAINTS; FALSE REPORTING

ARTICLE 4

UTILITIES TAX

Section 7-401 FEE LEVIED; APPLICATION
Section 7-402 TAX IS IN LIEU OF OTHER TAXES
Section 7-403 TAX TO BE PAID MONTHLY AND PLACED IN GENERAL
REVENUE FUND
Section 7-404 FAILURE TO PAY; ACTION FOR COLLECTION
Section 7-405 TAX LIEN
Section 7-406 PERMIT GRANTED TO GAS COMPANIES IN LIEU OF
FRANCHISE

ARTICLE 5

USE TAX

Section 7-501 DEFINITIONS
Section 7-502 EXCISE TAX ON STORAGE, USE, OR OTHER CONSUMPTION
OF TANGIBLE PERSONAL PROPERTY
Section 7-503 EXEMPTIONS AND EXCEPTIONS
Section 7-504 TIME WHEN DUE, RETURNS, PAYMENT
Section 7-505 TAX CONSTITUTES DEBT
Section 7-506 COLLECTION OF TAX BY RETAILER OR VENDOR
Section 7-507 COLLECTION OF TAX BY RETAILER OR VENDOR NOT
MAINTAINING PLACE OF BUSINESS WITHIN STATE OR
BOTH WITHIN AND WITHOUT STATE – PERMITS
Section 7-508 REVOKING PERMITS
Section 7-509 REMUNERATIVE DEDUCTIONS ALLOWED VENDORS OR
RETAILERS OF OTHER STATES
Section 7-510 INTEREST AND PENALTIES; DELINQUENCY
Section 7-511 WAIVER OF INTEREST AND PENALTIES
Section 7-512 ERRONEOUS PAYMENTS; CLAIM FOR REFUND
Section 7-513 FRAUDULENT RETURNS
Section 7-514 RECORDS CONFIDENTIAL
Section 7-515 CLASSIFICATION OF TAXPAYERS
Section 7-516 SUBSISTING STATE PERMITS
Section 7-517 PURPOSES OF REVENUES

ARTICLE 6

PERRY HOTEL TAX ORDINANCE

SECTION 7-601 CITATION AND CODIFICATION
SECTION 7-102 DEFINITIONS

SECTION 7-603 LEVIED; RATE
SECTION 7-604 EXEMPTIONS
SECTION 7-605 CERTIFICATE OF EXEMPTION
SECTION 7-606 TAX TO BE SEPARATELY DESIGNATED ON BILLS
SECTION 7-607 OPERATOR RESPONSIBLE FOR COLLECTION
SECTION 7-608 RECORDS TO BE KEPT
SECTION 7-609 RETURNS
SECTION 7-610 PAYMENT OF TAX
SECTION 7-611 ASSESSMENT AND DETERMINATION OF TAX
SECTION 7-612 REFUNDS
SECTION 7-613 NOTICES
SECTION 7-614 REMEDIES AVAILABLE
SECTION 7-615 GENERAL POWERS OF THE DIRECTOR
SECTION 7-616 ADMINISTRATION OF OATHS AND COMPELLING TESTIMONY.
SECTION 7-617 CERTIFICATES OF REGISTRATION
SECTION 7-618 INTEREST
SECTION 7-619 DISCOUNT
SECTION 7-620 RECORDS CONFIDENTIAL
SECTION 7-621 FRAUDULENT RETURNS
SECTION 7-622 AMENDMENTS
SECTION 7-623 USE OF FUNDS

ARTICLE 7

ANNUAL INSPECTION FEE ON TELEPHONE COMPANIES

SECTION 7-701 ANNUAL INSPECTION FEE ON TELEPHONE COMPANIES

ARTICLE 8

ONE GAS, INC./OKLAHOMA NATURAL GAS COMPANY DIVISION FRANCHISE

SECTION 7-801 DEFINITIONS
SECTION 7-802 GRANT OF FRANCHISE
SECTION 7-803 FRANCHISE ASSIGNMENT, SALE OR LEASE
SECTION 7-804 USE AND REPAIR OF THE PUBLIC WAYS
SECTION 7-805 REGULATION OF SERVICE
SECTION 7-806 DEPTH OF PIPELINES
SECTION 7-807 DUTY TO MOVE OR ALTER LINES
SECTION 7-808 INDEMNIFICATION OF GRANTOR
SECTION 7-809 GRANTEE'S RULES AND REGULATIONS
SECTION 7-810 INSPECTION OF RECORDS
SECTION 7-811 CONSIDERATION FOR FRANCHISE-FRANCHISE FEE
SECTION 7-112 CONDITIONS OF FRANCHISE
SECTION 7-113 INVALIDITY OF ORDINANCE

6/15/2026 UPDATE

SECTION 7-114 ELECTION REQUIRED
SECTION 7-115 ACCEPTANCE, OPERATIVE AND EFFECTIVE DATE;
EMERGENCY

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 following funds:

General Fund
Limited Purpose Sales Tax Fund
General Cemetery Fund
Cemetery Care Fund
Sinking Fund
Street Improvements Funds
Perry Information Network (PIN) Fund

The Perry Municipal Authority shall have the following funds:

Utility Fund
Airport Fund

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 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 City 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 City;
2. Contracting with the City; 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 City.

B. 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, provided notice of bids was made public and open to all potential bidders.

C. 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.

D. 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.

E. 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 Perry and the Perry Municipal Authority (PMA), 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 for each employee and officer to be paid. Such record of time worked shall be verified as to its accuracy in writing by the employee, and the employee's department head. Time will be entered into the payroll accounting software (the system) by the Human Resource

Director. A report detailing time worked by each employee will be printed from the system, reviewed for accuracy, then initialed and dated by the Human Resource Director.

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. Airport manager
3. Fire chief
4. City Manager or designee, which includes all City services
not otherwise listed
5. Police chief
6. Librarian
7. Court clerk
8. Civil defense director

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 at least one authorized check signer who shall compare the checks to the invoices and verify their accuracy. Upon verification, the Accounting Clerk shall prepare the checks for distribution. The Accounting Clerk shall update the check batch to the system (defined above) and post approved payments to the general ledger. The Accounting 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 \$25,000.00, contracts shall be prepared and approved by the governing body or City Manager, as applicable, prior to the time the commitment is made. Additionally, the Accounting 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 \$2,500.

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 \$250.

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 Chief Financial Officer is authorized 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 Chief Financial Officer in the appropriate journals.

2. Financial Reporting

A. The Chief Financial Officer 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 NOBLE)

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 _____, 202__

 Notary Public (or Clerk or Judge)

A notarized statement of non-collusion shall not be required on purchase orders 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. A purchase order 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 order 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 order 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:

- I. 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)).

Section 7-108A RESTRICTED CASH ACCOUNTS TO BE CREATED FOR MONIES DONATED WITH SPECIFIC PURPOSE.

Whenever the City receives donated monies wherein a specific charitable or benevolent purpose is noted or expressed on the check, draft or warrant or related document, such monies shall be placed in a restricted cash account within the department receiving such donated monies. Such donated monies, together with all accumulated interest, shall be expended only for the express purpose for which the monies were donated. Such donated monies shall be expended in a timely fashion in order to fulfill the purpose of the donation. Such restricted cash accounts shall be re-appropriated for their stated purpose for each successive fiscal budget year until all monies have been expended at which time such restricted cash account shall be null and void. If no donor purpose is noted or expressed, the monies shall be placed in the General Fund.

Section 7-108B STABILIZATION RESERVE FUND ADOPTED.

A. There is hereby created a reserve fund to be known as the "stabilization reserve fund" in the General Fund. The amounts deposited in this reserve fund are to be used only for the purposes defined in this section.

B. The stabilization reserve fund shall be created for the purpose of receiving, holding, and accounting for amounts designated as stabilization reserves. These funds are to be contributed by the general fund, monies transferred from the Perry Municipal Authority, and other funds as deemed appropriate by the City Council.

C. The minimum amount to be contained in the stabilization reserve fund is Fifty percent (50%) of budgeted annual non-capital operating expenses for each of the public utilities operated by the Perry Municipal Authority, and in addition, Fifty percent (50%) of budgeted annual non-capital operating expenses of the General Fund of the City, shall be transferred into the stabilization reserve fund.

D. The maximum amount to be contained in the stabilization reserve fund is One Hundred percent (100%) of budgeted annual non-capital operating expenses for each of the public utilities operated by the Perry Municipal Authority, and in addition, One Hundred percent (100%) of budgeted annual non-capital operating expenses of the General Fund of the City.

E. Minimum funding for the stabilization reserve fund when the balance is less than the maximum level as established in subsection (c) hereinabove shall not be less than two (2) percent of budgeted non-capital operating expenditures, but only in each successive fiscal year when the current year's operating budget(s), as referenced in subsection (c), are not operated at a deficit. This funding is to be transferred annually from the public utilities operated by the Perry Municipal Authority and the General Fund of the City to the stabilization reserve fund.

F. Amounts held in the stabilization reserve fund are to be designated by purpose for use only by the public utility from which the funds were contributed. Accounting process shall be established to provide for reporting by purpose.

G. Amounts held in the stabilization reserve fund in excess of

the "minimum amount" established in this subsection (c) may only be expended when certain specific circumstances exist. The circumstances requiring the expenditure of stabilization funds are not expected to recur on a routine basis. The circumstances when it is necessary to appropriate or spend stabilization amounts are subject to the objective criteria outlining the parameters of acceptable uses of stabilization funds included below. The existence of the circumstances must be declared by a three-fourths (3/4) majority vote of all the members of the governing body establishing that one or more of the criteria listed below exists:

1. Expenditures for emergency situations for life, health, or public safety issues for which no existing appropriation exists;
2. Situations where a significant revenue decline arises that could not have been reasonably been foreseen, and for which new revenue is not available and transfers of existing appropriations are not considered feasible or appropriate in maintaining existing service levels;
3. Correcting the results of an inaccurate estimate, accounting error, or budgeting error;
4. Expenditures where the proposed use is of a nonoperational nature involving capital or technical purchases having a useful life of greater than five years that will improve the efficiency of the city government. These efficiency improvements should result in tangible benefits that can be measured financially, through better service to the citizens, or in increased productivity for city employees;
5. Expenditures where the proposed use is of a non-recurring nature, such as a study, start-up costs of a program whose ongoing costs are otherwise funded, or matching funds for a grant. These expenditures should result in tangible benefits that can be measured financially, through better service to the citizens, or in increased productivity for city employees;

H. Amounts held in the stabilization reserve fund that are below the minimum threshold may be expended only under specific limited circumstances. The circumstances when it is necessary to appropriate or spend below the "minimum amount" required by this section, are set out below. The existence of circumstances must be declared by a three-fourth (3/4) majority vote of all of the members of the governing body establishing that one or more of the criteria listed below exist.

1. Expenditures for emergency situations for life, health, or public safety issues for which no existing appropriation exists;
2. Situations where a significant revenue decline arises that could not have been reasonably been foreseen, and for which new revenue is not available, and transfers of existing appropriations are not considered feasible or appropriate in maintaining existing service levels;
3. Correcting the results of an inaccurate estimate, accounting error, or budgeting error.

DIVISION 2

COMPETITIVE BIDDING

Section 7-109 PURPOSE AND EFFECT.

The primary purpose of Division 2 of this Article is to codify in the Perry Municipal Code, 2020, the essential statutory requirements of the Competitive Bidding Act of 1974 (Title 61, Section 101 et seq. of the Oklahoma Statutes (2021 Supplement), as amended, 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, with respect to any individual purchase, the procedures may be followed or waived. The City Council may waive compliance with the local competitive bidding procedures, which waiver may often occur due to advantageous conditions in the marketplace or for such other reasons as listed in this Division. However, in each and every instance of such waiver under this Division, the City Manager or his designee shall certify in writing the reason for the waiver as provided by Section 7-114 and the City Council shall approve such waiver. 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 City Council's waiver of 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:

A. "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, including the Perry Municipal Authority~~7~~ and the Perry Housing Authority (hereinafter collectively referred to as public trust authorities"). The term "City" shall be interchangeable with "public trust authority" and the term "Mayor and City Council" shall be interchangeable with "Chairman and Trustees" of the public trust authority.

B. "Contractual services" mean all non-professional services including but not limited to uniform and cleaning services; insurance; leases for all grounds, buildings, offices or other space required by the using agencies; and the rental, repair or maintenance of equipment, machinery and other city-owned personal property. The term shall not include professional or other contractual services which are in their nature unique and not subject to competition;

C. "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;

D. "Personal property" for purpose of this Division shall include but not be limited to:

1. Portable, or otherwise moveable, buildings and structures;
2. Prefabricated metal buildings and structures, along with necessary utility services for such buildings or structures;
3. 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
4. Other structures that can be disassembled after installation and removed without permanent damage to existing property.

E. "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 One Hundred Thousand Dollars (\$100,000.00) or any construction management trade contract or subcontract, as defined by Title 61, Section 102.5 of the Oklahoma Statutes as amended, exceeding Fifty Thousand Dollars (\$50,000.00,)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 onto 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;

F. "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, equipment or supplies, or any personal property, including property defined by paragraphs 1 and 4 of Section 430.1 of Title 62 of the Oklahoma Statutes, as amended.

G. "Supplies" means and includes all supplies, materials, and equipment; and

H. "Using agency" means any department, board, City Council, agency, division, Section, bureau or other unit in the city government using supplies or procuring contractual services as provided for herein and for purpose of Section 7-111, includes public trust authorities.

Section 7-111 OKLAHOMA PUBLIC COMPETITIVE BIDDING ACT.

A. Unless otherwise provided by law, all public construction contracts exceeding One Hundred Thousand Dollars (\$100,000.00) or any construction management trade contract or subcontract, as defined by Title 61, Section 102.5 of the Oklahoma Statutes as amended, 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.

B. Notwithstanding subsection A of this section, in awarding public construction contracts exceeding One Hundred Thousand Dollars (\$100,000.00) or construction management trade contracts or subcontracts exceeding Fifty Thousand Dollars (\$50,000.00), the City and its public trust authorities shall provide for a local bid preference of not more than five percent (5%). Provided, however, the local bidder or contractor must agree to perform the contract for the same price and terms as the bid proposed by the nonlocal bidder or contractor. Provided

further, no local bid preference shall be granted unless the local bidding entity is the second lowest qualified bid on the contract. The bid specifications shall clearly state that the bid is subject to a local bidder preference law. For purposes of this section, "local bid" means the bidding person is authorized to transact business in this state and maintains a bona fide establishment for transacting such business within this state. This provision does not apply to any construction contract for which federal funds are available for expenditure when its provisions may be in conflict with federal law or regulation.

1. Other construction contracts for the purpose of making any public improvements or constructing any public building or making repairs to the same for One Hundred Thousand Dollars (\$100,000.00) 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 Ten Thousand Dollars (\$10,000.00) may be negotiated with a qualified contractor and work commenced in accordance with the purchasing policies of the City.

3. The City or its public authorities shall not let or award a public construction contract exceeding One Hundred Thousand Dollars (\$100,000.00) or a construction management trade contract or subcontract exceeding Fifty Thousand Dollars (\$50,000.00) to any contractor affiliated with a purchasing cooperative unless the purchasing cooperative and the contractor have complied with all of the provisions of the Public Competitive Bidding Act of 1974, including but not limited to open competitive bidding after solicitation for sealed bids. The City or its public authorities shall not let or award a

public construction contract exceeding Ten Thousand Dollars (\$10,000.00) up to One Hundred Thousand Dollars (\$100,000.00) to any contractor affiliated with a purchasing cooperative unless the purchasing cooperative and the contractor have complied with all of the provisions of the Public Competitive Bidding Act of 1974, including submission of a written bid upon notice of competitive bidding.

4. A purchasing cooperative and its affiliated contractors shall not be allowed to bid on any public construction contract exceeding One Hundred Thousand Dollars (\$100,000.00) or any construction management trade contract or subcontract exceeding Fifty Thousand Dollars (\$50,000.00) unless the purchasing cooperative and its affiliated contractors have complied with all of the provisions of the Public Competitive Bidding Act of 1974, including but not limited to open competitive bidding after solicitation for sealed bids. A purchasing cooperative and its affiliated contractors shall not be allowed to bid on any public construction contract exceeding Five Thousand Dollars (\$5,000.00) unless the purchasing cooperative and its affiliated contractors have complied with all of the provisions of the Public Competitive Bidding Act of 1974, including submission of a written bid upon notice of open competitive bidding.

C. For public construction contracts exceeding One Hundred Thousand Dollars (\$100,000.00) or any construction management trade contract or subcontract 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.

D. 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 One Hundred Thousand Dollars (\$100,000.00) or any construction management trade contract or subcontract 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 One Hundred Thousand Dollars (\$100,000.00) or any construction management trade contract or subcontract 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 One Hundred Thousand Dollars (\$100,000.00) or any construction management trade contract or subcontract 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).

E. Reserved.

F. A bidder on a public construction contract exceeding One Hundred Thousand Dollars (\$100,000.00) or any construction management trade contract or subcontract 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 City 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.

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.

G. A non-collusion affidavit and a business relationship affidavit shall also accompany bidder proposals.

H. 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.

I. 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.

J. 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.

K. 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.

L. 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.

M. 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.

N. 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.

O. If no timely bid is received on any public construction contract not exceeding One Hundred Thousand Dollars (\$100,000.00) or any construction management trade contract or subcontract 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 One Hundred Thousand Dollars (\$100,000.00) or any construction management trade contract or subcontract exceeding 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.

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 RESERVED

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 One Hundred Thousand Dollars (\$100,000.00) shall be purchased by formal written contract or purchase order from the lowest secured 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 Council, 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 secure bidder. In determining "lowest secure 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;

8. The City Council may waive the requirement to solicit for bids and may allow for written or oral quotations or take such other action, necessary in the public interest, as they deem necessary.

Section 7-114 WAIVER OF COMPETITIVE BIDDING

The City Council may waive the requirement for competitive contractual bidding for the purchase of supplies, materials, equipment or contractual services (other than contracts required to be bid pursuant to Section 7-111) 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 or (iii) 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.

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 purchase order until the Accounting 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 One Hundred and Fifty Thousand Dollars (\$150,000.00) 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 One Hundred Thousand Dollars (\$100,000.00), 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. Workspace requirements or city staff support; and
9. The overall proposer's cost.

Section 7-118 CITY OF PERRY PURCHASING MANUAL ADOPTED

There is hereby adopted by the City for the purpose of regulating purchases for the City a certain manual known as the "City of Perry Purchasing Manual," save and except such portions which may be hereinafter deleted, modified, or amended, of which not less than three (3) copies have been and are now filed in the office of the City Clerk, and the same are hereby adopted and incorporated herein as if fully set out. Any future amendments, modifications or deletions to such manual shall be subject to approval by resolution of the City Council.

ARTICLE 2

SALES TAX

Section 7-201 CITATION AND CODIFICATION

This chapter shall be known and may be cited as "City of Perry Sales Tax Ordinance."

State Law Reference: Authority to levy (sales) taxes for municipal purposes, 68 O.S. Section 2701; 68 O.S. Section 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 EFFECTIVE DATE

This Article became effective as to each cent tax after approval of majority of the registered voters of the city voting on the ordinance in the manner prescribed by Section 16-112 of Title 11 of the Oklahoma Statutes.

Section 7-207 PURPOSE OF REVENUES

A. It is the purpose of the one percent (1%) sales tax, levied by Ordinance 2175 to provide revenues for the support of the functions of the municipal government of the city.

B. Additional One Per Cent (1.00%) Sales or Excise Tax for Streets and Travel ways.

1. Beginning on December 31, 2017, and continuing until and ending on December 31, 2027, there is hereby declared and shall be levied and collected, a City excise (sales) tax of one per cent (1%), such sales tax being in addition to the city, county and state sales taxes heretofore levied or assessed, upon the gross proceeds or receipts derived from all sales to any person taxable under the sales tax laws for the State of Oklahoma.

2. This one percent (1%) sales (excise) tax shall be used for:

- A. The construction and renovation of streets and travel ways, including but not limited to preventative maintenance, rehabilitation and construction of asphalt and concrete pavements projects.
- B. Design and implementation of street and intersection improvement projects to manage traffic congestion and improve safety, including modifying and upgrading existing traffic signals and signal timing, installation of new traffic signs and signals, and other types of traffic intersection improvements.
- C. Repair, improve and install sidewalks, trails, and associated infrastructure for improving pedestrian mobility.

- D. Repair, maintain and replace box culverts and similar improvements that support transportation infrastructure.
- E. Acquire rights-of-way and easements incidental to the purposes listed above.
- F. Designs, studies, reports and other engineering or surveying services incidental to the purposes listed above.
- G. Other costs incidental to the purposes listed above, including construction inspection and management, materials testing and utility relocations.
- H. The payment of principal and interest on bonds, notes, or other evidences of indebtedness, including the cost of issuance, issued by the Perry Municipal Authority to finance one or more of the infrastructure projects authorized by this section.

3. Provided, the receipts from such sales (excise) tax shall be deposited into the Street Capital Improvement Fund ("Fund"), which Fund shall be used solely for the purpose of receiving the revenue derived from the collection of the additional one percent (1%) sales tax imposed hereunder, receiving any income from the investment of monies contained in the Fund, and making authorized expenditures as authorized in subsection 2 hereinabove.

4. Neither this section nor the one per cent (1%) sales (excise) tax levied pursuant hereto may be repealed by the City Council of the City or by initiative or referendum of the registered voters of the City in the event that the proceeds of the referenced tax are being used or have been pledged by the City or the Perry Municipal Authority for the purpose of paying debt service obligations issued by the City or the Perry Municipal Authority.

C. ADDITIONAL ONE PERCENT EXCISE TAX (SALES TAX) FOR MEDICAL PURPOSES.

1. Beginning on July 1, 2024, and continuing until and ending on June 30, 2034, there is hereby declared and shall be levied

and collected, a City sales tax of one per cent (1%), such sales tax being in addition to the city, county and state sales taxes heretofore levied or assessed, upon the gross proceeds or receipts derived from all sales to any person taxable under the sales tax laws for the State of Oklahoma.

2. It is hereby declared to be the purpose of the additional one per cent (1%) sales tax to promote medical health in the City of Perry, including but not limited to providing financial support for the maintenance, operation and administration of the hospital located in Perry, Oklahoma, and in the event such hospital closes, for the support of public medical health facilities and/or emergency medical services, including paramedic service and/or any other service that supports medical health in the City of Perry, to include the construction, maintenance, operation, repair and/or replacement of any capital improvement or purchase of equipment necessary for such medical health purpose, and for the payment of principal and interest on bonds, notes or other evidences of indebtedness, including the cost of issuance, issued by any public trust with the City of Perry as sole beneficiary, to finance one or more of the above listed medical health uses.

3. Reserved.

4. Provided, the receipts from such sales tax shall be deposited into the Medical Health Sales Tax Fund ("Fund"), which Fund shall be in the General Fund and which Fund shall be used solely for the purpose of receiving the revenue derived from the collection of the additional one per cent (1%) sales tax imposed hereunder, receiving any income from the investment of monies contained in the Fund, and making authorized expenditures for the purposes as provided in subsection 2 hereinabove.

5. Neither this section nor the one per cent (1%) sales (excise) tax levied pursuant hereto may be repealed by the City Council of the City or by initiative or referendum of the registered voters of the City in the event that the proceeds of the referenced tax are being used or have been pledged by the City or any public trust with the City of Perry as sole beneficiary for the purpose of paying debt service obligations.

Note: The 1% Sales Tax extension for the Medical Health Purposes was approved at an election held on August 23, 2022 and continues the tax until June 30, 2034.

D. Additional One & One Quarter percent (1 1/4%) sales or excise tax; Purpose; Limited Purpose Capital Improvement Fund for Water Project.

1. Beginning on July 1, 2000, and continuing until and ending on the earlier of: (a) June 30, 2030; or (b) a date that is thirty (30) days after any bonds or notes issued to finance the capital improvements specified in this Section have been fully paid and retired, or provisions made for retirement, whichever date is first to occur, there is hereby declared and shall be levied and collected, an additional City excise (sales) tax of One & One Quarter percent (1 1/4%), such sales tax being in addition to the city and state sales taxes levied or assessed, upon the gross proceeds or receipts derived from all sales to any person taxable under the sales tax laws for the State of Oklahoma. Provided, the receipts from such additional sales tax shall be deposited into a limited purpose fund to be known as the "Water Capital Improvement Fund," to be accumulated, earmarked, and expended only for the following purposes;

2. To make capital improvements to the municipal water supply, treatment, storage, and distribution system (the "Water System") owned by the City of Perry and operated by the Perry Municipal Authority (the "Authority"). Such capital improvements shall include, but not be limited to: (1) acquisition of long-term water rights to raw water from Lake McMurtry pursuant to any order of the Oklahoma Water Resources Board; (2) construction and installation of water intake facilities at Lake McMurtry; (3) construction and installation of a water pipeline from Lake McMurtry to a point within the City of Perry; (4) construction and installation of enlarged and improved water treatment and distribution facilities to allow processing of raw water from Lake McMurtry and distribution of treated water to Water System customers; (5) construction and installation of additional storage and distribution facilities for treated water; (6) construction of new or enlarged water distribution lines and loops within and immediately adjacent to the City; (7) studies to determine long-term improvements needed at the Perry City Lake in order to enhance the availability of water from said City Lake; and (8) payment of engineering, legal and other necessary costs related to Water System capital improvement projects.

3. The proceeds of the tax, and investment income therefrom, may be used to pay the costs of such capital improvements as they are made, or to pay debt service on any tax anticipation notes, or other notes, bonds, obligations or evidences of indebtedness issued by the City or the Authority to finance such capital improvements to said Water System comprising the Project, and for no other purposes.

4. A special, limited purpose fund, to be known as the "Water Capital Improvements Fund" is hereby established, and shall be used solely for the purposes of receiving the revenue derived from collection of the additional One & One Quarter percent sales tax imposed hereunder, receiving income from investment of said fund, paying indebtedness on any tax anticipation notes or bonds, notes or other indebtedness issued by the City or the Authority to finance capital improvements to the Water System, and paying for the Water System capital improvements specified in subsection (1) hereof. In no event shall monies in the fund be used to pay for construction of, or improvements to, any projects other than Water System capital improvement projects.

Note: The sales taxes are listed as follows:

1. Ordinance No. 2175, effective January 1, 1974, levied the first one cent (\$.01) sales tax;

2. Ordinance No. 2000-06, effective July 1, 2000, levied a One & One Quarter percent (1 1/4%) sales tax for capital improvements for the Water System.

3. Ordinance No. 2007-08, effective January 1, 2008, levied a one percent (1%) sales tax for street capital improvements. The voter approved an extension of this sales tax until December 31, 2027, with an slightly amended its purpose (See Subsection B).

Section 7-208 TAX IMPOSED; AMOUNT

A. There is hereby levied an excise tax in the amount of Four and One Quarter (4 1/4%) upon the gross proceeds or gross receipts derived from all sales taxable under the Oklahoma Sales Tax Code, as provided in the previous Section, 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 non-vocal 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 7-209 EXEMPTIONS; SALES SUBJECT TO OTHER TAX

There is hereby specifically exempted from the tax levied by this Article, the gross receipts or gross proceeds as exempted from the Oklahoma Sales Tax Code by state law or as it is hereinafter amended.

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

There is hereby specifically exempted from the tax levied by this Article pertaining to governmental and nonprofit entities, the gross receipts or gross proceeds as exempted from the Oklahoma Sales Tax Code by state law or as it is hereinafter amended.

Section 7-213 SAME-GENERALLY

There is hereby specifically exempted from the tax levied by this Article the exact same exemptions as provided by the Oklahoma State Tax Code as such law currently exists or as hereinafter amended.

Section 7-214 SAME-MANUFACTURERS

There is hereby specifically exempted from the tax levied by this Article pertaining to manufacturers, the gross receipts or gross proceeds as exempted from the Oklahoma Sales Tax Code by state law or as it is hereinafter amended.

Section 7-215 SAME-AGRICULTURE

There is hereby specifically exempted from the tax levied by this Article pertaining to agriculture, the gross receipts or gross proceeds as exempted from the Oklahoma Sales Tax Code by

state law or as it is hereinafter amended.

State Law Reference: Similar provision, 68 O.S. Section 1305a.

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 willfully or intentionally fails, neglects or refuses to collect the full amount of the tax levied by this chapter, or willfully or intentionally fails, neglects or refuses to comply with the provisions or remits or rebates to a consumer or user, either directly or indirectly, 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 willfully 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 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 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 City 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

TELEPHONE EXCHANGE FEE

DIVISION 1

TELEPHONE EXCHANGE FEE

Section 7-301 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 due and payable to the city on or before the first day of April of each year, for the calendar year ending December 31 preceding, and shall be paid into 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 7-302 FEE TO BE IN LIEU OF OTHER FEES, TAXES

During continued substantial compliance with the terms of this chapter 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.

DIVISION 2

911 ENHANCED EMERGENCY TELEPHONE SERVICE.

Section 7-311 through Section 7-315 RESERVED.

Section 7-316 COOPERATION WITH OTHER GOVERNING BODIES

The City Manager is hereby authorized to cooperate with other governing bodies who may impose a similar fee and who wish to participate in the city's enhanced nine-one-one (911) emergency telephone service.

Section 7-317 FALSE ALARMS; FALSE COMPLAINTS; FALSE REPORTING

A. No person shall call the number nine-one-one (911) for the purpose of making a knowingly false alarm or complaint or reporting knowingly false information which could result in the dispatch of emergency services from any public agency as defined in Paragraph B of this Section.

B. "Public agency" means any city, town, county, municipal corporation, public district, public trust, public authority or any other entity, public or private, located within this state which provides, has authority to provide, or is licensed to provide firefighting, law enforcement, ambulance, emergency medical or other emergency services.

C. The violation of this Section shall be punishable by a fine of not to exceed Fifty Dollars (\$50.00), plus court costs, and an assessment for the resulting costs of any dispatching of emergency personnel and equipment for each such violation.

ARTICLE 4

UTILITIES TAX

Section 7-401 FEE LEVIED; APPLICATION

There is hereby levied and assessed an annual tax of two percent (2%) upon the gross receipts from residential and commercial sales made by all persons, firms, associations or corporations engaged in the business of furnishing power, light, heat, gas, electricity or water within the city limits, except that it shall not apply to 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. Section 2601; tax not applicable to franchise holders, 68 O.S. Section 2602.

Section 7-402 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 7-403 TAX TO BE PAID MONTHLY AND PLACED IN GENERAL REVENUE FUND

The tax levied under this Article shall be levied for a term of not less than one (1) year and shall be payable quarterly and placed in the general revenue fund of the city.

Section 7-404 FAILURE TO PAY; ACTION FOR COLLECTION

Any person failing or refusing to pay the tax levied by this chapter 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 7-405 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 7-406 PERMIT GRANTED TO GAS COMPANIES IN LIEU OF FRANCHISE

Any persons, firms, associations, or corporations engaged in the business of furnishing gas within the city limits, not operating under a valid franchise from the city, and upon whom the tax provided under Section 7-401 of this code is imposed, is hereby granted a revocable permit by the city for so long as

this chapter remains in effect and the taxes are paid in accordance with the terms of this chapter to acquire, construct, erect, install, extend, repair, remove, relocate, replace, operate and maintain a system of works, pipes, pipelines, apparatus, structures and appurtenances in, across, upon and under the streets, alleys, avenues, boulevards, lanes, parks, parkways, sidewalks, parking, driveways, rights-of-way, utility easements, and other public ways, places, areas and grounds, all being sometimes referred to herein as "streets, alleys, avenues, and other public ways, places and grounds," in the city as now constituted, and as may be added to hereafter, for the purpose of transporting, distributing and selling gas for domestic, commercial and industrial uses, and for any and all other purposes for which gas, during the period of this revocable permit may be used, together with the right to enter upon the streets, alleys, avenues and other public ways, places and grounds of the city for the purpose of constructing, erecting, installing, extending, relocating, operating, maintaining, removing and repairing the works, pipes, pipelines, and all necessary apparatus, machinery, structures and appurtenances.

ARTICLE 5

USE TAX

Section 7-501 DEFINITIONS.

The following words, terms and phrases when used in this Article shall have the meanings respectively given to them in this section:

"Maintaining a place of business within the state" includes any person having or maintaining in the state, directly or by subsidiary, an office, distribution house, sales house, warehouse, or other place of business. It also includes any person having agents operating in the state under authority of the retailer or subsidiary, whether the place of business or agent is within the state permanently or temporarily, or whether the person or subsidiary is authorized to do business within the state is immaterial;

"Person" shall mean and include any individual, company, partnership, joint venture, joint agreement, association (mutual or otherwise), limited liability company, corporation, estate, trust, business trust, receiver, or trustee appointed by the

state or federal court, syndicate, this state, any county, city, municipality, or other political subdivision or agency of the state, or group or combination acting as a unit in the plural or singular number;

"Purchase" means and includes any method whereby a transferee receives from a transferor either the title or possession, for a valuable consideration, of tangible personal property, regardless of the manner, method, instrumentality, or device by which such transfer is accomplished. The term "purchase" also includes the exchange, barter, lease, or rental of tangible personal property where such exchange, barter, lease, or rental results in either the transfer of the title or the possession to the transferee;

"Purchase at retail" means and includes all purchases except purchases made for the purpose of resale;

"Purchase price" means the consideration paid or given or contracted to be paid or given by any person to the seller of an article of tangible personal property for the article purchased. The term "purchase price" also means the consideration paid or given or contracted to be paid or given by the transferee to the transferor for the article of tangible personal property;

"Retailer" means every person engaged in the business of selling tangible personal property for use within the meaning of the article; provided, however, that when in the opinion of the Tax Commission it is necessary for the efficient administration of this article to regard any salesmen, representatives, truckers, peddlers, or canvassers as the agents of the dealers, distributors, supervisors, employers, or persons under whom they operate or from whom they obtain the tangible personal property sold by them, irrespective of whether they are making sales on their own behalf or on behalf of such dealers, distributors, supervisors, employers, or persons, the Tax Commission may so regard them and may regard the dealers, distributors, supervisors, employers or persons as retailers for purposes of this article;

"Sale" means and includes the transfer of either the title or possession for a valuable consideration of tangible personal property, regardless of the manner, method, instrumentality, or device by which such transfer is accomplished. The term "sale" also includes the exchange, barter, lease, or rental of tangible

personal property where such exchange, barter, lease, or rental results in either the transfer of the title or the possession;

"Tax Commission" means the Oklahoma Tax Commission;

"Taxpayer" means any person liable to pay a tax hereunder, or charged with the collection and remission thereof, or to make a report for the purpose of claiming any exemptions in payment of any tax levied by this Article; and

"Use" means and includes the exercise of any right or power over tangible personal property incident to the ownership or possession of that property, except that it shall not include the sale of that property in the regular course of business

SECTION 7-502 EXCISE TAX ON STORAGE, USE, OR OTHER CONSUMPTION OF TANGIBLE PERSONAL PROPERTY.

There is hereby levied and there shall be paid by every person storing, using, or otherwise consuming within this municipality, tangible personal property purchased or brought into this municipality, an excise tax on the storage, use, or other consumption in this municipality of such property at the rate of Four and One Quarter Percent (4 1/4%) of the purchase price of such property; provided however, the rate of excise tax levied pursuant to this section shall automatically adjust to match the prevailing sales tax rate levied by the municipality, with such change in use tax rate to be effective on the date the change in the prevailing sales tax rate takes effect, and such change in use tax rate not requiring further approval of the governing body of 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.

SECTION 7-503 EXEMPTIONS AND EXCEPTIONS.

All exceptions provided by 68 O.S. 1401 et seq., or as such sections may hereinafter be amended, shall apply to the imposition of the municipal use tax.

SECTION 7-504 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 7-505 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 7-506 COLLECTION OF TAX BY RETAILER OR VENDOR.

Except as otherwise provided by 68 O.S. §1401 et seq., every retailer or vendor maintaining places of business both within and without this state and making sales of tangible personal property from a place of business outside this state for use in this municipality shall at the time of making such sales collect the use tax levied by this Article from the purchaser and give to the purchaser a receipt therefore in the manner and form prescribed by the Tax Commission, if the Tax Commission shall, by regulation, require such receipt. Each retailer or vendor shall list with the Tax Commission the name and address of all the retailer's or vendor's agents operating in this municipality and location of any and all distribution or sales houses or offices or other places of business in this municipality. The retailer or vendor shall not collect the use tax levied by this Article from a purchaser who is a holder of a direct payment permit issued pursuant to 68 O.S. §1364.1.

SECTION 7-507 COLLECTION OF TAX BY RETAILER OR VENDOR NOT
MAINTAINING PLACE OF BUSINESS WITHIN STATE OR BOTH WITHIN AND
WITHOUT STATE – PERMITS.

The Tax Commission may in its discretion, 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 place of business for use in this municipality. Such retailer or vendor shall be issued, without charge, a permit to collect such taxes, in such manner and subject to such regulations and agreements as the Tax Commission 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 local sales tax at the point of delivery and the tax shall be collected and reported under taxpayer's sales tax permit number accordingly.

SECTION 7-508 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. § 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 7-509 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 7-510 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 7-511 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 7-512 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 7-513 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 7-514 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 7-515 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 7-516 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 7-517 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 6

PERRY HOTEL TAX ORDINANCE

SECTION 7-601 CITATION AND CODIFICATION.

This Article shall be known and cited as the "Perry Hotel Tax Ordinance" and shall be codified as Sections 7-601 through 7-623 of the Perry Municipal Code.

SECTION 7-102 DEFINITIONS.

As used in this Article:

(a) DIRECTOR shall mean the City Clerk of the City of Perry, Oklahoma.

(b) HOTEL shall mean any building or buildings, structure, trailer, or other facility in which the public may, for consideration, obtain sleeping accommodations in which five (5) or more rooms are used for the accommodation of such guests whether such rooms are in one or several structures. The term shall include hotels, motels, tourist homes, houses, or courts, lodging houses, inns, rooming houses, trailer houses and trailer motels. The term shall not include hospitals, apartments, sanitariums, or nursing homes.

(c) OCCUPANCY shall mean the use or possession, or the right to use or the possession of any room or rooms in a hotel, or the right to the use of possession of the furnishings or to the services and accommodations accompanying the use and possession of the room or rooms.

(d) 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 of access, license to use, or other agreement.

(e) OPERATOR shall mean any person operating a hotel in this City, including, but not limited to, the owner, proprietor, lessee, sublessee, mortgagee in possession, licensee, or any other person otherwise operating such hotel.

(f) 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.

(g) RETURN shall mean any return filed or required to be filed as herein provided.

(h) 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 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.

(i) TAX shall mean the tax levied pursuant to this Article.

SECTION 7-603 LEVIED; RATE.

Beginning on May 1, 2013, 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 Perry Municipal Authority for the purpose of paying debt service obligations issued by the Perry Municipal 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 except that the tax shall not be imposed where the rent is less than the rate of three dollars (\$3.00) per day.

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 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, charge, 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. At the request of the Director, the Chief Financial Officer will apply certain agreed upon procedures to selected returns of occupancy and rents. These procedures will include validation of gross rents and exemptions reported, recalculations of the hotel tax due, and vouching of the hotel tax payment to the city.

SECTION 7-609 RETURNS.

(a) On or before the 20th day of each month, every operator 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 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 City Council or its designee for a hearing or unless the Director on his own motion shall reassess

the same. After such hearing, the City Council 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) Procedure. 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 also allow credit therefore on the payment due from the applicant.

(b) Determination and Hearing. 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 AVAILABLE.

The remedies provided in this Article shall be the

exclusive remedies available to any person for the review of tax liability imposed by this Article.

SECTION 7-615 GENERAL POWERS OF THE DIRECTOR.

In addition to all other powers granted to the Director, he is hereby authorized and empowered:

(a) 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;

(b) To delegate his functions hereunder to an assistant or other employee or employees of the City;

(c) To assess, reassess, determine, revise, and readjust the taxes imposed by this Article;

(d) To prescribe methods for determining the taxable and non-taxable 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 as prescribed by the Director within ten (10) days after the effective date of this Article, or in case of operators commencing business or opening new hotels after the effective date, not less than five (5) days prior to 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 a 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-transferrable 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 percent (1 1/2%) per month on the unpaid balance from the date of delinquency.

SECTION 7-619 DISCOUNT.

In order to remunerate the operator for keeping the tax record, filing reports, and remitting the tax when due, a three percent (3%) discount shall be allowed upon all taxes paid prior to the time they become delinquent.

SECTION 7-620 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 68 O.S. § 205 of the State Sales Tax Code, and each subsection thereof is hereby adopted by reference and made fully effective and applicable to the administration of the Perry Hotel Tax as if herein set forth.

SECTION 7-621 FRAUDULENT RETURNS.

The willful failure or refusal of any taxpayer, operator or other person, corporation or entity to make timely reports and remittances therein required, or the making of any false and fraudulent report for the purpose of avoiding or escaping payment of the tax, or any portion thereof, rightfully due under this Article, shall be an offense, and upon conviction thereof, the offending taxpayer shall be subject to a fine of not more than Fifty Dollars (\$50.00), including costs; provided however, each day shall be considered a separate offense.

SECTION 7-622. AMENDMENTS.

The registered voters of the City of Perry by their approval of this Article at the election herein provided, hereby authorize the City Council by Article 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 the approval of a majority of the registered voters voting in an election called for that purpose.

SECTION 7-623. USE OF FUNDS.

All taxes collected pursuant to the provisions of this Article shall be deposited into a limited purpose tax fund to be accumulated, earmarked and expended exclusively for preservation, enhancement and development of tourism and the diverse business, economic, historic, aesthetic and environmental interests and objectives specifically within the City of Perry, Oklahoma. 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 Perry Municipal Authority to finance such public capital improvements.

ARTICLE 7

ANNUAL INSPECTION FEE ON TELEPHONE COMPANIES

SECTION 7-701 ANNUAL INSPECTION FEE ON TELEPHONE COMPANIES

A. There is hereby levied an annual inspection fee and service charge upon each and every person operating a telephone exchange in the City in an amount equal to two percent of the gross revenues for each current year for exchange telephone transmission service rendered wholly within the city to compensate the city for the expense incurred and service rendered incident to the exercise of its police power, supervision and regulation, and police control of the construction of lines and equipment of the telephone company in the city. Such inspection fee and charge shall be due and payable to the city on or before January 1 of each year and

shall be deposited in the city's general fund.

B. The fee levied in subsection B of this section shall be in lieu of all concession, charges, excise, franchise, license, privilege and permit fees or taxes or assessments, except ad valorem taxes.

C. This section is not intended to extinguish or abrogate any arrangement whereby the city is permitted to use underground conduit, duct space, or pole contacts of the company for fire alarms and/or police call systems.

D. Failure to pay the tax levied by the provisions of this section shall be subject to the general penalty as provided by this code.

ARTICLE 8

ONE GAS, INC./OKLAHOMA NATURAL GAS COMPANY DIVISION FRANCHISE

Section 7-801 DEFINITIONS

As used in this Article, the following words and phrases shall have the following meanings:

A. "Calculated Value" shall mean the total Transport Gas measured in Dekatherms (Dth), delivered to a Transport Gas Consumer for a billing period, multiplied by the Settlement Price to arrive at the value of the Transport Gas transported by Grantee for that Transport Gas Consumer.

B. "Consumer" shall mean any individual person, corporation, company, partnership, firm, unincorporated association, trust, municipality, or public or private entity located within the municipal corporate limits of the City and serviced by the Grantee through any use of the Public Ways.

C. "Dekatherm" or "Dth" shall mean a measurement of natural gas equal to 1,000,000 British Thermal Units ("Btu"), or 1 MMBtu, on a dry basis. Btu shall be computed on a temperature base of 60 degrees Fahrenheit and a pressure base of 14.73 PSIA.

D. "Distributed" or "Distribution" shall mean all sales, distribution, or transportation of natural gas to any Consumer or user located within the municipal corporate limits of the

City by the Grantee or by others through Grantee's Distribution System.

E. "Distribution System" shall mean a system of works, pipes, pipelines, apparatus, machinery, structures, appliances, and appurtenances as are reasonably necessary for the transportation, distribution, or sale of gas to Consumers.

F. "Franchise" shall mean the rights and privileges granted by Grantor to Grantee under Subsection A of Section 7-802 of this Article.

G. "Franchise Fee" or "Franchise Fees" shall mean the sum of fees to be paid to the City by Grantee under Section 7-811 of this Article, at Paragraph A(1), as consideration for the use of the Public Ways and shall be inclusive or in lieu of any permit fees, lane closure fees and similar fees or charges for construction, installation, maintenance or restoration work on the Distribution System with the Public Ways.

H. "Grantee" shall mean ONE Gas, Inc., a corporation acting by and through its Oklahoma Natural Gas Company division, and its successors and assigns.

I. "Grantor" shall mean the City of Perry, Oklahoma, a municipal corporation, hereinafter also referred to as the "City".

J. "Gross Receipts" shall mean any and all compensation derived by Grantee directly from the Distribution of natural gas to a Consumer for any use, including residential, industrial and commercial purposes, and shall include without limitation revenues from any operation or use of any or all of the Distribution System by Grantee or others. Gross Receipts shall not include revenues received by Grantee from Consumers as franchise fee reimbursement nor Volumetric Rate Fees collected by Grantee and remitted to Grantor in accordance with Paragraph 7-811.A(2) pursuant to an ordinance enacted by Grantor according to Paragraph 3.B(1) hereof, nor shall Gross Receipts include revenues from incidental charges or miscellaneous fees not directly generated by the Distribution of natural gas to Consumers, such as, by way of example, connection and disconnection fees, reconnection fees, customer project contributions, returned check charges, delayed or late payment charges, temporary service charges, and other such charges.

K. "Install, operate and maintain" shall mean to acquire, erect, construct, install, extend, repair, remove, relocate, replace, or otherwise operate and maintain.

L. "Public Ways" shall mean any street, alley, avenue, boulevard, lane, park, parkway, sidewalk, driveway, public right of way, and any other public ways, places, areas, or grounds within the municipal corporate limits of the City as now constituted or as may be added or extended hereafter.

M. "Settlement Price" shall mean the settlement prices for natural gas futures contracts traded on the New York Mercantile Exchange (NYMEX), or any successor exchange or index, on the 15th day of each month as published daily in *The Wall Street Journal* (WSJ) on the following business day (or the next day in which a Settlement Price is published) for each month of the twelve-month period immediately following.

N. "Transportation Tariff Arrangement" shall mean any arrangement between Grantee and a Consumer pursuant to which natural gas owned by any party other than the Grantee shall be transported, distributed or sold through any portion of Grantee's Distribution System and under one of Grantee's tariffs or special contract for delivery to the Consumer.

O. "Transport Gas" shall mean all natural gas transported by Grantee pursuant to a Transportation Tariff Arrangement or by other agreement, but not sold by Grantee through Grantee's Distribution System to any Consumer or user located within the municipal corporate limits of the City.

P. "Transport Gas Consumer" shall mean a Consumer which uses Transport Gas.

Q. "Volumetric Rate" shall mean Four and One-Quarter Percent (4.25%) of the Calculated Value of Transport Gas as determined by Grantee in accordance with the provisions of this definition. The Volumetric Rate Calculation Form incorporated herein as Exhibit "A" shall be used for the calculation of the Volumetric Rate; provided, that the Grantor enacts an ordinance as described in Paragraph 7-803.B(1) below, the four and one-quarter percent (4.25%) multiplier labeled "4.25% Bundled Franchise Fee Rate" set forth on "Exhibit A" shall be completed by Grantee and filed with the City Clerk of the City upon Grantee's acceptance of this franchise and annually by each July

following acceptance. The calculation filed upon Grantee's acceptance of this franchise shall be effective from the date of such filing through and including December 31 of the next succeeding calendar year. The calculation filed by Grantee on July 31 in years following the year of acceptance of this franchise shall be effective on January 1 of the next succeeding calendar year through and including December 31 of such calendar year. The calculation shall be subject to review by the City for mathematical correctness and the City shall notify Grantee in writing within forty-five (45) calendar days after submission if the City deems such calculation to be incorrect. The volumetric rate calculation shall be based on the average of the average Settlement Prices for the twelve-month period beginning in July of the immediately preceding year and ending in June immediately preceding the July 31 calculation. The average Settlement Prices for each month during said twelve-month period shall be calculated by adding the Settlement Prices for such month and the previous eleven (11) months as published and dividing by twelve. The average Settlement Prices for each of the twelve months shall then be summed and divided by twelve to determine the average of the average Settlement Prices and then multiplied by four and one-quarter percent (4.25%) to obtain the Volumetric Rate; provided, in the event the then-current average of the average Settlement Prices as calculated above and entered on the Volumetric Rate Calculation Form, attached as Exhibit A (see line designated on Exhibit "A" as "settlement price average"), exceeds the Index price for ONEOK Gas Transportation, L.L.C., that is listed in the issue of Platt's "Inside FERC's Gas Market Report" published on the first business day of the respective month ("Platt's Index price"), then the Platt's Index price shall be used to calculate the Volumetric Rate for that delivery month in lieu of the average of the average Settlement Prices entered on the Volumetric Rate Calculation Form (Exhibit A) (i.e., for that respective delivery month, the Volumetric Rate shall be determined by taking the Platt's Index price and multiplying that price by 4.25% or the then applicable increased percentage determined in the same manner set out in Paragraph 7-811.A(2) of this franchise).

R. "Volumetric Rate Fee" or "Volumetric Rate Fees" shall mean the fee or fees based on the Volumetric Rate to be collected and remitted to the City by Grantee as required by Paragraph 7-811.A(2) of this franchise upon the enactment of an ordinance as described in Paragraph 3.B(1).

Section 7-802 GRANT OF FRANCHISE

A. The Grantor hereby grants to Grantee for the term of twenty-five (25) years from the passage and voter approval of this Article and the filing of a written acceptance by the Grantee, the right to enter upon the Public Ways to install, operate and maintain a Distribution System along, across, over and under the Public Ways for the privilege of transporting, distributing and/or selling gas to consumers and the public generally within the municipal corporate limits of the City.

B. The Article shall have the effect of and shall be a contract between Grantor and Grantee and shall be the measure of the rights and liabilities of Grantor as well as Grantee.

C. The franchise granted by this Article is not exclusive and nothing herein shall be construed to divest the Grantor of its control and regulation of the Public Ways.

Section 7-803. FRANCHISE ASSIGNMENT, SALE OR LEASE

A. Grantee shall not have the right to assign, sell, lease, or otherwise transfer in any manner whatsoever to any third party not affiliated with Grantee the rights and privileges granted under this Article except as hereinafter provided. Any assignment, sale, lease, or other transfer by the Grantee of the franchise granted herein to any third party not affiliated with Grantee shall be ineffective and void unless:

(1) The proposed assignment, sale, lease, or transfer shall be in writing:

(2) The prospective assignee, buyer, lessee, or other transferee shall agree in writing to accept and become responsible for full performance of all conditions, covenants, obligations, and liabilities contained in this Article; and

(3) Such writing shall be submitted to the City Clerk of the City.

This Subsection shall not apply to any arrangement which is in compliance with the provisions of Subsection B of this Section. This Section shall not apply to the use of any portion of Grantee's distribution system for the transportation, distribution, or sale to any Consumer purchasing, receiving, and

using natural gas outside the municipal corporate limits of the City.

B. After the operative date of this Article, Grantee shall have the right to enter into or continue to operate pursuant to any "Transportation Tariff Arrangement" or to enter into or continue any arrangement by which natural gas owned by any party other than Grantee shall be transported, distributed or sold through any portion of Grantee's Distribution System for delivery to any Consumer located within the municipal corporate limits of the City, subject to the following:

(1) Should Grantor, by separate ordinance, require persons transporting gas pursuant to a Transportation Tariff Arrangement to pay compensation to Grantor for use of the Public Ways in connection with the sale of Transport Gas, said compensation shall be calculated as a Volumetric Rate Fee and collected and remitted by Grantee as provided in Paragraph 7-811.A(2) of this Article;

(2) The Transport Gas Consumer shall have obtained a license from the Grantor, if the Grantor shall have a licensing ordinance in effect, for the use of the Public Ways in connection with such transport of natural gas, and the Grantor shall have notified the Grantee in writing of such license.

Section 7-804. USE AND REPAIR OF THE PUBLIC WAYS

A. Grantee's Distribution System shall be erected, placed, and laid or otherwise installed, operated, and maintained in such a manner as will, consistent with reasonable necessity, least interfere with other public uses of the Public Ways.

B. Before Grantee shall excavate or disturb the surface of any Public Way, except in the case of emergency, at least forty-eight (48) hours' notice shall be given to the City's Engineer, the City Manager or designee or other proper authority designated in writing by the Grantor. After such excavation or disturbance, the Grantee shall, with due diligence and dispatch, place the Public Way in a condition in compliance with the Grantor's reasonable standards and specifications.

C. Upon Grantee's failure to commence or complete any construction, maintenance or restoration work required by this

Article with due diligence and dispatch, the Grantor may cause such work to be done after written notice to Grantee, given so as to afford Grantee an opportunity to commence and complete such work within a reasonable time. The cost of such construction, maintenance or restoration incurred by Grantor upon Grantee's failure shall then be charged and collected from the Grantee.

D. Grantor reserves the right to make and enforce reasonable regulations concerning the construction of Grantee's Distribution System located within, along, across, over, or under the Public Ways and to reasonably designate where the Distribution System's works and pipelines shall be placed, so long as such regulations are not in conflict with the laws of the State of Oklahoma and the United States or the orders, rules or regulations of the Oklahoma Corporation Commission or other regulatory authority having jurisdiction over Grantee.

Section 7-805. REGULATION OF SERVICE

A. The Distribution System of the Grantee shall at all times be installed, operated and maintained in accordance with accepted good practice and in such condition as will enable the Grantee to furnish adequate and continuous service as required by the orders, rules and regulations of the Corporation Commission of Oklahoma or other regulatory authority having jurisdiction. The requirements set forth in this Section shall not relieve Grantee of any other obligations set forth herein.

B. In the event that the Corporation Commission of Oklahoma or other state regulatory authority shall be deprived of the authority to regulate Grantee, then Grantor shall have the authority to set rates, terms and conditions of service for transportation, distribution or sale of natural gas by Grantee within the municipal corporate limits of the City.

Section 7-806. DEPTH OF PIPELINES

After the operative date of this franchise, Grantee's main or lateral lines installed or replaced in Public Ways shall be installed or replaced at depths which comply with all applicable state and federal rules and regulations establishing minimum safety standards for the design, construction, maintenance and operation of pipelines. Depth shall be measured from the lower of existing grade or proposed future grade as set forth on plans

or other specifications existing at the time such lines are installed or replaced.

Section 7-807. DUTY TO MOVE OR ALTER LINES

A. Grantor reserves the right to lay or permit to be laid cables, electric conduits, water, sewer, gas or other pipelines and to do or permit to be done any underground work deemed necessary and proper by the Grantor, along, across, over or under the Public Ways. In permitting such work to be done, the Grantor shall not be liable to the Grantee for any damage to Grantee's pipeline unless Grantor or its agents or contractors are negligent in causing said damage.

B. Whenever by reason of establishing a grade or changes in the grade of any street or in the location or manner of construction of any public way, cables, electric conduits, water, sewer, gas or other underground structures, it shall be deemed necessary by the Grantor to alter, change, adapt or conform any portion of Grantee's Distribution System located in the Public Ways, such alterations or changes shall be made within a reasonable time by the Grantee, as ordered in writing by the Grantor, without claim for reimbursement or compensation for damages against Grantor; provided, however, that this Section is not intended to require Grantee to alter, change, adapt or conform any portion of its Distribution System without reimbursement or compensation where the right to locate the same, whether by private right-of-way grant, utility easement or otherwise, was acquired prior to its location in the public way.

C. If Grantor shall require the Grantee to adapt or conform its Distribution System or in any way to alter, relocate or change its property to enable any other person, firm, corporation or entity (whether public or private), other than the Grantor, to use the Public Ways, the Grantee shall be reimbursed by the person, firm corporation or entity desiring or occasioning such change for any and all loss, cost or expense occasioned thereby.

D. "Person," "firm," "corporation," and "entity" as used in Subsection C of this Section shall not include regular departments of the Grantor, or any trust or authority formed by or for the benefit of Grantor for public utility purposes, but shall include any other agency or authority of the City, whether acting in a governmental or non-governmental capacity,

including, but not limited to, any urban renewal authority, or any other agency or authority, which as a part of its program clears whole tracts of land within the municipal corporate limits and relocates citizens for the purpose of urban development or similar aims.

Section 7-808. INDEMNIFICATION OF GRANTOR

The Grantee shall indemnify, become responsible for and forever save harmless the Grantor from any and all damages, judgments, reasonable costs and expenses, including attorney fees, which the Grantor may suffer or incur, or which may be legally obtained against the Grantor, for or by reason of the negligent use, repair or occupation of any public way within the municipal corporate limits of the City by the Grantee pursuant to the terms of this Ordinance or resulting from the negligent exercise by the Grantee of any of its privileges or by reason of its carrying on its business in the City (except where such damages, judgments, reasonable costs and expenses, including attorney fees, result from the negligence of Grantor or its agents or contractors); provided, however, that in the event of such claim or claims being prosecuted against the Grantor, the Grantee shall have the right to defend against the same, and to settle or discharge same in such manner as it may see fit, and the Grantor shall give prompt written notice to the Grantee of the presentation or prosecution of such claims.

Section 7-809. GRANTEE'S RULES AND REGULATIONS

The Grantee shall have the right to make and enforce such reasonable rules and regulations as it may deem necessary for the extension of its facilities, the sale of its gas and the prudent conduct of its business, provided that such rules and regulations shall neither be in conflict with the laws of the State of Oklahoma, with the orders, rules or regulations of the Corporation Commission of Oklahoma or other regulatory authority having jurisdiction, nor with the ordinances and regulations of the Grantor insofar as they are consistent with the jurisdiction of the Corporation Commission of Oklahoma or such other regulatory authority.

Section 7-810. INSPECTION OF RECORDS

Grantee shall permit Grantor or its agents to inspect, during regular business hours, the books, papers and records

kept by Grantee in the ordinary course of business and pertaining to the natural gas business carried on by it in the City, such as plats, maps and atlases identifying Grantee's pipelines in the City, and the books and records necessary to verify the franchise fee payment provided for in 7-811 hereof. Notwithstanding the obligation herein, Grantee shall have the right to request the reasonable protection of proprietary information and to provide redacted documents or require Grantor or its agents to enter into such agreements pertaining to confidentiality as may reasonably protect the proprietary information of Grantee but which do not unreasonably frustrate the purposes of this Section. Grantor shall promptly notify Grantee in writing of areas newly annexed into or de-annexed from the corporate limits of Grantor, and Grantee shall update its records for the purpose of payment of franchise fees as soon as reasonably practicable after receiving such notice.

Section 7-811. CONSIDERATION FOR FRANCHISE: FRANCHISE FEE

A. In consideration for the rights and privileges enjoyed under this franchise, Grantee agrees to pay Grantor as follows:

(1) Grantee shall pay Grantor a franchise fee the sum of which is equal to Four and One-Quarter Percent (4.25%) of the Gross Receipts received by Grantee, per billing period, from the transportation, distribution, and sale of natural gas for domestic, commercial or industrial consumption within the municipal corporate limits of the City. All sums due from Grantee shall be in lieu of all other franchise, license, or occupational taxes or fees, which may be levied or attempted to be levied on Grantee by the City.

(2) In the event that Grantor, pursuant to Section 7-803.B(1) of this Article, requires persons transporting gas pursuant to a Transportation Tariff Arrangement to pay compensation to Grantor for use of the Public Ways in connection the sale of Transport Gas, said compensation shall be calculated as a Volumetric Rate fee for such Transport Gas, which shall be the sum equal to the then current Volumetric Rate multiplied by the number of Dth of Transport Gas reported or distributed through Grantee's facilities within the municipal corporate limits of the City by Grantee or by any third-party to transport customers for consumption within the City. Grantee will in that event collect such Volumetric Rate Fees from persons transporting gas pursuant to a Transportation Tariff Arrangement and remit the same to Grantor.

B. In the event a customer of Grantee does not pay a monthly bill from Grantee in full, Grantee shall prorate its payments of remissions to the City for sums due on that particular bill so that the amount actually paid by the customer to Grantee on the bill is distributed to Grantee for the natural gas commodity and transportation or distribution service and to the City for sums due on the bill in proportion to the percentage of the total bill actually paid by the customer. In the event Grantee actually collects any outstanding amounts due on a past due, unpaid, or partially paid monthly bill to a customer, then Grantee shall pay Grantor its proportionate share of sums due to the City on such bill.

C. Grantee's franchise fee based upon a percentage of gross cash receipts or a volumetric rate shall be payable monthly on or before the 25th day of each month, on its gross cash receipts for the preceding calendar month.

D. All sums due from Grantee under this Section shall be in lieu of all other franchise, license, or occupation taxes or fees, which may be levied or attempted to be levied on Grantee by the City.

E. The City's chief administrative officer or his designee may waive the Volumetric Rate Fee or any part thereof due from a Transport Gas Consumer, but such waiver shall only be granted if:

(1) The Transport Gas Consumer could otherwise obtain its energy needs from another source that would not be subject to the fees imposed in Subparagraph 2 of Subsection 7-811.A above and sufficient evidence is produced by the Transport Gas Consumer so as to substantiate such alternative source; and

(2) Such alternative source, including all other fees, would be less than the cost of utilizing Grantee to furnish and transport the gas or transport alone, as the case may be.

F. Grantee shall update its records for the purpose of franchise fee payments as soon as reasonably practicable after receiving such notice.

G. Should Grantee accept any franchise from any other municipality in Oklahoma in which Grantee provides consumers with natural gas service, and should such other franchise

provide for a franchise fee, exaction fee or other similar assessment greater than the applicable rate specified above in Subsection 7-811(A)(1) of this Article for a specified class of service, whether domestic, commercial or industrial, then the franchise fee rate provided for herein for the same class of service in the City shall be automatically increased as of the date of Grantee's acceptance of the other franchise to such higher rate. Grantee will promptly notify the City of the acceptance of such franchise by such other municipality and the effective date thereof.

H. In the event the accounting rendered to Grantor by Grantee is found to be incorrect, then payment shall be made on the corrected amount, it being agreed that Grantor may accept amount offered by Grantee, but the acceptance thereof by Grantor shall not be deemed a settlement of such item if the amount is in dispute or later found to be incorrect. Grantee shall have no obligation, however, to make payment upon Transport Gas for which Grantee has not been paid. Grantee shall provide notice to Grantor of such delinquent accounts within ninety (90) days and Grantor shall hold Grantee harmless from the cost or liability for the collection of franchise fees on such delinquent accounts.

I. Grantor agrees that the franchise fee percentage rate set forth in Subsection 7-811.A, at Paragraphs (1) and (2), of this Article shall in no event exceed the percentage rate hereafter approved to calculate any fee paid to Grantor by any other person or entity for use of the Public Ways if such fee or volumetric rate is based in any way on the amount of revenues or gross receipts from the transportation, distribution, or sale of natural gas or electric energy, excluding any municipally-owned electric utility, by such other person or entity to ultimate Consumers within the City. If at any time after the effective date of this Article the fee or rate required to be paid by another is less than the percentage rate set forth in Paragraphs A(1) or (2) of 7-811, then the percentage rate set forth in Paragraphs A(1) or (2) of Section 7-811 of this Article shall be reduced to equal such lesser percentage rate on the date such lesser percentage rate becomes effective and without any further action by the City or the qualified electors residing therein.

Section 7-812. CONDITIONS OF FRANCHISE

This contract, franchise, grant, and privilege is granted

and accepted under and subject to all applicable laws and under and subject to all of the orders, rules, and regulations now or hereafter adopted by governmental bodies now or hereafter having jurisdiction.

Section 7-813. INVALIDITY OF ORDINANCE

If any clause, sentence, or section of this Ordinance shall be held to be invalid, it shall not affect the remaining portions of this Article, which shall remain valid and effective as if such invalid provision did not exist, although the parties shall be entitled to a judicial interpretation or construction of this Article to address the validation of such provision by minimal amendment thereof. Further, should any governmental body now or hereafter having jurisdiction determine that Grantee shall not be permitted to collect in whole or in part the compensation due Grantor by others for Transport Gas as set forth in Paragraph (2) of Subsection B of Section 7-803 and Paragraph (2) of Subsection A of Section 7-811 of this Article, Grantee shall thereafter have no obligation to make such payment to Grantor and Paragraph (2) of Subsection B of Section 7-803 and Paragraph (2) of Subsection A of Section 7-811 shall be of no force and effect.

Section 7-814. ELECTION REQUIRED

This Article shall not become operative until it shall be approved by a majority of the qualified electors voting thereon residing within the municipal corporate limits of the City at an election called for that purpose, and a special election is hereby called for the purpose of submitting to the qualified electors residing in said City, the question of approval or disapproval of this Article, which election shall be held on the 4th day of April 2017, between the hours prescribed by law. The Mayor of the City is hereby authorized and directed to issue a proper and lawful call and proclamation of such special election to be held on such date as aforesaid for said purpose, and the City Council of the City are hereby directed to give due and lawful notice of such election and submission of said question to the electors of said City as prescribed by law and the Ordinances of the City.

Section 7-815 ACCEPTANCE, OPERATIVE AND EFFECTIVE DATE;
EMERGENCY

In the event this Article is approved by a majority vote of

said electors voting thereon at said election, the Grantee shall file with the City Clerk, within thirty days after the official canvass of the votes and declaration by the City Council of the results thereof, a written acceptance. This Article shall become operative on the date of filing of such acceptance.

An emergency is hereby declared to exist by reason of the fact that no other person, firm or corporation has a franchise to furnish natural gas to residents and inhabitants of the City, and for the preservation of the public peace, health and safety, and by reason whereof this Article shall be effective immediately from and after its passage, approval and publication.

PAGE LEFT INTENTIONALLY BLANK

CHAPTER 8: HEALTH AND SANITATION

ARTICLE 1

WEEDS AND TRASH

- Section 8-101 ACCUMULATION OF TRASH OR WEEDS UNLAWFUL
- Section 8-102 DEFINITIONS
- Section 8-103 REPORTS OF ACCUMULATIONS OF GRASS, WEEDS OR TRASH ON PROPERTY
- Section 8-104 CLEANING AND MOWING, NOTICE, CONSENT, HEARING, RIGHT OF ENTRY
- Section 8-105 DETERMINATION AND ASSESSMENT OF COSTS
- Section 8-106 LIENS ON THE PROPERTY, CIVIL REMEDY
- Section 8-107 COUNCIL MAY DESIGNATE OFFICER TO PERFORM DUTIES, APPEALS.
- Section 8-108 UNLAWFUL TO DEPOSIT RUBBISH
- Section 8-109 OPEN BURNING
- Section 8-110 REMOVAL OF DEAD ANIMALS
- Section 8-111 UNLAWFUL TO LITTER
- Section 8-112 UNLAWFUL TO LITTER FROM AUTOMOBILES
- Section 8-113 LITTER NOT TO ACCUMULATE ON PROPERTY
- Section 8-114 ABANDONED REFRIGERATOR; APPLIANCES

ARTICLE 2

(RESERVED)

ARTICLE 3

NUISANCES

- Section 8-301 DEFINITION
- Section 8-302 UNLAWFUL TO MAINTAIN NUISANCE
- Section 8-303 ABATEMENT

ARTICLE 4

JUNK, MOTOR VEHICLES & OPEN STORAGE

- Section 8-401 NUISANCE
- Section 8-402 DEFINITIONS
- Section 8-403 STORING, PARKING OR LEAVING DISMANTLED OR OTHER SUCH MOTOR VEHICLES PROHIBITED; AND DECLARED A NUISANCE; EXCEPTIONS

Section 8-404 PRESUMPTION OF ABANDONMENT.
Section 8-405 NOTICE TO REMOVE FROM PUBLIC PROPERTY.
Section 8-406 RESPONSIBILITY FOR REMOVAL FROM PUBLIC PROPERTY.
Section 8-407 NOTICE TO REMOVE FROM PRIVATE PROPERTY.
Section 8-408 HEARING.
Section 8-409 REMOVAL OF MOTOR VEHICLES FROM PROPERTY.
Section 8-410 NOTICE OF REMOVAL.
Section 8-411 REDEMPTION OF IMPOUNDED VEHICLES OR MOTOR
VEHICLES.
Section 8-412 OPEN STORAGE OF MATERIALS
Section 8-413 PENALTY; CONTINUING VIOLATIONS.

ARTICLE 5

DILAPIDATED BUILDINGS

Section 8-501 DEFINITIONS
Section 8-502 CONDEMNATION OF DILAPIDATED BUILDINGS; NOTICE
REMOVAL
Section 8-503 DETERMINATION OF COSTS, LIEN; MISCELLANEOUS
Section 8-504 BOARDING AND SECURING DILAPIDATED BUILDINGS,
PROCEDURE, NOTICE
Section 8-505 OTHER POWERS
Section 8-506 EXCEPTION
Section 8-507 REMOVAL OF GRAFFITI

ARTICLE 6

ENFORCEMENT

Section 8-601 COUNTY HEALTH DEPARTMENT DESIGNATED TO
ENFORCE HEALTH ORDINANCES
Section 8-602 OBSTRUCTING HEALTH OFFICER
Section 8-603 QUARANTINE; VIOLATIONS
Section 8-604 APPOINTMENT OF CODE ENFORCEMENT OFFICER.

ARTICLE 7

REMEDICATION OF CONTAMINATED PROPERTY AFTER THE DISCOVERY OF
METHAMPHETAMINE OR OTHER NOXIOUS, HAZARDOUS OR TOXIC SUBSTANCES

Section 8-701 PURPOSE AND INTENT
Section 8-702 REPORTS OF METHAMPHETAMINE OR OTHER NOXIOUS,
HAZARDOUS AND TOXIC SUSBTANCE ACTIVITY
Section 8-703 PROHIBITION OF OCCUPANCY

Section 8-704 PUBLIC NOTICE OF CONTAMINATION
Section 8-705 ASSESSMENT AND REMEDIATION
Section 8-706 ACCEPTABLE LEVELS OF CONTAMINATION
Section 8-707 CLEANUP AND SAFETY STANDARDS
Section 8-708 FINAL REPORT
Section 8-709 PENALTY

ARTICLE 8

MUNICIPAL CODE LIEN ENFORCEMENT ACT

SECTION 8-801 TITLE
SECTION 8-802 DECLARATION OF PURPOSE
SECTION 8-803 DEFINITIONS
SECTION 8-804 APPLICABILITY
SECTION 8-805 AUTHORIZATION OF JUDICIAL IN REM FORECLOSURE
SECTION 8-806 THRESHOLD FOR FORECLOSURE
SECTION 8-807 PROCEDURE
SECTION 8-808 EXCLUSION OF OWNER-OCCUPIED PROPERTY
SECTION 8-809 NOTICE AND SUPPORT SERVICES FOR OWNER-OCCUPIED
PROPERTY
SECTION 8-110 ADMINISTRATIVE REGULATIONS

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.

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 Manager, 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 clerk 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 designate the City Manager or his designee 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 City Manager or his designee 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 City Council from any order of the City Manager or his designee. 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 City Manager or his designee 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 county treasurer. In addition, the cost and the interest thereon shall be a lien against the property from the date the cost is certified to the county treasurer, coequal with the lien of ad valorem taxes and all other taxes and special assessments and prior and superior to all other titles and liens against the property, and the lien shall continue until the cost shall be fully paid. At the time of collection, the county treasurer shall collect a fee of Five Dollars (\$5.00) for each parcel of property. 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 OPEN BURNING.

A. Definitions. For purpose of this section, the following definitions shall have the following meanings:

1. Combustible materials: Any substance that will readily burn.

2. Domestic refuse. Any refuse produced during normal daily household operations.

3. Open Burning. The burning of any materials wherein products of combustion are emitted directly into the ambient air without passing through a stack or chimney from an enclosed chamber. For the purpose of this definition, a chamber shall be regarded as enclosed when, during the time combustion occurs, only apertures, ducts, stacks, flue, or chimneys necessary to provide combustion air and permit the escape of exhaust gas are open.

B. Allowable Open Burning. Open Burning will be allowable for the following reasons and/or purposes:

1. Recreational Fires.

a. Campfires, bon fires, ceremonial occasions, or non-commercial preparation of food subject to terms of this section.

b. All bon fires and campfires require a permit and shall not be more than 5 feet by 5 feet in dimension and shall burn for less than three (3) hours. A bon fire or campfire shall consist of seasoned dry wood. No gasoline or other liquid hydrocarbon shall be used for ignition. Bon fires and campfires are not permitted in residentially zoned districts. Bon fires and campfires are permitted at CCC Lake/Park and Perry Lake/Park if a permit has been secured.

c. Barbecue grills or other wood burning grills are allowed at city parks if a permit is secured. This permit requirement does not apply to permanently affixed grills on City property. All such fires shall be attended at all times by at least one individual, until the fire is completely extinguished.

d. Fires used for food preparation purposes on private property, fueled by wood, charcoal and gas and confined within a

metal or masonry appliance designed for such use are allowed without a permit provided: 1) the fires are supervised, 2) the size of the fire does not present a fire spread danger, and 3) the fires are being used expressly for the preparation of food. Food preparation fires are not permitted on the ground unless the containment is approved by the Fire Chief or his designee.

e. Barbecuing on combustible decks or balconies at multistory apartment complexes is not allowed unless non-combustible surfaces are in place to prevent embers or ashes from contacting combustible materials. Noncombustible surfaces are to be above, below, and adjacent to the site.

2. Agriculturally zoned property. Owners of agriculturally zoned property may burn debris originating on their property following a flood or other natural disaster, after securing a permit and subject to the regulations contained herein and state and federal laws regulating burning.

3. Land Clearing Burning Operations. Owners of a tract of real property of at least five (5) acres or greater involved in land clearing operation may burn tree and brush debris subject to the provisions of Subsection C and the following additional regulations:

a. No land clearing burning operation will occur within 300 feet upwind of any occupied structure unless such operation is conducted in an approved open pit;

b. No land clearing burning operation shall be permitted less than 150 feet of any occupied structure or public facility or appurtenance, unless otherwise approved by the Fire Chief;

c. Land clearing burning operations are restricted to the hours between sunrise and sunset. At sunset, the fires must be extinguished or covered to eliminate any residual smoke. The Fire Chief may grant an earlier start time, provided that weather conditions are favorable.

d. Land clearing burning operations shall be conducted so as to reduce the amount of wood to be burned during the operation, including but not limited to reducing the size of the pile burned.

e. No burning from land clearing operations may be conducted within one hundred feet (100') of the perimeter of the applicant's real property.

C. Prohibited Open Burning. Open burning for the following reasons is prohibited:

1. Burning of domestic refuse.
2. Burning of debris, construction/demolition material, or materials other than wood and vegetation on agriculturally zoned districts following a flood or other natural disaster.

D. General conditions and requirements for all open burning:

1. No public nuisance will be created.
2. The burning is controlled so that a traffic hazard is not created as a result of the air contaminants being emitted.
3. The burning is conducted so that ambient air quality of the general area as well as the surrounding city is not adversely affected.
4. Any open burning shall be constantly attended until the fire is extinguished. At least one portable fire extinguisher with a minimum 4-A rating, two portable fire extinguishers with a minimum 2-A rating each, or other approved on-site fire extinguishing equipment, such as dirt, sand, water barrel, garden hose or water truck, shall be available for immediate utilization.
5. The minimum distance for open burning from oil and gas wells shall be one thousand feet (1000') unless a risk analysis is performed and approved by the oil and gas lease holder and the Fire Chief's Office. The risk analysis shall be presented in written form for review to the oil and gas lease holder and the Fire Chief's Office. If the risk analysis states that a minimum hazard exists, the minimum distance can be reduced to 500 feet. The risk analysis should state any requirements on the burning or site conditions for the burn permit holder. The risk analysis shall be conducted by a qualified company or person(s) and be approved in writing by a company representative for the oil well site affected. The risk analysis may be performed by

the following person(s):

a. Field operations and safety coordinator for the oil company affected, if trained in fire behavior/prevention.

b. A person trained and certified by a nationally recognized independent organization accredited in fire behavior/prevention.

c. A private fire protection engineer.

d. A person trained in hazardous materials operations.

6. Distances from any electric and overhead utilities shall be a minimum of 150 feet.

7. Distances from any public roadway must be at least 300 feet. Permission to burn shall be obtained each day before burning is to take place. To receive permission to burn on any given day, between the hours of 8:00 a.m. and sunset, the applicant must contact the Fire Chief's Office prior to commencing the burning. If burning is to take place between sunrise and 8:00 a.m., the permit holder must contact the Fire Chief's Office the day before, during office hours, to receive permission for the following morning.

8. The Fire Department shall order the extinguishment of any open burning that creates or adds to a hazardous or objectionable situation. Permit holders are required to extinguish the fire upon the order of the Fire Department. Failure of a permit holder to extinguish a fire shall be an offense and will result in the Fire Department extinguishing the fire.

9. Wind speed must be less than ten (10) miles per hour and the ceiling has to be a minimum of a 4, or 1000 to 3000 feet, as indicated by the National Weather Service. No open burning, subject to a permit, shall be permitted during any local or state burn ban.

10. The burn permit site and the materials to be burned are subject to inspection at any time during the thirty (30) day permit period by any officer of the Perry Fire Department.

E. Permits Required. The following burning activities

require a permit from the Fire Chief's Office:

1. Bon Fires
2. Campfires
3. Ceremonial Fires
4. Open burning on agriculturally zoned property following a flood or other natural disaster.
5. Land Clearing Burning Operations.

F. Permit Fees. The fee for permits shall be:

1. Bon Fires - \$25.00 (no fee if camping permit is acquired).
2. Campfires - \$25.00 (no fee if camping permit is acquired).
3. Ceremonial Fires - \$25.00
4. Open burning on agriculturally zoned property following a flood or other natural disaster - \$25.00
5. Land Clearing Burning Operations - \$25.00

G. Acquiring a Permit.

1. A permit must be obtained from the Office of the Fire Chief.
2. Applications for permits shall be submitted to the Fire Chief's Office a minimum of one week prior to the date of burning, during regular business hours.
3. All permits shall be requested by and issued to the owner, or agent of the owner, of the land upon which the open burning is to take place. Individuals representing themselves as an "agent of the owner" shall provide sufficient documentation of agency.
4. Permits shall be for a period of 30 days. However, the Fire Chief may extend the period for an additional 30 days,

if in the opinion of the Fire Chief there was not an adequate number of days to accomplish the burning for which the permit was issued.

H. Burn Permit Revocation. The Perry Fire Department shall have the authority to revoke any burn permit at any time due to weather conditions, excessive and justifiable complaints, non-compliance with this section or other state or federal laws, and any time it is deemed in the best interest of the City of Perry. Permit fees will be returned in cases where the revocation is based on conditions outside of the control of the owner or agent of the owner.

I. Penalty. It shall be an offense for any person, firm, corporation, or other entity to violate the terms of this section, by either action or omission.

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, wastepaper, 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, wastepaper, 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.

ARTICLE 2

(RESERVED)

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.

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. "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.

2. "Junk Motor Vehicle" or "junk vehicle" or "abandoned motor vehicle" is any motor vehicle, which does not have lawfully affixed thereto both an unexpired license plate or plates, 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 8-403B "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 license 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.

3. "Motor vehicle" is any vehicle which is self-propelled and designed to travel along the ground and shall include, but not be limited to, automobiles, buses, motor bikes, motorcycles, motor scooters, trucks, tractors, go-carts, golf carts, campers and trailers.

4. "Private property" means any real property within the city, which is privately owned, and which is not public property as defined in this Section.

5. "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.

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:

1. enclosed within a building on private property;
2. Completely within an appropriate screen in the side or back yard on private property;
3. 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;
4. In operable condition and is not a junk motor vehicle as defined herein.
5. Motor vehicles parked on private property which display an unexpired license 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 thereof makes diligent efforts to place same back into operable condition and shall not remain on such private property in such condition for longer than thirty (30) days.

Section 8-404 PRESUMPTION OF ABANDONMENT.

A rebuttable presumption shall exist that a motor vehicle has been abandoned when:

1. Weed or grass undergrowth would indicate to a reasonable person that the motor vehicle has not been moved, thereby permitting such growth to occur;

2. One or more wheels are flat or missing and the motor vehicle displays an expired license;

3. Portions of the motor 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 motor 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 8-405 NOTICE TO REMOVE FROM PUBLIC PROPERTY.

Whenever it comes to the attention of the Code Enforcement 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 motor vehicle, the owner of the motor vehicle shall be issued a citation. Failure to remove the motor vehicle shall be an offense and shall be punishable as provided in Section 8-108 of this code.

SECTION 8-406 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 motor vehicle on public property shall be liable for all expenses reasonably incurred by the removal and disposition.

SECTION 8-407 NOTICE TO REMOVE FROM PRIVATE PROPERTY.

A. The Code Enforcement Officer 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 motor vehicle 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 8-408 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 City Manager or his designee within the ten (10) day compliance period, for the purpose of contesting the city's demand for removal.

B. The hearing shall be held as soon as practicable. Notice of the time and place of hearing shall be directed to the person making the request. The City Manager or his designee may take any action based on the evidence presented.

C. Persons to whom the Notice to Remove is directed pursuant to the provisions of this chapter, or their duly authorized agent, shall appear in municipal court pursuant to the citation and summons. Those persons convicted of violating these provisions, including the failure to abate a public nuisance pursuant to this chapter shall be assessed court costs and assessments in addition to any fine 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 8-409 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 City Manager 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 Code Enforcement Officer to 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 Code Enforcement Officer authorizes to enter upon private property for the purpose of removing a vehicle under the provisions of this chapter.

SECTION 8-410 NOTICE OF REMOVAL.

Within forty-eight (48) hours of the removal of such junk vehicle, the Code Enforcement Officer 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 8-411 REDEMPTION OF IMPOUNDED VEHICLES OR MOTOR VEHICLES.

The owner of motor vehicle impounded under the provisions of this chapter may redeem such motor vehicle at any time after its removal, but prior to the sale or destruction thereof, upon proof of ownership and payment of the actual and reasonable expense of removal plus storage.

SECTION 8-412 OPEN STORAGE OF MATERIALS

The entire front yard, side yards and backyard of any residentially zoned lot located in the City, 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, and camper shells not mounted on motor vehicles, and trash, and junk and debris filled boats and trailers, including utility trailers. This section shall not apply to the items enclosed within a building on private property.

SECTION 8-413 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. 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 City Manager or his designee 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 six (6) 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 mailee. However, if neither the property owner nor mortgage holder can be located, notice may be given by posting a copy of the notice on the property, or by publication, 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 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 City Manager or his designee 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 City Manager or his designee may cause the dilapidated building to be torn down and removed. The City Manager or his designee shall fix reasonable dates for the commencement and completion of the work. The city clerk shall immediately file a notice of dilapidation and lien with the county clerk describing the property, the findings of the City Manager or his designee 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 City Manager or his designee. The property owner shall have the right of appeal to the City Council from any order of the City Manager or his designee. 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. Effective November 1, 2004, any action to challenge the order of the City Manager or his designee or municipal governing body (provided a written notice of appeal was timely filed with the city clerk), shall be filed with an appropriate judicial forum within thirty (30) business days from the date of the order.

Section 8-503 DETERMINATION OF COSTS, LIEN; MISCELLANEOUS

A. The City Manager or his designee 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 City Manager or his designee is hereby designated by the City Council to carry out the following duties of the City Council. The City Manager or his designee 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' 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 City Manager or his designee 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 City Manager or his designee. 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 mailer(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 City Manager or his designee 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 City Manager or his designee. 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 Manager. 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.

Section 8-604 APPOINTMENT OF CODE ENFORCEMENT OFFICER.

The City Manager shall appoint the Code Enforcement Officer. The Code Enforcement Officer is authorized to enforce the provisions of the Perry Municipal Code, 2002, as it now or may hereinafter be constituted, contained in Chapter 5 "Building Regulations and Codes", Chapter 8 "Health and Sanitation", Chapter 12 "Planning, Zoning and Development", other miscellaneous national and international codes adopted by reference within the previous cited chapters, and other sections of the Code as directed by the City Manager (hereinafter referenced to as "code enforcement violations"). The Code Enforcement Officer shall have the authority to issue code enforcement violations to any person, firm, corporation, or any entity who violates such provisions of this Code.

ARTICLE 7

REMEDIATION OF CONTAMINATED PROPERTY AFTER THE DISCOVERY OF METHAMPHETAMINE OR OTHER NOXIOUS, HAZARDOUS OR TOXIC SUBSTANCES.

Section 8-701 PURPOSE AND INTENT.

(A) The purpose of this Article is to protect occupants of real property, as well as occupants of adjoining properties and the public at large, from hazardous and contaminated living environments by requiring owners of real property to remediate contamination of property caused by methamphetamine activity, or activities involving other noxious, hazardous and toxic substances, prior to resumed occupancy pursuant to the standards and conditions described in this Article.

(B) For purposes of this Article, the term "activity" or "activities" shall include the manufacture or otherwise processing of methamphetamine or other noxious, hazardous or toxic substances; or other acts involving such substances that present public health and safety risks to current or future occupants of the property, adjacent properties or the public at large.

(C) For purposes of this Article, the term "property" or "real property" shall include land, buildings, or other residential or commercial facilities designed for human occupancy that are owned by an individual, firm, corporation or entity, and that are contaminated by activities defined in this Article.

(D) Exempt from provisions of this Article are commercial or industrial firms properly zoned and/or regulated for the legal manufacture or otherwise processing of such substances in compliance with other provisions of this Code, as well as in compliance with federal, state and local laws, rules and regulations.

Section 8-702 REPORTS OF METHAMPHETAMINE OR OTHER NOXIOUS, HAZARDOUS AND TOXIC SUBSTANCE ACTIVITY.

Upon discovery that an owner's property is, or has been, the location for any type of methamphetamine or other noxious, hazardous, or toxic substance activity, an owner shall immediately report such activity to the Perry Police Department.

Section 8-703 PROHIBITION OF OCCUPANCY.

Until a contractor experienced in hazardous waste removal and remediation, as prescribed in this Article, assesses the contaminated property, cleans up any contamination and prepares a Final Report, as prescribed in this Article, which shows that the levels of contamination upon the property meet the acceptable levels listed in Section 8-706 of this Article, use of the property for human habitation is prohibited. Additionally, this prohibition shall apply to any contaminated mobile home relocated to the Perry city limits, if not owner occupied, requiring the owner to provide a report as described herein prior to occupancy.

Section 8-704 PUBLIC NOTICE OF CONTAMINATION.

(A) Upon informing of or discovery by the Perry Police Department, or agents thereof or other law enforcement entities, that contamination has occurred upon a property involving methamphetamine or other noxious, hazardous or toxic substances; the City of Perry Code Enforcement Officer or Building Official shall affix upon the property a "Notice to the Public" with the following information:

- (1) The word "WARNING" in bold type.
- (2) The address of the contaminated property or, if the property has multiple structures upon it, the address of each contaminated structure.
- (3) A statement that: "Hazardous substances, toxic chemicals, or other waste products may be present on the property."
- (4) A warning that: "Any person who enters the structure(s) without permission of the owner or the Perry Police Department, or authorized agents or designees thereof, will have committed a trespass."

(B) It shall be unlawful for any person, including the property owner, property manager or occupant, to remove such Notice to the Public while the property is deemed to be in a contaminated condition. Such "Notice to the Public" shall only be removed by the City's Code Enforcement Officer or Building Official, or other authorized employees or agents of the City, upon completion of remediation in compliance with provisions of this Article.

Section 8-705 ASSESSMENT AND REMEDIATION.

(A) Upon discovery that an owner's property is or has been the location for any type of activities involving the manufacture or otherwise processing of methamphetamine or other noxious, hazardous or toxic substances, an owner, prior to resumed occupancy of the property and after the removal of such manufacturing or processing equipment or materials by the Perry Police Department, or agents thereof, shall retain the services of a contractor who is experienced in hazardous waste removal and remediation to assess the level of contamination within the property and provide a written report documenting the level of contamination. At a minimum, such contractor shall have completed forty (40) hours of Hazardous Waste Operation and Emergency Response training pursuant to 29 C.F.R. 1910.120, or subsequent regulations thereof and shall have received certification pursuant to this training. The owner shall obtain a copy of the contractor's 29 C.F.R. 1910.120 certification before allowing the contractor to begin the assessment.

(B) If, upon the completion of the assessment, the contractor determines:

(1) The level of contamination does not exceed the acceptable contamination levels, as defined in Section 8-706 of this Article, the owner shall require the contractor to prepare a Final Report as prescribed in Section 8-708 of this Article. Once the Final Report is prepared and delivered to the owner, the owner shall deliver a certified copy of the Final Report to the City's Code Enforcement Officer or Building Official. The Code Enforcement Officer or Building Official shall, upon affirming from the Final Report that the contamination has been remediated, remove the Notice to the Public and authorize in writing to the owner that occupancy may resume.

(2) If the level of contamination exceeds the acceptable levels defined in Section 8-706 of this Article, the owner shall not allow use of the property for human habitation until a contractor (who has completed forty (40) hours of Hazardous Waste Operation and Emergency Response training pursuant to 29 C.F.R. 1910.120 and who has received certification pursuant to this training) has:

(a) Cleaned up any contamination and remediated the property according to the standards of Section 8-706 of this Article; and

(b) Conducted another assessment which shows that contamination levels are acceptable pursuant to Section 8-706 of this Article.

(3) Once the level of contamination meets the acceptable standards defined in Section 8-708 of this Article, then the owner shall require the contractor to prepare a Final Report as prescribed in Section 8-706 of this Article. Once the Final Report is prepared and delivered to the owner, the owner shall deliver a certified copy of the Final Report to the City's Code Enforcement Officer or Building Official. The City's Code Enforcement Officer or Building Official shall, upon affirming from the Final Report that the contamination has been remediated, remove the Notice to the Public and authorize in writing to the owner that occupancy may resume.

Section 8-706 ACCEPTABLE LEVELS OF CONTAMINATION.

The owner shall require the certified contractor to test the levels of volatile organic compounds (VOCs), pH, Mercury, Lead, and Methamphetamine in both the initial assessment and the post-remediation assessment. Acceptable levels for each are the following:

- (1) VOCs: 0.9 parts per million or below.
- (2) pH: Surface level of 7 or below.
- (3) Mercury: 0.3 microgram per cubic meter of mercury in air or below.
- (4) Lead: 20 micrograms per square foot or below.
- (5) Methamphetamine: 0.1 microgram per one hundred square centimeters or below.

Section 8-707 CLEANUP AND SAFETY STANDARDS.

Contractors hired by an owner to engage in removal and remediation shall conduct assessments and cleanup pursuant to the relevant standards and guidelines proposed or adopted by the Oklahoma Drug Enforcement Agency, the Federal Drug Enforcement Agency, the Oklahoma Department of Environmental Quality, and the Environmental Protection Agency, and shall follow safety procedures mandated by the relevant federal and state agencies

governing hazardous waste.

Section 8-708 FINAL REPORT.

(A) All inspections and assessments conducted by a contractor during the removal and remediation process shall be fully documented in writing. The report shall include the dates that activities were performed and the names and signatures of the people and/or companies who performed the activities. The Final Report shall include any other types of relevant documentation, including but not limited to photographs, video recordings, drawings, and charts. Such additional documentation shall likewise be signed and dated. The owner shall immediately provide a certified copy of the Final Report to the City's Code Enforcement Officer or Building Official upon receipt from the contractor. The Final Report, at a minimum, shall include:

- (1) A case narrative, site description, and site assessment.
- (2) Physical address of property, number, and type of structures on property, and description of adjacent and/or surrounding properties.
- (3) Law enforcement reports, documented observations, and pre-remediation sampling results that provide information regarding the manufacturing or processing method, chemicals present, manufacturing or processing areas, chemical storage areas, and observed areas of contamination or waste disposal.
- (4) Name of cleanup contractor(s) and the contractor's qualifications, experience, and copy(s) of any certification(s); and
- (5) The signature of the contractor who prepared the report.
- (6) A copy of the contractor's 29 C.F.R. 1910.120 certification.

(B) Where property is remediated, a Final Report shall also include:

- (1) Worker safety and health information.
- (2) Decontamination and Encapsulation Procedures for each area that was decontaminated.

(3) Documentation that the structure was cleaned to acceptable levels, including, but not limited to, the location and results of post-decontamination samples, descriptions of analytical methods used, and the location(s) of laboratory(s) used.

Section 8-709 PENALTY.

(A) Any person, firm, or corporation violating any of the provisions of this Article shall be guilty of an offense, and upon conviction thereof, shall be punished by a fine of Five Hundred Dollars (\$500.00), costs and state assessments.

(B) Each day a violation of this Article occurs shall constitute a separate offense.

(C) The Provisions of this Article shall not preclude the City of Perry or any other aggrieved party from pursuing any civil remedies to recover any and all costs associated with administration or enforcement of this Article.

ARTICLE 8

MUNICIPAL CODE LIEN ENFORCEMENT ACT

Section 8-801 TITLE.

This Article shall be known and may be cited as the "Municipal Code Lien Enforcement Article." This Article is adopted pursuant to and in accordance with the authority granted under 11 O.S. §§ 22-140 through 22-140.5, known as the *Municipal Code Lien Enforcement Act of 2025*.

Section 8-802 DECLARATION OF PURPOSE.

The City Council hereby finds and declares:

1. That the maintenance of safe, sanitary, and code-compliant structures is essential to protect the public health, safety, and welfare of the citizens of the municipality;
2. That chronic violations of housing and building codes create blight, diminish property values, increase public service costs, and undermine neighborhood stability;

3. That the State of Oklahoma has authorized municipalities to enforce certain municipal code liens through judicial in rem foreclosure proceedings;

4. That it is the intent of the City Council to utilize the procedures authorized under 11 O.S. §§ 22-140 et seq. for the limited purpose of enforcing municipal code liens against real property that is not owner-occupied;

5. That owner-occupied properties shall be expressly excluded from judicial in rem foreclosure under this Article, consistent with state law; and

6. That enforcement proceedings under this Article are strictly in rem and shall not impose personal liability upon property owners.

Accordingly, the City Council adopts this Article to provide a lawful and uniform mechanism for enforcement of municipal code liens as authorized by state statute.

Section 8-803 DEFINITIONS.

For purposes of this Article, the definitions set forth in 11 O.S. § 22-140.1, as may be amended, are hereby adopted by reference and incorporated as if fully set forth herein, including but not limited to the following:

- Code Enforcement Director
- Interested Party
- Minimum Bid Price
- Municipal Code Lien
- Municipal Code Lien Payoff
- Owner-Occupied
- Redemption Amount
- Taxes
- Tax Certificate Holder
- Tax Payoff

In the event of any conflict between this Article and state law, state law shall control.

Section 8-804 APPLICABILITY.

A. This Article shall apply to the collection and enforcement of municipal code liens against real property

located within the municipal limits, other than owner-occupied property.

B. This Article shall not apply to owner-occupied property as defined by state law.

C. This Article applies only to municipal code liens that:

1. Arise from nonpayment of fines, penalties, abatement costs, or enforcement costs incurred in enforcement of state or municipal housing and building codes; and

2. Have not been certified to the county tax collector for inclusion on the property tax bill.

Section 8-805 AUTHORIZATION OF JUDICIAL IN REM FORECLOSURE.

A. The City is hereby authorized to proceed with judicial in rem foreclosure of municipal code liens in accordance with 11 O.S. §§ 22-140 through 22-140.5.

B. Judicial in rem foreclosure under this Article shall be the sole remedy for enforcement of municipal code liens through sale of real property.

C. Enforcement proceedings:

1. Shall be initiated only by the municipality;
2. Shall be brought solely in rem against the real property;
3. Shall not constitute an action for personal liability; and
4. Shall not extend to any nongovernmental transferee of municipal code liens.

Section 8-806 THRESHOLD FOR FORECLOSURE.

A. Judicial in rem foreclosure shall not commence until the cumulative amount of unpaid fees, penalties, and abatement costs secured by the municipal code lien equals or exceeds One Thousand Five Hundred Dollars (\$1,500.00).

B. Municipal code liens shall be superior to all other liens except liens for taxes as provided in 68 O.S. § 3103.

Section 8-807 PROCEDURE.

The Code Enforcement Director is authorized to implement and initiate judicial in rem foreclosure proceedings in strict compliance with 11 O.S. § 22-140.5, including but not limited to:

1. Recording of the municipal code lien with the county clerk;
2. Waiting a minimum of six (6) months after recording before filing a petition;
3. Filing notice of intent in the lis pendens records;
4. Providing at least sixty (60) days' notice to other taxing agencies where required;
5. Filing a petition in district court containing all statutory elements;
6. Providing notice to all interested parties by certified mail and regular mail;
7. Posting notice on the subject property;
8. Publishing notice once each week for three (3) consecutive weeks in a newspaper of general circulation.

All statutory notice language required by state law shall be used verbatim where required.

Section 8-808 EXCLUSION OF OWNER-OCCUPIED PROPERTY.

Owner-occupied property, as defined by state law, shall be expressly excluded from judicial in rem foreclosure proceedings under this Article. If property is reasonably determined to be owner-occupied, no foreclosure action shall be filed under this Article.

Section 8-809 NOTICE AND SUPPORT SERVICES FOR OWNER-OCCUPIED PROPERTY.

Although owner-occupied property is excluded from foreclosure proceedings under this Article, the municipality shall provide:

1. Written notice of violations and lien filings;

2. Information regarding available code compliance assistance programs, if any;

3. Referral to available community or nonprofit assistance resources, if available; and

4. Information regarding payment plans or voluntary compliance options authorized by municipal policy.

The Code Enforcement Director may promulgate administrative regulations consistent with this Section.

Section 8-810 ADMINISTRATIVE REGULATIONS.

The Code Enforcement Director is authorized to promulgate administrative rules, forms, and procedures necessary to implement this Ordinance, provided such regulations are consistent with state law and approved policies of the City Council.

CHAPTER 9: LICENSING AND BUSINESS REGULATIONS

ARTICLE 1

OCCUPATIONAL LICENSE FEES

Section 9-101 LICENSE REQUIRED; FEE LEVIED ON CERTAIN
OCCUPATIONS
Section 9-102 SEPARATE LICENSES REQUIRED
Section 9-103 LICENSE TO BE DISPLAYED
Section 9-104 LICENSE REVOKED
Section 9-105 TRANSFER OF LICENSE PROHIBITED
Section 9-106 DUPLICATE LICENSE
Section 9-107 ISSUANCE AND EXECUTION
Section 9-108 SUBJECT TO STATE LAW AND CITY ORDINANCES
Section 9-109 APPEALS

ARTICLE 2

SOLICITORS AND CANVASSERS

Section 9-201 DEFINITIONS
Section 9-202 FRAUD, ETC.
Section 9-203 REQUIRED
Section 9-204 APPLICATION
Section 9-205 SOLICITOR'S BUSINESS LICENSE AND COUPON BOOK
SELLER'S LICENSE; APPLICATION
Section 9-206 INVESTIGATION AND ISSUANCE
Section 9-207 FEE
Section 9-208 EMPLOYER OF SOLICITOR OR COUPON BOOK SELLER
VICARIOUSLY LIABLE FOR ACTS OF SOLICITOR OR
COUPON
BOOK SELLER
Section 9-209 TERM
Section 9-210 DISPLAY
Section 9-211 TRANSFER
Section 9-212 EXCEPTION FOR INTERSTATE COMMERCE
Section 9-213 OTHER REGULATIONS

ARTICLE 3

SECURITY AND FIRE ALARM SYSTEMS.

Section 9-301 PURPOSE
Section 9-302 DEFINITIONS
Section 9-303 ALARM BUSINESS TO POSSESS STATE LICENSE

Section 9-304 PERMIT-OWNER OR USER OF ALARM SYSTEM; REQUIRED;
APPLICATION FEE
Section 9-305 SUSPENSION, REVOCATION OR DENIAL; APPEALS
Section 9-306 NOTICE; EXCESSIVE FALSE ALARMS; SUSPENSION;
CORRECTIVE ACTION; APPEALS; REINSTATEMENT FEE
Section 9-307 ADMINISTRATION AND ENFORCEMENT; INSPECTION
Section 9-308 INSTRUCTION AS TO OPERATION OF SYSTEMS
Section 9-309 EMERGENCY NOTIFICATION; MAINTENANCE OF RECORDS;
DESIGNATED PERSONNEL
Section 9-310 EMERGENCY CALL RECORDS
Section 9-311 MINIMAL SYSTEM REQUIREMENTS
Section 9-312 OPERATIONAL DEFECTS TO BE REMEDIED
Section 9-313 NOTIFICATION OF TESTS
Section 9-314 AUTOMATIC DIALING DEVICES AND PRERECORDED OR
PROGRAMMED MESSAGE ALARM SYSTEMS REQUIREMENTS
Section 9-315 NOTICE OF DISRUPTION IN SERVICE
Section 9-316 NOTIFICATION OF CHANGE OF INFORMATION REQUIRED ON
PERMIT APPLICATION; OWNERSHIP; RENEWALS OR
PERMITS; CONFIDENTIALITY
Section 9-317 NOTICE REQUIREMENTS
Section 9-318 APPLICABILITY TO EXISTING ALARM SYSTEMS,
ALARM BUSINESSES, EMPLOYEES, OWNERS AND USERS
Section 9-319 VIOLATIONS AND PENALTIES

ARTICLE 4

PERRY BROADBAND TELECOMMUNICATIONS NETWORK ORDINANCE

DIVISION 1

GENERAL PROVISIONS

Section 9-401 SHORT TITLE AND CODIFICATION
Section 9-402 DEFINITIONS
Section 9-403 SELECTION OF GRANTEE
Section 9-404 ELECTION AND COSTS THEREOF
Section 9-405 TERM OF NONEXCLUSIVE FRANCHISE
Section 9-406 EXECUTION OF FRANCHISE AGREEMENT
Section 9-407 NATURE OF NONEXCLUSIVE FRANCHISE AND INSTALLATION
REQUIREMENTS
Section 9-408 TERRITORIAL AREA INVOLVED
Section 9-409 COMPLIANCE WITH APPLICABLE LAWS AND ORDINANCES
Section 9-410 DEFENSE ON BEHALF OF GRANTOR: INSURANCE

DIVISION 2

THE SYSTEM

Section 9-411	CHANNEL CAPABILITIES AND NUMBER OF TRUNK CABLES
Section 9-412	SIGNAL QUALITY REQUIREMENTS
Section 9-413	COMPLIANCE WITH FCC STANDARDS
Section 9-414	ERECTION, REMOVAL, AND COMMON USE OF POLES
Section 9-415	OPERATIONS AND MAINTENANCE OF SYSTEM
Section 9-416	REMOVAL OF FACILITIES UPON REQUEST
Section 9-417	INSTITUTIONAL USE
Section 9-418	SYSTEM SERVICES
Section 9-419	EMERGENCY USE OF FACILITIES

DIVISION 3

RULES GOVERNING GRANTEE AND ASSIGNS

Section 9-420	OTHER BUSINESS ACTIVITIES
Section 9-421	SAFETY REQUIREMENTS
Section 9-422	AMENDMENT POWERS
Section 9-423	POLE AGREEMENTS: REGULATIONS
Section 9-424	CITY RIGHTS IN NONEXCLUSIVE FRANCHISE
Section 9-425	MAPS, PLATS, AND REPORTS
Section 9-426	PAYMENT TO THE CITY
Section 9-427	FORFEITURE OF NONEXCLUSIVE FRANCHISE
Section 9-428	TRANSFER OR ASSIGNMENT
Section 9-429	PERIODIC REVIEWS
Section 9-430	FURTHER AGREEMENT BY GRANTEE
Section 9-431	REMEDIES CUMULATIVE
Section 9-432	COMPLIANCE WITH APPLICABLE LAW
Section 9-433	MATERIAL VIOLATIONS
Section 9-434	DESCRIPTIVE HEADINGS
Section 9-435	CHOICE OF LAW, VENUE, ATTORNEY'S FEES
Section 9-436	NON-DISCRIMINATION

DIVISION 4

RATE REGULATION

Section 9-440	DEFINITIONS
Section 9-441	INITIAL REVIEW OF BASIC CABLE RATES
Section 9-442	REVIEW OF REQUEST FOR INCREASE IN BASIC CABLE RATES
Section 9-443	CABLE OPERATOR INFORMATION
Section 9-444	AUTOMATIC RATE ADJUSTMENTS

Section 9-445 ENFORCEMENT

ARTICLE 5

RETAIL MEDICAL MARIJUANA DISPENSARIES, MEDICAL MARIJUANA
GROWERS, AND MEDICAL MARIJUANA PROCESSORS

SECTION 9-501 DEFINITIONS
SECTION 9-502 MEDICAL MARIJUANA DISPENSARY
SECTION 9-503 CONDITIONS OF OPERATION
SECTION 9-504 MEDICAL MARIJUANA GROWER FACILITY
SECTION 9-505 MEDICAL MARIJUANA PROCESSOR FACILITY
SECTION 9-506 PERMIT INSPECTIONS AND OTHER REQUIREMENTS

ARTICLE 6

CLARITY CATV PERMITTING ORDINANCE

Section 9-601 DEFINITION OF TERMS
Section 9-602 GRANT OF PERMIT
Section 9-603 STANDARDS OF SERVICE
Section 9-604 PERMIT FEES, RATES AND CHARGES, CONDITIONS OF
SALE OR TRANSFER
Section 9-605 COMPLIANCE AND MONITORING
Section 9-606 INSURANCE, INDEMNIFICATION AND BONDS AND SURETY
Section 9-607 FREE INTERNET SERVICE; EMERGENCY ALERT
Section 9-608 MISCELLANEOUS PROVISIONS

ARTICLE 7

CATV PERMITTING ARTICLE

SECTION 9-701 DEFINITIONS
SECTION 9-702 GRANT OF PERMIT
SECTION 9-703 BUILD-OUT REQUIREMENTS
SECTION 9-704 TERM AND ACCEPTANCE
SECTION 9-705 FAVORED NATION CLAUSE
SECTION 9-706 CHANGE OF LAW
SECTION 9-707 RENEWAL OF PERMIT AND NOTICE
SECTION 9-708 STANDARDS OF SERVICE
SECTION 9-709 PERMIT FEE
SECTION 9-710 RATES AND CHARGES
SECTION 9-711 SALE AND TRANSFER OF PERMIT
SECTION 9-712 COMPLIANCE AND MONITORING
SECTION 9-713 INSURANCE, INDEMNIFICATION, BONDS AND SURETY
SECTION 9-714 PUBLIC, GOVERNMENT AND EDUCATIONAL ACCESS

6/15/2026 UPDATE

SECTION 9-715 EMERGENCY ALERT
SECTION 9-716 PREEMPTIONABILITY

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 City Manager 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.

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.

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.

E. The definitions of solicitor, canvasser, peddler, hawker, huckster, itinerant merchant/transient street vendor and coupon book seller also includes any person who, without invitation, goes on private or public property, to request contribution of funds or anything of value, or sell goods or services for political, charitable, religious, or other non-commercial purposes excepting the following shall be specifically exempted from regulation pursuant to these provisions:

1. Sales at wholesale to retail merchants by commercial travelers or selling agents in the usual course of business;
2. Wholesale trade shows or conventions;
3. Fairs and convention center activities conducted primarily for amusement or entertainment;
4. Any general sale, fair, auction, or bazaar sponsored

by any church;

6. Any sale sponsored by public or private schools, boy scouts, girl scouts, campfire girls and similar organizations for children;

7. Trade fairs;

8. Flea markets;

9. Garage sales held on the premises devoted to residential use;

10. Sales of agricultural products, including Christmas trees and firewood;

11. Sales made by a seller at residential premises pursuant to an invitation issued by the owner or legal occupant of such premises;

12. Any person who maintains 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;

13. Sales of Bibles.

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 commission by filing notice thereof with the city clerk within five (5) days of the denial. The city commission 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.

B. No person shall engage in the business of peddler without first having obtained a peddler's license.

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.

D. No person shall engage in the business of coupon book seller without first having obtained a coupon book seller's license.

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 shall be provided. 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 director of finance, and no license shall be issued.

C. If, as a result of such investigation, the character of the business and responsibility of the applicant are found to be satisfactory, the chief of police shall so endorse on the

application and return it to the director of finance who shall then issue the license upon payment of the required fee.

D. The chief of police may deny a license under this article for any of the following reasons:

1. The location and time of solicitation or peddling would endanger the safety and welfare of the licenses or their customers;

2. An investigation reveals that the applicant falsified information on the application;

3. The applicant has been convicted of a felony, a misdemeanor or ordinance involving a sex offense, trafficking in controlled substances, or any violent acts against person or property, such conviction being entered with ten (10) years preceding the date of the application;

4. The applicant is a person against whom a judgment based upon, or conviction for, fraud, deceit or misrepresentation has been entered within five (5) years immediately preceding the date of application;

5. There is no proof to the authority of the applicant to serve as an agent to the principal; or

6. The applicant has been denied a permit under this Article within the past three (3) years or been convicted of an offense prohibited by this article within the past three (3) years, unless the applicant can and does show the chief of police that the reason for such earlier denial or conviction no longer exist.

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 book sellers 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 director of finance. The director of finance 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 commission.

Section 9-213 OTHER REGULATIONS.

A. No solicitor, peddler, itinerant merchant/transient street vendor, or coupon book seller, or any other person performing such same or similar operations although exempted from the requirement to obtain a license hereunder, shall be permitted to operate in the following areas of public space:

a. Within 25 feet of any street intersection or pedestrian

crosswalk.

- b. Within 25 feet of any driveway, loading zone or bus stop.
- c. On a median strip of a divided roadway
- d. Against display window of fixed location businesses.
- e. Any area within 1000 feet of a hospital, or public or private school.
- f. Within 25 feet of any fire hydrant or fire escape.
- g. Within 100 feet of any parking spaces or access ramp for persons with disabilities.

B. No solicitor, peddler, itinerant merchant/transient street, or coupon book seller, or any other person performing such same or similar operations although exempted from the requirement to obtain a license hereunder, shall do any of the following:

- 1. Unduly obstruct pedestrian or motor vehicle traffic flow.
- 2. Obstruct traffic signals or regulatory signs.
- 3. Sound any device that produces a loud and raucous noise or operate any loudspeaker, public address system, radio, sound amplifier, or similar device to attract public attention.
- 4. Conduct his business in such a way as would restrict or interfere with the ingress or egress of the abutting property owner or tenant, create a nuisance, increase traffic congestion or delay, constitute a hazard to traffic, life or property, or obstruct adequate access to emergency and sanitation vehicles.

C. The provisions of this Section shall not apply to:

- 1. Goods, wares, or merchandise temporarily deposited on the sidewalk in the ordinary course of delivery, shipment or transfer;
- 2. The placing and maintenance of unattended stands or sales devices for the sale, display, or offering for sale of newspapers, magazines, periodicals, and paper bound books;

3. The distribution of free samples of goods, wares, and merchandise by an individual from his person.

ARTICLE 3

SECURITY AND FIRE ALARM SYSTEMS

Section 9-301 PURPOSE.

While recognizing the value of effective alarm systems in deterring crime and preventing fire losses and while encouraging the use of such alarm systems, it is the purpose of this article to require minimum standards for alarm systems and services and to license users thereof to improve system effectiveness and to reduce, insofar as possible, the misuse of emergency public service.

Section 9-302 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:

Alarm business shall mean any person or firm engaging in the business of installing, assisting in the installation, servicing, maintaining, repairing, replacing, moving, or removing alarm systems in the city, and duly licensed by the state, but shall not include the City of Perry or any department of such city.

Alarm system shall mean any mechanism, equipment or device which is designed to detect the presence of a fire, or an unauthorized entry or activity in any building or on any property, or to direct attention to a fire, robbery, burglary, or other emergency in progress, and which is designed to signal the above occurrences either by a local or audible alarm which is visible or perceptible outside the building or property or by a silent or remote alarm, directly or indirectly (by a third party), to the police or fire department. The following exclusions are not considered alarm systems within the meaning of this definition:

1. Devices which only activate alarms that are audible, visible, or perceptible inside the protected premises.

2. Alarm devices affixed to motor vehicles.

3. Alarm devices installed on a temporary basis by the police or fire department.

4. Alarm devices installed in or on premises owned or leased by the city.

Answering Service shall mean a telephone answering service providing, among its services, the receiving, on a continuous basis through trained employees, of emergency signals from alarm systems and the subsequent relaying of said messages to the police or fire department on a person-to-person basis.

Applicant shall mean any person who has requested or is requesting an owner or user permit to install, operate or maintain an alarm system at a particular location.

Automatic dialing service shall mean an alarm system which automatically sends over regular telephone lines, by direct connection or otherwise, any type of communication or message indicating the existence of an emergency situation that the alarm system is designed to detect.

Central Station shall mean an office to which alarm systems are connected, where operators supervise the circuits, and where guards and/or servicemen are maintained continuously to investigate signals. For purposes of fire alarms, informational relay systems shall be in compliance with the National Fire Prevention Association (hereinafter "NFPA") standards as set forth in NFPA 71, Central Station Signaling Systems, NFPA 72A, Local Protective Signaling Systems, NFPA 72B, Auxiliary Protective Signaling Systems, or NFPA 72C, Remote Station Protective Signaling Systems.

Direct line shall mean a telephone line leading directly from a central station to the police or fire department, where such line is used only to report emergency signals.

Emergency shall mean the existence of a fire, the commission or attempted commission of a robbery, burglary, or other criminal action.

Employee shall mean any person who is employed by an alarm business and who installs, services, maintains, repairs, or replaces alarm systems in the city.

Enhanced 911 system shall mean an emergency phone system which is designed to receive emergency phone calls by dialing the three-digit number 9-1-1. The system places the person requesting emergency service in touch with fire, police, and ambulance services by dialing a single number.

False alarm shall mean the activation of an alarm system through mechanical failure, malfunction, the negligence of the alarm business operator or his employees or agents, or the negligence of the owner, user or lessee of an alarm or his employees or agents, or which otherwise elicits a response by a law enforcement agency or the fire department when a situation requiring such response does not in fact exist. A false alarm shall also mean the activation of an alarm, the purpose of which is to communicate or indicate a specific emergency situation, when in fact that specific emergency situation does not exist. Such terminology does not include, for example, alarms activated by utility line mishaps, tornadoes, earthquakes, or other violent conditions of nature, or other conditions clearly beyond the control of the alarm manufacturer, installer, owner, or user.

Modified central station shall mean an office to which alarm systems are connected, where operators supervise the circuits but where guards are not maintained to investigate alarm signals.

Permittee shall mean any person to whom an alarm system owner or user permit is issued.

Trunkline shall mean a telephone line leading into the police or fire department and having the primary purpose of handling emergency signals or messages on a person-to-person basis originating through a central station, modified central station or answering service.

Section 9-303 ALARM BUSINESS TO POSSESS STATE LICENSE.

A. License required. It shall be unlawful for any person to own, manage, conduct, or carry on an alarm business within the city unless there exists a valid license issued thereto pursuant to the state's alarm industry act. No person performing any of the alarm business functions at the time of the adoption of this article shall fail to obtain such a license within the time provided by the act.

B. Employees. It shall be unlawful for any person who is

employed for the purpose of engaging in the installing, servicing, maintaining, repairing, moving, or removing, in or on any building or other property within the city, fire, burglary, robbery or other emergency alarm system, to engage in such activities unless such person is employed by a business duly licensed pursuant to the state's alarm industry act.

Section 9-304 PERMIT-OWNER OR USER OF ALARM SYSTEM; REQUIRED; APPLICATION FEE.

A. Owner or user permit required. No person shall install, connect, operate, maintain, or engage another person to install, operate, connect or maintain, an alarm system at a particular location without first obtaining an alarm system permit from the city. No person owning or using an alarm system at the time of the adoption of this article shall fail to obtain the required permit within the time provided in this article. Such permit shall be maintained on the premises with the alarm system and shall be visible from the exterior and shall be located on or immediately adjacent to the front or main entrance of the premises.

1. Application. The application shall set forth the full name, address and telephone number of both the owner or lessee on whose premises the system will be installed, operated, connected or maintained and the name of the person or state licensed alarm system business installing, maintaining, or servicing the system, as well as the type (fire, burglar, etc.) of system to be installed, operated or maintained. Such application shall also contain such additional information as the chief of police or fire chief shall reasonably deem necessary for the evaluation and proper processing of the application.

2. Fee. A person required to obtain an alarm system permit shall pay to the city at the time of application, a non-refundable fee of Ten Dollars (\$10.00).

Section 9-305 SUSPENSION, REVOCATION OR DENIAL; APPEALS.

A. Suspension or revocation. In addition to any penalties which may be imposed for the violation of the provisions of this article, the city may, pursuant to the provisions of this Section, suspend or revoke an owner or user permit on any of the following grounds:

1. Fraud or willful and knowing misrepresentation or false statement made in an application for permit.

2. Failure to correct any deficiencies in equipment or operation within seven (7) days after receipt of notice of same from the chief of police or fire chief.

3. Failure to comply with any order or notice issued by the chief of police or fire chief after the permittee's rights to hearing and appeal have been exhausted, or failure to comply with the standards imposed by this article within seven (7) days after notice or order from the chief of police or fire chief.

4. Failure to comply with the regulations and requirements of this article or as otherwise established in this Code.

Section 9-306 NOTICE; EXCESSIVE FALSE ALARMS; SUSPENSION; CORRECTIVE ACTION; APPEALS; REINSTATEMENT FEE.

A. Notice. If an excessive number of false alarms occur at any alarm location, the police department or fire department shall give written notice to the alarm system permittee and to the alarm business responsible for maintaining and servicing the systems, as shown on the permit and application, to take corrective action within seven (7) calendar days to prevent future false alarms.

B. Excessive false alarms. An excessive number of false alarms shall be deemed to be more than four (4) false alarms within any three-month period; provided however, a false alarm charge of \$300.00 shall be charged and collected for all business false alarm incidents that may occur after the 2nd false alarm during any calendar year.

C. Suspension after notice. If the corrective action is not accomplished and communicated in writing to the department giving notice within seven (7) days by the permittee or the alarm business, written notice of suspension of the alarm system permit shall be served upon the permittee by the police or fire department by certified mail, return receipt requested. Such suspension shall require the permittee to immediately remove or disconnect the alarm system.

D. Reinstatement. After an alarm permit has been suspended, the permit shall not be reinstated until the

permittee submits a written request to the department suspending the permit, accompanied by a statement that corrective action has taken place. The department acting hereunder shall charge the permittee a reinstatement fee.

E. Appeals. It shall be unlawful for any person to operate or maintain or fail to remove or disconnect his alarm system while his alarm system permit is suspended or after it has been revoked. Any person aggrieved by the action of the police or fire department in ordering the suspension or revocation of a permit under this Section and requiring the disconnection or removal of the alarm system, may appeal such action to the City Manager and City Council.

Section 9-307 ADMINISTRATION AND ENFORCEMENT; INSPECTION.

A. Administration. The provisions of this article shall be administered and enforced by the chief of police and the fire chief. The fire chief, or his designate, is authorized to make inspections of fire and other emergency alarm systems and of the premises where said device or system is located, or as otherwise provided herein.

B. Inspection. Any inspection of an alarm location or premises shall be the same as provided in this Code.

Section 9-308 INSTRUCTION AS TO OPERATION OF SYSTEMS.

A. Duty. The person owning an alarm business, or an employee of such business shall instruct the alarm system permittee in the proper operation of the system when it is installed. It shall also be the responsibility of the alarm business to see that all employees at the location at which said system is installed are instructed in proper operating procedures to avoid false alarm signals. It shall be the responsibility of the alarm system permittee to cause the system to be maintained in reliable operating condition.

B. Service contract required. All alarm businesses shall offer a service contract to ensure that emergency service and preventative maintenance are performed on the system.

Section 9-309 EMERGENCY NOTIFICATION; MAINTENANCE OF RECORDS; DESIGNATED PERSONNEL.

A. Emergency notification. Every person maintaining an

audible fire, burglary, robbery, or other emergency alarm system shall make readily visible, either on or immediately adjacent to the front or main entrance of the building housing the alarm, the permit assigned to that particular alarm system.

B. Records. The alarm business shall maintain records of at least two (2) personnel who are designated to respond in case of emergencies.

C. Designated personnel. Upon proper notification of any emergency condition, the owner's or user's designated personnel, which may by agreement be assumed by the alarm business, shall proceed immediately to the location of the activated alarm and render all necessary service and assistance to restore the alarm to normal condition.

Section 9-310 EMERGENCY CALL RECORDS.

Alarm businesses who request police or fire department response to alarm signals shall maintain a record of all such emergency calls stating the time, date, location of the alarm and the department called. The records shall indicate the cause of the alarm, and if that alarm is not caused by fire, burglary, robbery, or other emergency, the records shall state corrective action taken to prevent the recurrence of the alarm. This record shall be current and shall be made available for inspection by the chief of police and fire chief, or their designated representatives, at any time during normal business hours.

Section 9-311 MINIMAL SYSTEM REQUIREMENTS.

A. Fire, burglary, robbery or other emergency alarm systems which use a local audible or visual alarm device to attract the attention of the public shall be equipped so as to automatically discontinue the alarm within thirty (30) minutes, unless the system is maintained by an alarm business with twenty-four hour service employees who can respond within thirty (30) minutes after notification.

B. Every alarm system shall have an uninterruptible power supply system which will sustain the operation of the alarm system for a minimum period of four (4) hours.

C. All alarm systems and fire detection systems must also comply with NFPA 71, Central Station Signaling Systems, NFPA 72A, Local Protective Signaling Systems, NFPA 72B, Auxiliary

Protective Signaling systems, or NFPA 72C, Remote Station Protective Signaling systems, adopted hereby and incorporated herein by reference. If any inconsistency or conflict exists between this Code and the aforementioned NFPA provisions, the stricter standard shall apply.

Section 9-312 OPERATIONAL DEFECTS TO BE REMEDIED.

The sensory mechanisms used in connection with the fire, robbery, burglary or other emergency alarm systems shall be adjusted to suppress false alarms so that the service will not be actuated by impulses due to transient pressure changes in water pipes, short flashes of light, wind noises such as the rattling or vibrating of doors or windows, vehicular noise adjacent to the installation, or other forces unrelated to genuine alarms.

Section 9-313 NOTIFICATION OF TESTS.

Alarm businesses and permittee shall notify the police dispatcher at police communications and shall notify the fire marshal or the fire department dispatcher prior to any service, test, repair, maintenance, adjustment, alteration or installation of any alarm system which would directly or indirectly result in an emergency services response. Any alarm received after such notification while the system is out of service shall not constitute a false alarm. Alarm businesses and permittee shall notify the police and fire departments when said system is back in service.

Section 9-314 AUTOMATIC DIALING DEVICES AND PRERECORDED OR PROGRAMMED MESSAGE ALARM SYSTEMS REQUIREMENTS.

A. Automatic dialing devices with prerecorded or programmed messages shall be programmed or coded to dial the phone number designated by the police and fire departments, and to dial a third party whose name appears on the permit application.

B. The prerecorded or programmed message shall contain the following information:

1. The address and phone number at the location where the emergency exists.

2. The permit number issued and assigned by the city to

this system.

3. The type of emergency the system is designed to detect; for example, a fire, a break-in while the premises are unattended, or a life-threatening situation.

C. The prerecorded or programmed message shall not last longer than twenty-five (25) seconds and shall not be repeated more than twice, and if repeated shall have a ten second pause between the repeated message. In no case shall said messages or recordings transmit said information for a period of longer than sixty (60) seconds.

D. It shall be unlawful for any person to program an automatic dialing device to any telephone line which when activated dials the digits 9-1-1. When their permit is issued, the permittee shall be given a phone number designated by police and fire departments for use by alarm systems with automatic dialing devices.

E. It shall be unlawful for a permittee to fail to disconnect or reprogram an automatic dialing device which is programmed to dial the digits 9-1-1.

F. A violation of Section 5-33(4) or (5) shall be deemed an offense, and the responsible party shall further pay all fines, court costs, and an assessment for the resulting costs of any dispatching emergency personnel and equipment for each such offense.

Section 9-315 NOTICE OF DISRUPTION IN SERVICE.

When an alarm business' service to its subscribers is disrupted for any reason by the alarm business, or the alarm business becomes aware of such disruption, it shall promptly notify its subscribers that protection is no longer provided.

Section 9-316 NOTIFICATION OF CHANGE OF INFORMATION REQUIRED ON PERMIT APPLICATION; OWNERSHIP; RENEWALS OR PERMITS; CONFIDENTIALITY.

A. Whenever a change occurs relating to the written information required on the permit application, listing requirements, or other documents filed with the city, the applicant or permittee shall give written notice of said change to the police and fire departments within ten (10) days thereof.

B. Any changes of ownership at a location formerly or currently utilizing an alarm system shall be construed as a new installation and shall require the necessary permit and fees.

C. The replacing, modifying, or altering of an existing permitted system shall not constitute a new installation. Such replacement shall be subject to the existing permit. However, any change of permit or license information caused by such action shall be given in writing to the police department within ten (10) days.

D. The information required by this article shall be maintained as confidential and shall only be used for law enforcement purposes, and statistical studies in which information on individuals could not be discovered. Any unauthorized disclosure is punishable as provided in this article.

Section 9-317 NOTICE REQUIREMENTS.

Whenever a written notice of revocation, correction, suspension, etc., is required of the city, service shall be deemed complete upon deposit in the United States mail.

Section 9-318 APPLICABILITY TO EXISTING ALARM SYSTEMS, ALARM BUSINESSES, EMPLOYEES, OWNERS AND USERS.

The provisions of this article shall apply to all alarm systems, alarm businesses, alarm business employees and owners or users of alarm systems which are installed, connected, operated, maintained or existing on or before the effective date of this article, as well as all systems, businesses, employees and owners or users existing subsequent to the effective date hereof; provided, however, that for all systems existing, installed and operating on the effective date of this article, a permit may be obtained without charge within ninety (90) days of the effective date of this article; thereafter, the fee established herein shall be imposed; further provided, that the permits required for prior existing alarm systems and owners or users of alarm systems shall be obtained within ninety (90) days from the date on which this article becomes effective.

Section 9-319 VIOLATIONS AND PENALTIES.

Violations. Any person failing to comply with the provisions of this article shall be deemed in violation hereof

and shall be subject to the penalty provided herein. Any person violating any provision of this article shall, upon conviction thereof, be subject to a fine not to exceed Fifty Dollars (\$50.00), plus costs, unless otherwise stated. Every day that a violation exists shall constitute a separate violation and shall be subject to the full penalty contained herein.

Article 4

PERRY BROADBAND TELECOMMUNICATIONS NETWORK ORDINANCE

DIVISION 1

GENERAL PROVISIONS

Section 9-401 SHORT TITLE AND CODIFICATION.

This ordinance shall be known and may be cited as the "Perry Broadband Telecommunications Network Ordinance".

Section 9-402 DEFINITIONS.

For the purpose of this ordinance, the following terms, phrases, words, and their derivations shall have the meaning given herein, unless otherwise defined by Federal Law or FCC regulations.

"1992 Cable Act" means the Cable Television Consumer Protection and Competition Act of 1992.

"Access Channels" shall mean those channels which, by the terms of this Article, are required to be kept available by Grantee for partial or total dedication to public, educational, or local government access and over which Grantee exercises no editorial control.

"Affiliate" means an entity which owns or controls, is owned or controlled by, or is under common ownership with Grantee.

"Attorney" is the City Attorney of the City of Perry, Oklahoma.

"Broadband Telecommunications Network (BTN)" - shall mean all of the component, physical, operation and programming elements of any network of cable, optical, electrical or

electronic equipment, designed, constructed, wired or used for the purpose of producing, receiving, amplifying and transmitting by coaxial cable, fiber optics, microwave or other means audio and/or audio/visual electrical impulses of television, radio and other intelligence either analog or digital, including cable television for sale or by use by the inhabitants and businesses of the City, including without limitation antenna, cable, fiber, wires, lines, towers, amplifiers, conductors, converters, equipment, facilities.

"Cable Act" means the Cable Communications Policy Act of 1984, as amended.

"City" is the City of Perry, Oklahoma, and is sometimes referred to as "Grantor".

"Clerk" is the City Clerk of the City of Perry, Oklahoma.

"Converter" is a device used to convert non-VHF television signals into standard VHF channels. Grantee shall install one converter at no charge to each subscriber if required for receipt of basic service but may charge a reasonable fee for additional converters or for converters which must be replaced due to misuse by subscriber.

"Council" is the City Council of the City of Perry, Oklahoma.

"FCC" is the Federal Communications Commission, or its successor agency.

"Grantee" is the person selected by the City Council to hold a nonexclusive franchise pursuant to the terms and conditions of this ordinance together with any person who may succeed "Grantee" pursuant to the provisions of this ordinance.

"Gross Receipts" shall mean all revenue, cash or otherwise, derived directly or indirectly by the Grantee, its affiliates, subsidiaries, from or in connection with the operation of a cable television system in the city pursuant to this Article, or any other person who constitutes a cable operator as defined by Section 602(4) of the Cable Act of 1984; provided, however, all receipts shall include but not be limited to basic cable service monthly fees, pay-cable service fees, pay-per-view service fees, installation and reconnection fees and leased channel fees; provided, however, that gross receipts shall not include (1) any

sales, excise or other taxes which are imposed directly upon any cable service subscriber or user by any governmental unit or agency and which are collected by the Grantee on behalf of said government unit or agency (without limitation, the franchise is not such a tax); and (2) any revenues reported by the Grantee but which in fact constitute bad debt; except that "gross receipts" shall include all recoveries of such bad debt.

"Permanent Pavement" is any pavement which, when installed, met the then existing pavement standards of the City of Perry. In cases of conflict as to what constitutes permanent pavement, the City Manager's opinion shall prevail.

"Person" is any person, firm, partnership, association, corporation, company, or organization of any kind.

"Public Way" is the surface, air space above the surface and the area below the surface of any public street, sidewalk, alley, other public right-of-way, or public places, and public or private utility easements dedicated for compatible use.

"Service Area" means the present municipal boundaries of the city and shall include any additions thereto by annexation or other legal means.

"Subscriber" is any person whose premises, business is physically wired to receive any transmission from the Broadband Telecommunications Network and who pays a fee to receive a service via the BTN.

"System" is the Broadband Telecommunications Network.

Section 9-403 SELECTION OF GRANTEE.

The selection of a Grantee shall be in accordance with the following criteria:

A. Service package: The Council shall find that the Grantee proposes the best total service package to the citizens of the City of Perry and to all the integral components thereof.

B. Installation Plan. The Council shall find that Grantee's installation and/or rebuild plans provide flexibility needed to adjust to new developments, maintenance practices, and services that would be available to subscribers and to the community immediately and in the future.

C. Financial Soundness and Capability. The evidence of Grantee's financial ability to complete the entire System rebuild within eighteen (18) months of the approval of this ordinance at the franchise election.

D. Demonstrated Experience in Operating a BTN System Under City Franchise. Evidence of Grantee's experience in operating a Broadband Telecommunications Network and ability of the Grantee to furnish sufficient and dependable service to public and private users shall be determined.

E. Character, Legal, Technical, and Other Qualifications. The evidence of character, legal, technical and other qualifications of Grantee required by state and local law to construct a Broadband Telecommunications Network in the City and to extend the same as the state-of-the-art progresses shall be determined.

F. Renewals for existing cable operators will be governed by federal law.

Section 9-404 ELECTION AND COSTS THEREOF.

In order for the nonexclusive franchise authorized by this ordinance to become effective, an election must be held, and a majority of those voting must vote in favor of the granting of such franchise. In the event a special election is needed, the entire cost of the election, together with all printing and publishing costs relating thereto, shall be paid for by applicant, regardless of whether or not the applicant is granted a franchise at said election. If the election is held at a scheduled general election, the applicant shall pay any additional costs which may be incurred by reason of the addition of the franchise question to the ballot. Such costs shall be paid regardless of whether or not the applicant is granted a nonexclusive franchise at said election.

Section 9-405 TERM OF NONEXCLUSIVE FRANCHISE.

The nonexclusive franchise and the rights, privileges and authority thereby granted shall take effect and be in full force from and after final passage thereof by the qualified electors at a special or general election thereof and shall continue in force and effect for a term of fifteen (15) years from said election or in the case of a franchise renewal, from the end of

the existing term. Any such franchise will be subject to formal review by the Council at formal hearing at the end of the fifth and tenth year of the franchise. Should Grantee be found upon review to be in non-compliance with the material provisions of the franchise, Grantee will be given a period of six months to correct those areas of non-compliance. Failure to correct or make good faith efforts to correct such items may subject Grantee to the procedure, set forth in Section 9-424 hereof. Grantee shall have the right to renew the Franchise in accordance with the procedures set forth in federal law as it exists on the effective date of the franchise election.

Section 9-406 EXECUTION OF FRANCHISE AGREEMENT.

Within thirty (30) days after the date of passage by the qualified electors of the ordinance granting a nonexclusive franchise pursuant to the terms of this ordinance, the Grantee shall execute a Franchise Agreement whereby the Grantee will promise to comply with and abide by the provisions, terms and conditions of both this ordinance and any proposal submitted by the Grantee to the City.

Section 9-407 NATURE OF NONEXCLUSIVE FRANCHISE AND INSTALLATION REQUIREMENTS.

A. There is hereby granted by the City to the Grantee the right and privilege to construct, erect, operate and maintain, in, upon, along, across, above, over and under the streets, alleys, easements, public ways and public places not laid out or dedicated, and all extensions thereof, and additions thereto, in the City, poles, wires, fiber, cables and underground conduits, manholes, and other conductors and fixtures necessary for the maintenance and operation in the City of a Broadband Telecommunications Network.

B. The right to use and occupy said streets, alleys, easements, public ways, and places for the purposes herein set forth shall not be exclusive and the City reserves the right to grant a similar use of said streets, alleys, easements, public ways and places, to any person at any time, during the term of this nonexclusive franchise.

C. Grantee will provide service to all residents within the city limits with the exception of where residents reside in a remote or relatively inaccessible area or in annexed areas already served by another Broadband Telecommunications Network.

The Grantee will build to these remote and inaccessible areas and extend service inside the city limits on the following schedule. For every one-fourth mile of cable plant required to serve a particular Section of the City, ten (10) or more customers must have placed orders for service. In franchised areas with less than ten (10) homes per one-quarter (1/4) mile of cable plant necessary to serve those residents desiring service, service shall be provided on a pro-rated cost sharing basis. Each subscriber shall bear their pro-rated share of construction costs required to extend the cable line from either the line extension start point or the service point of the previous subscriber physically located upstream on the extended line to their respective service point. Pro-rated cost sharing shall be determined in accordance with the following:

Initial No. of Subscribers Per 1/4 Mile	Subscriber's Pro-rated Shares of Total Construction Costs*	
Grantee		
10	100%	0
9	90%	10%
8	80%	20%
7	70%	30%
6	60%	40%
5	50%	50%
4	40%	60%
3	30%	70%
2	20%	80%
1	10%	90%

*Actual cost per 1/4 miles of cable plant will vary depending upon whether it is aerial or underground; according to system design criteria and actual footage between service points. Grantee shall determine the actual cost per foot which will be multiplied by the appropriate percentage of construction cost. The product of this calculation shall then be multiplied by each subscriber's actual footage between service points to determine individual subscriber charges.

All line extension provided in accordance with this Section shall at all times remain the property of Grantee. Each subscriber's pro-rated shares of construction costs shall be individually negotiated with the Grantee according to the above guidelines and shall be payable prior to commencement of construction. Grantee will provide the City with design maps

showing footage and construction costs of each area where residents enter into a pro-rated cable construction.

D. If technologically and financially feasible, Grantee shall have constructed its system sufficient to make its service available to substantially all of the residential, commercial and public buildings within the city, before offering cable television services requiring the use of portions of its CATV system to buildings and structures located in unincorporated areas outside the city's boundaries.

E. Subject to the provisions in this Section, Grantee must extend cable service to any person requesting it within seven (7) business days of the request, where cable service can be provided by activating or installing a standard drop. Upon substantial completion of the system upgrade, cable service must be extended to any person requesting it within five (5) business days of the request, where cable service can be provided by activating or installing a standard drop. Service must be extended within ten (10) business days of the subscriber's agreement to pay costs pursuant to (c) above in those franchised areas with less than ten (10) homes per one-quarter (1/4) mile of cable plant. Where an extension of the distribution system is required, service must be extended (1) within 30 days of the request for an extension of one-half mile or less or extension to any person residing within the existing city limits as of the effective date of this ordinance; or (2) in other cases, within six (6) months.

F. Grantee will maintain a place of business and have system personnel available in the City; provided however, Grantee may alter this with prior written consent of the council, and it shall not be unreasonably withheld.

Section 9-408 TERRITORIAL AREA INVOLVED.

This nonexclusive franchise relates to the present territorial limits of and within the City and to any area henceforth added thereto during the terms of this nonexclusive franchise.

Section 9-409 COMPLIANCE WITH APPLICABLE LAWS AND ORDINANCES.

A. The nonexclusive franchise granted hereunder shall be subject to all applicable provisions of the laws of the United States, and the State of Oklahoma and City ordinances, and any amendments thereto. Should the FCC modify the requirements of

their rules and regulations relating to the Federal-local regulatory relationships, the Council shall amend this ordinance within six (6) months of the effective date of the modification, to be in conformance with said modifications.

B. The Grantee shall, at all times during the life of this nonexclusive franchise, be subject to all lawful powers of the State of Oklahoma and the City and to such reasonable regulations of general applicability as the State and City shall hereafter provide.

C. The Grantee shall conform to all zoning and platting requirements of the City prior to the commencement of any and all construction work.

D. Plans for changes to Broadcast Telecommunications Network including overhead cables, underground cables, and head end tower shall be submitted to the City Attorney and must receive his approval (not to be unreasonably withheld) prior to the commencement of any construction work and such plans shall be in accordance with the National Electrical Safety Code and the National Electric Code or any other code required for that particular application. Any tower constructed for use in the Grantee's BTN System shall comply with the standards contained in Structural Standards for Steel Antenna Towers and Antenna Supporting Structures, EIA Standards RS-222A, as published by the Engineering Department of the Electronic Industries Association, 2201 "I" Street NW, Washington, D.C., 20006.

E. The Grantee shall obtain building permits for all buildings constructed, pay all building permit fees, tap charge fees, and all other fees as required by the ordinances of the city and at the rates that are in full force and effect at the time the building permits are applied for.

F. Any and all pavement cuts of permanent or nonpermanent pavement, shall be reasonably approved by the Street Superintendent and shall be shown on the plans submitted to the Street Superintendent prior to the commencement of construction. All pavement cuts shall be restored to the reasonable satisfaction of the Street Superintendent.

Section 9-410 DEFENSE ON BEHALF OF GRANTOR; INSURANCE

A. The Grantee shall pay and by its execution of the franchise agreement the Grantee specifically agrees that it will defend

and pay all damages and penalties which the City may legally be required to pay as a result of granting this non-exclusive franchise unless caused by the negligence or other fault of the City, its agents or employees. The damages and penalties shall include, but shall not be limited to, damages arising out of copyright, infringements and all other damages arising out of installation, operation, or maintenance of the system authorized herein, whether or not any act or omission of Grantee complained of is authorized, allowed, or prohibited by this non-exclusive franchise. The foregoing indemnity is conditioned upon the City giving Grantee prompt notice of any claim or commencement of any action, suit or other proceeding covered by the provisions of this Section. Grantee shall have the right to choose its own counsel in the event of any such claim, action, or suit. Nothing herein shall be deemed to prevent the City from cooperating with the Grantee and participating in the defense of any litigation by its own counsel at its sole cost and expense.

B. Grantee shall maintain throughout the term of this nonexclusive franchise liability insurance insuring the City and the Grantee and their officers, private sub-contractors, agents and employees, whether elected or appointed, against any and all claims, injury or damage to person or property, both real and personal, caused by the construction, erection, operation or maintenance of any aspect of the BTN. The amount of such insurance shall not be less than the amount required by 51 O.S. Section 151 et seq., entitled the Governmental Tort Claims Act, or as such Act may be hereinafter amended. The Grantor shall be named as an additional party insured on all additional policies.

C. Workers' Compensations Insurance shall be provided by Grantee as required by the laws of the State of Oklahoma, as amended.

D. All said insurance coverages shall provide a ten (10) day notice to the City Clerk in the event of material alteration or cancellation of any coverage afforded in said policies prior to the date said material alteration or cancellation shall become effective. In the event the Grantee fails to maintain any insurance as required herein, the City may, at its option, obtain and keep such insurance in full force and effect and the Grantee shall reimburse the City for such insurance costs.

Costs of all policies required hereunder shall be furnished to and filed with the City Clerk, concurrently with the acceptance of the franchise agreement or the expiration of prior

policies, as the case may be.

DIVISION 2. THE SYSTEM

Section 9-411 CHANNEL CAPABILITIES AND NUMBER OF TRUNK CABLES.

The Grantee's System shall be capable of both one-way and two-way transmission (in compliance with FCC return digital response requirements) and shall consist of a coaxial cable system with converters. The Grantee will design and build, within eighteen (18) months of the approval of this ordinance at the franchise election, a 450 MHz system (spaced for upgrade to 550 MHz) consisting of a coaxial trunk and feeder lines and capable of delivering 54 6 MHz channels. The following equipment will be used in the rebuild:

Trunk & feeder Cable - ComScope P111.750 or equivalent
 Trunk Amplifier - Scientific Atlanta 550 or equivalent
 Line Extender Amplifier - Scientific Atlanta 550 or equivalent
 Passives - Regal series or equivalent

The Grantee will ensure that no location relies on an effective cascade of over six amplifiers. Involved in the design process are the following items with estimated completion times.

Item	Estimated Completion
Preliminary Field Work	4 to 5 months
System design	4 to 5 months following completion of above
Design approval and materials ordered	90 days
Construction plans	60 days following approval
Construction begins upon receiving materials	3 months after receipt of equipment
Construction complete	Within 18 months of approval of this ordinance at the franchise election

The Grantee adheres to National Cable Television Association (NCTA) standards of good construction standards. All new plant shall be swept and checked for leakage prior to acceptance to ensure reliable performance. The City will be notified of the location of work in progress and the Grantee will seek the assistance of City to ensure the safety of vehicle traffic, sidewalk, pedestrians, and all other affected parties. Affected homeowners will be notified by means of a door hanger. The Grantee will hold preconstruction meetings with all contractors to ensure all safety and proper construction techniques are understood and their progress will be continuously monitored to determine that all procedures are being followed. The Grantee will replace existing distribution cable where needed, including all electronic devices and passive devices. The new plant will be energized and swept prior to subscriber drop connection. Subscriber drops will be connected to the new system, or replaced as needed, during low viewing hours to minimize service interruption. Interruption will be limited to that short time necessary to connect the drop. Upon completion of the construction, Grantee will exchange the 36 channel converters with a converter capable of receiving all programming, if necessary.

Standby power supplies will be installed at critical locations, as determined by the Grantee. The Grantee shall install backup power for the head end. This system shall be capable of self-activation at any time that there is a loss of commercial power. This system shall be capable of continuous generation for an undetermined amount of time and perform self-diagnostics. Field personnel shall be equipped with leakage detection equipment per CFR Part 76 and monitor for leakage as part of their normal daily duties. The system shall successfully pass the FCC criteria for the cumulative leakage index.

Section 9-412 SIGNAL QUALITY REQUIREMENTS.

The Grantee shall:

A. Produce a picture, whether in black and white or in color, that is undistorted, and accompanied with proper sound on typical standard production television sets in good repair.

B. Transmit signals of adequate strength to produce undistorted pictures with proper sound at all outlets without

causing cross-modulation in the cables or interfering with other electrical or electronic systems.

C. Limit failures in the System to a minimum by locating and correcting outages and malfunctions promptly but no longer than twenty-four (24) hours after notice, exclusive of service interruptions occasioned by weather conditions or other conditions beyond Grantee's control which result in extensive damage to or impairment of system receiving, originating or distribution facilities.

D. The Grantee shall demonstrate, upon request and at no expense to the subscriber, by instrument and otherwise, to subscribers that a signal of adequate strength and quality is being delivered.

Section 9-413 COMPLIANCE WITH FCC STANDARDS.

A. Grantee shall comply fully with all technical standards adopted by the FCC as related to the System.

B. No later than one hundred and twenty (120) days after the end of each fiscal year, or sixty (60) days following the required filing date with the FCC, whichever is later, the Grantee shall maintain and make available for public inspection at its office in the City a file containing a copy of the System's FCC forms 325 and 395.

C. The Grantee shall file with the City upon request copies of all complaints, petitions, orders of the FCC, EEOC, FAA or other federal or state regulatory commission or agency having jurisdiction, any lawsuits or proceedings, in which the Grantee is a named party, and any proceedings, litigation or filings which involve the Grantee's operations within the City.

D. Grantee shall comply with applicable FCC rules and regulations governing rates and charges to subscribers. The Grantor reserves the right to exercise rate regulation to the extent permitted by federal law. Grantee may in any case raise its basic rate by an amount equal to the increase in the Consumer Price Index from the prior year, but not greater than five percent (5%) in any calendar year and may petition the City for increases greater than five percent (5%). If and when exercising rate regulation or ruling on any such petition for increase, the City shall consider, along with any other information it deems necessary or appropriate, the following

factors in approving or disapproving a rate increase request: The ability of the Grantee to render system services and to derive a reasonable profit therefrom under the existing rate schedule and under the proposed rate schedule; the revenues and profits derived from system services; a fair rate of return over the life of the franchise with respect to Grantee's capital investment; the cost associated with any system rebuild including access requirements; the extent to which Grantee has adhered to the terms of this ordinance and the franchise; fairness to City residents, subscribers, and users. The Grantee shall provide a uniform rate structure throughout the geographical area in which service is provided over its cable service. The Grantee shall not charge a subscriber for service or equipment which has not been affirmatively requested.

Section 9-414 ERECTION, REMOVAL, AND COMMON USE OF POLES.

A. No poles or other wire-holding structures shall be erected by the Grantee without prior approval of the City with regard to locations, height, type, and any other pertinent aspect. However, no location of any pole or wire-holding structure of the Grantee shall be a vested interest and such poles or structures shall be removed or modified by the Grantee at its own expense whenever the City reasonably determines that the public convenience would be enhanced thereby.

B. Where poles or other wire-holding structures already existing for use in serving the City are available for use by the Grantee, but it does not make arrangements for such use, the City Manager may require the Grantee to use such poles and structures, if it determines that the public convenience would be enhanced thereby and the terms of the use available to the Grantee are just and reasonable.

C. Where a public utility serving the City desires to make use of the poles or other wire-holding structures of the Grantee, but agreement therefore with the Grantee cannot be reached, the Council may require the Grantee to permit such use for such considerations and upon such terms as the Council shall determine to be just and reasonable, if the Council determines that the use would enhance the public convenience and would not unduly interfere with the Grantee's operations.

D. Grantee shall comply with the pole attachment agreement provisions in Section 9-423.

Section 9-415 OPERATIONS AND MAINTENANCE OF SYSTEM

A. The Grantee shall render efficient service, make repairs promptly, and interrupt service only for good cause and for the shortest time possible. Such interruptions, insofar as possible, shall be preceded by notice and shall occur during periods of minimum use of the system.

B. The Grantee shall have a published telephone number and said telephone service shall be so operated that complaints and requests for repairs or adjustments may be received at any time. Grantee shall maintain a complete record keeping system of complaints received; and, upon request, the Grantee shall furnish the complaint record to the City.

C. Standard accounting policies and practices will be employed in the handling of Grantee financial records and will be open to the inspection of authorized City officials during all business hours.

D. An internally operated, computerized service shall be employed to handle subscriber billing. This service shall at all times provide accurate information as to the status of subscribers' accounts and will also be open to inspection by City authorities upon request. Grantee reserves the right to subcontract its subscriber billing to a service experienced in cable television subscriber billing.

Section 9-416 REMOVAL OF FACILITIES UPON REQUEST.

Upon termination of service to any Subscriber, the Grantee shall promptly remove its facilities and equipment from the premises of such Subscriber upon request. There shall be no charge made to the subscriber who voluntarily terminates or cancels service for the removal and/or disconnection of the facilities and equipment.

Section 9-417 INSTITUTIONAL USE.

Grantee will provide one (1) cable television drop with free installation and free monthly basic and expanded basic service to the city owned or controlled buildings within the city at the time of request and other public buildings and locations as follows:

Public and Parochial Schools

Police Stations
Fire Stations
Library
City Council Chamber
City Hall

Section 9-418 SYSTEM SERVICES.

A. The Grantee shall receive and distribute television and radio signals which are disseminated to the general public by broadcasting stations licensed by the FCC. The Grantee may provide various communication services to individuals or businesses, consistent with FCC and Oklahoma regulations and without interference with the service of the System. Additional stations may be carried as they are made available and allowed by FCC regulations.

B. The Grantee shall provide and maintain during the term of the franchise a public, educational and government ("PEG") access channel which shall be a specifically designated channel, or portion thereof, for the members of the public, local government, local public and private school authorities. Grantee shall have no editorial control over the programming on such channel, except as may be permitted by federal law.

C. Grantee will provide the City certain television equipment to be used for the purpose of televising City Council meetings or any other City meeting, or for public use, which programming may then be cablecast live or prerecorded on the access channel. The specific equipment shall be donated to the City at no cost and without any pass through to the subscribers and shall consist of the following equipment:

2	FIJIX HI-8 Camera
2	Camera Mounts
2	Wide Angle Lens
1	VIDEOTEK PVS-6A 5X1 Switcher
1	SONY EVS 900 HI-8 Recorder
1	TASCAM Audio Mixer
7	Realistic Unidirectional Microphones
2	Black & White Preview Monitors - Panasonic WV-5200
1	Color Program Monitor - Panasonic CT-1390V
1	Cables and Connectors combined
2	Tripods
2	Heavy Duty Carrying Cases

Prior to the expiration of a two-year period from and after the approval of this ordinance by the voters at the franchise election, a survey of the need for additional camera equipment shall be made by the Grantor and Grantee. In the event that additional cameras are determined to be necessary for the access operation as justified by need, then the cable operator agrees to purchase at no cost to the City two additional FUJIX HI-8 cameras. The cable operator may pass the cost of the two additional FUJIX HI-8 cameras through to the subscribers.

D. Grantee will provide the City a character generator which will be used by the City to inform cable viewers on any subject the City deems appropriate on the PEG channel.

E. Grantee will provide the city with FUJIX HI-8 camera to be housed in the library and used for the purpose of taping programming to be shown on the PEG channel.

F. The Grantee shall bear the full cost of maintaining and repairing the equipment during the term of the franchise unless such repair is caused by the fault of negligence of the City, its agents, or employees.

G. The parties agree that any cost to Grantee associated with providing access channels and equipment pursuant to this Section is not part of the franchise fee and fall within one or more of the exceptions to Section 622 of the Cable Act, 47 U.S.C. Section 542.

H. Grantee agrees to provide the following broad categories of service:

1. News and weather programming;
2. Arts/cultural/music programming;
3. Educational and informational programming;
4. Children's programming;
5. Programming designed to serve the cable-related needs or interests of subscribers in Perry as indicated by the survey conducted as follows (provided the costs of such programming are reasonable and subscribers agree to pay for a portion of such costs):

Grantee and City shall cooperate to develop a survey to be

conducted annually to determine the cable-related needs, costs, and interests of the subscribers. Grantee shall retain ultimate discretion to determine system programming.

I. In the event that the Grantor desires to establish a dedicated institutional network (fiber-optic or coaxial) between various city and educational locations utilizing the cable system, the Grantee agrees to build such network at cost, provided that the Grantor reimburse the Grantee for such cost, or both Grantor and Grantee mutually agree to pass such costs on to the subscribers.

Section 9-419 EMERGENCY USE OF FACILITIES.

In the case of an emergency or disaster, declared by the City Manager, Governor of Oklahoma, or President of the United States, the Grantee shall, upon request of the Mayor or his designee, make available its facilities to the City for use during the emergency or disaster period. The Grantee shall provide, in addition, an Emergency Warning System whereby a telephone in a centrally located public building can be used to make voice announcements simultaneously over all television and music channels on the System. This is to be a 24 hour "hot standby" system which will preempt the sound on all channels. The telephone instrument is to be locked or restricted in such a way as to make it accessible to authorized personnel only.

DIVISION 3

RULES GOVERNING GRANTEE AND ASSIGNS

Section 9-420 OTHER BUSINESS ACTIVITIES.

This nonexclusive franchise authorizes only the construction, installation and operation of a Broadband Telecommunications Network as provided for herein and does not take the place of any other license or permit which might be required by law of the Grantee, its employees or agents.

Section 9-421 SAFETY REQUIREMENTS

A. The Grantee shall at all times employ ordinary care and shall install and maintain in use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public.

B. The Grantee shall install and maintain its wires, cables, fixtures and other equipment in accordance with the requirements of the National Electrical Safety Code and the National Electrical Code, as adopted by the City, and all applicable state and local laws, and in such a manner that they will not interfere with any installations of the City or of a public utility serving the City.

C. All structures and all lines, equipment, and connections in, along, across, over, under and upon the streets, sidewalks, alleys, or public ways or places of the City, wherever situated or located, shall at all times be kept and maintained in a safe, suitable, substantial condition, and in good order and repair.

Section 9-422 AMENDMENT POWERS.

It shall be the prerogative of the Council to liberally amend this nonexclusive franchise, upon application and consent of the Grantee, when necessary to enable the Grantee to take advantage of any developments in the field of transmission of television and radio signals which will afford it an opportunity to service its Subscribers more effectively, efficiently or economically, provided however, that this Section shall not be construed to require the Council to make any amendment.

Section 9-423 POLE AGREEMENTS: REGULATIONS.

A. All transmission and distribution structures, and equipment erected by the Grantee within the City shall be so located as to cause minimum interference with the proper use of streets, alleys, and other public ways and places, and to the extent feasible, to cause minimum interference with the rights and reasonable convenience of property owners who join any of the said streets, alleys or other public ways and places, while allowing the Grantee to adequately perform its requirements under the franchise.

B. It shall be the responsibility of the Grantee to obtain the necessary pole attachment agreements from the City and/or private utility companies using poles within the City.

1. All pole attachment agreements obtained from public and private utility companies shall meet the written approval of the City Attorney and be filed with the City Clerk.

2. All pole attachment agreements with the City shall be negotiated with the City or his designee and approved by the Council and shall provide for the payment of Three Dollars (\$3.00) per pole per year used by the Grantee; such payments shall not be considered part of the franchise fee and fall within one or more of the exceptions to Section 622 of the Cable Act, 47 U.S.C. Section 542.

C. If, at any time during the period of this nonexclusive franchise, the City shall lawfully elect to alter or change the grade of any street, sidewalk, alley, or other public way, the Grantee, upon reasonable notice by the city, shall remove, relay, and relocate its poles, wires, cables, underground conduits, manholes, and other fixtures at its own expense.

D. Any poles or other fixtures placed in any public way by the Grantee shall be placed in such a manner as not to interfere with the usual travel on such public way.

E. The Grantee shall, on the request of any person holding a building moving permit issued by the City, temporarily raise, or lower its wire to permit the moving of buildings. The expense of such temporary removal or raising or lowering of wires to permit the moving of buildings shall be paid by the person requesting the same, and the Grantee shall have the authority to require such payment in advance. The Grantee shall be given not less than forty-eight (48) hours advance notice to arrange for such temporary wire changes.

F. Grantee may trim trees and other vegetation from public ways, at its expense and subject, at the city's option, to the city's supervision so as to prevent the branches of such trees from coming in contact with the wires and cables of the Grantee. All action taken by the Grantee pursuant to this Section shall be done only within dedicated rights of way or easements.

G. In all areas of the City where any cables, wires or other like facilities of public utilities are placed underground, the Grantee shall place its cables, wires, or other like facilities underground.

Section 9-424 CITY RIGHTS IN NONEXCLUSIVE FRANCHISE.

A. The right is hereby reserved to the City or the Council to adopt, in addition to the provisions contained herein

and in existing applicable ordinances, such additional regulations of general applicability as it shall find necessary in the exercise of its lawful police powers. However, such regulations, by ordinance or otherwise, shall be reasonable and not in conflict with the rights herein granted.

B. The designated city official shall have the right to inspect the books, records, maps, plans, and other like materials pertaining directly or indirectly to the nonexclusive franchise granted hereunder, of the Grantee at any time upon reasonable notice and during normal business hours. The City shall have the right to inspect the Grantee's income records and the right to audit and to re-compute any amounts determined to be payable in accordance with the above, provided, however, that such audit shall take place within twelve months following the close of each of the Grantee's fiscal years. Any additional amounts due to the City as a result of the audit shall be paid within thirty (30) days, unless disputed by the Grantee, following written notice to the Grantee by the City which notice shall include a copy of the audit report from a certified public accountant.

C. The City shall have the right, during the life of this nonexclusive franchise, to install and maintain free of charge upon the poles of the Grantee any wire and pole fixtures that do not interfere with the Broadband Telecommunications Network operation of the Grantee.

D. The City shall have the right to supervise all construction or installation work performed subject to the provisions of this nonexclusive franchise and other pertinent provisions of the state and local law. In the event such inspection(s) reveal(s) that the Grantee has failed, in the city's reasonable judgment, to fulfill its obligation under the terms of this nonexclusive franchise, the City shall notify the Grantee, in writing, of its specific deficiencies. Absent commencement of corrective action by the Grantee within forty-eight (48) hours of receipt of said notification, the City, upon the direction of the Council, may undertake the necessary repairs or restoration at the Grantee's sole expense.

E. At the expiration of the term for which this nonexclusive franchise is granted, or upon its termination or cancellation, as provided herein, and absent a franchise renewal, the Council may require the Grantee to continue operations for a period not to exceed twelve (12) months from

the date of the Council's decision. In the event of such non-renewal, the Grantee shall have two (2) years from the date it ceases operations to remove, at its own expense, all portions of its system from all public ways within the City and to restore said public ways to a condition reasonably satisfactory to the City.

F. Upon the non-renewal or forfeiture of this non-exclusive franchise as provided for herein, the City, at its election, and upon the payment of a sum equal to the fair market value to the Grantee as provided by Subsection (g), shall have the right to purchase and take over the BTN System in its entirety. Upon the exercise of this option and the payment of the above sum by the City and its service of an official notice of such action upon the Grantee, the Grantee shall immediately transfer to the City possession and title to all facilities and property, real and personal, of the BTN system, free from any and all liens and encumbrances not agreed to be assumed by the City in lieu of some portion of the purchase price set forth above; and the Grantee shall execute such warranty deeds or other instruments of conveyance to the City as shall be necessary for this purpose.

G. Upon the exercise of the option by the City to purchase and take over the BTN system in its entirety, the fair market value to the Grantee of the system shall be determined by three (3) disinterested parties, one of such parties to be selected by the Mayor, another to be selected by the Grantee, and the two (2) parties so selected shall mutually agree upon a third party. When all three (3) parties have been selected, they shall proceed to appraise the system and determine the fair market value to the Grantee, which determination shall be binding upon the City and the Grantee. In the event the two (2) parties selected by the City and Grantee are unable to agree upon a third party, then the presiding District Judge of Noble County, Oklahoma, or his designee shall serve as the third party. The party selected by the Mayor shall be with approval of the Council. However, if the City no longer desires to acquire the system after its value is determined, the City may, without penalty or waiver of future rights to acquire the system, abandon its intention to acquire the system. The cost of the appraisal shall be shared equally between the City and Grantee.

H. In the absence of a franchise renewal or after its termination and cancellation, as provided for herein, the Council shall have the right to determine whether the Grantee

shall be submitted to the voters of the City to continue to operate and maintain, for a reasonable fee, the BTN system pending the decision of the City as to the future maintenance and operation of such system.

Section 9-425 MAPS, PLATS, AND REPORTS.

A. The Grantee shall file with the City Clerk true and accurate maps or plats of all existing and proposed installations. Grantee shall, simultaneously with the execution of the Franchise Agreement, file a map of the City showing the proposed construction schedule of Grantee.

B. The Grantee must submit, within ninety (90) days after the franchise election wherein the franchise was approved, a master plan for wiring the entire city, which meets with the reasonable approval of the Electrical Superintendent and which takes into account the design, construction and service features set forth in their proposal and in this ordinance.

C. The Grantee shall file annually with the City Clerk not later than ninety (90) days after the end of the Grantee's fiscal year, a copy of its report to its principals (if it prepares such report) and an audited or unaudited statement of receipts. These reports shall be prepared or approved by a certified public accountant and there shall be submitted along with them such other reasonable information as the Council shall request with respect to the Grantee's properties and expenses related to its BTN operations within the City.

D. The Grantee, in order to assure full disclosure, shall keep on file with the City Clerk a current list of all owners, officers and operators of the system together with the manager for this franchise, whether it be individual, association of individuals, general or limited partnership, or corporation; and extent or percentage of ownership of each such person, including all stockholdings of ten (10) percent or more.

Section 9-426 PAYMENT TO THE CITY

As compensation for the use of valuable public ways, and to defray certain of the costs associated with cable regulation during the franchise term, Grantee shall pay the City five percent (5%) of the Grantee's gross receipts. This requirement shall be read to prevent Grantee from avoiding the provisions of this Section by lease, contract, or other arrangement. Grantee

shall have the right to pass through two percent (2%) of Grantee's gross receipts directly to subscribers.

Section 9-427 FORFEITURE OF NONEXCLUSIVE FRANCHISE.

A. In addition to all other rights and powers pertaining to the City by virtue of this nonexclusive franchise or otherwise, the City reserves the right to terminate and cancel this nonexclusive franchise and all rights and privileges of the Grantee hereunder in the event that the Grantee;

1. Willfully violates any material provision of this ordinance or any rule, order, or determination of the Council made pursuant to this nonexclusive franchise, except where such violation is without fault or through excusable neglect;

2. Becomes insolvent, or unable to pay its lawful debts, or is adjudged bankrupt;

3. Willfully violates or attempts to evade any of the material provisions of this nonexclusive franchise or practices any fraud or deceit upon the City or its citizens.

4. Fails to begin construction and proceed with the same in a reasonable, diligent, and workmanlike manner under its non-exclusive franchise within thirty (30) days after receipt of all necessary documents, including by not limited to pole attachment agreements, F.C.C. waivers and F.A.A. approvals.

5. Fails to provide service in full compliance with the proposal submitted for its non-exclusive franchise.

6. Disposes of any of the facilities or property of its BTN system to prevent the City from purchasing same, as provided for herein.

B. Upon the occurrence of any event in this Section, the Grantor's City Attorney may make written demand by registered mail that the Grantee comply with such event. If the Grantee fails, refuses or neglects to comply with the demand which is within the control of the Grantee for a period of thirty (30) days following receipt of such written demand, the Grantor's City Attorney may place a request for revocation of the franchise on a regular or special council meeting agenda. The Grantor's City Attorney shall cause to be served upon the

Grantee, at least ten (10) days prior to the date of such Council meeting, a written notice of his intent to request such revocation, and the time and place of the meeting.

C. The City Council shall consider the request of the City Attorney and shall, after notice, hear any persons interested therein, including the Grantee, and shall determine, in its discretion, after due consideration of any and all evidence presented, whether or not any failure, refusal or neglect by the Grantee constitutes cause for revocation of this franchise, in which instance the City Council shall give Grantee thirty (30) days within which to cure or remedy such failure, refusal or neglect.

D. Subject to applicable federal and state law, in the event the City, after such hearing, determines that Grantee is in default of any material provision of the franchise, the City may:

1. Commence an action at law for monetary damages or seek other equitable relief;

2. In the case of a substantial default of a material provision of the Franchise, declare the Franchise to be terminated; or

3. Seek specific performance of any provision, which reasonably lends itself to such remedy, as an alternative to damages or termination of the franchise.

The 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 the City to enforce prompt compliance.

E. The Grantee shall not be held in default with any provision of this 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 the ability of the Grantee to control.

Section 9-428 TRANSFER OR ASSIGNMENT.

This franchise shall not be transferred or assigned by the Grantee without the prior written consent of the council, which consent shall not be unreasonably withheld and shall be based on the ability of the new company to fulfill all the terms of this

ordinance. Grantee shall give thirty days prior written notice to the council of a transfer of this franchise to an entity controlling, controlled by or under common control with Grantee.

Section 9-429 PERIODIC REVIEWS.

A. During the year which commences on the fifth and tenth anniversary of the approval of the ordinance by the voters, the City may commence a review of the system to determine the technological and economic feasibility of incorporating compression and high definition technology into the design and/or upgrading channel capacity for the system; to review customer service standards; to review PEG use channel capacity; the licensee's system design; and, if the F.C.C. Rules and Regulations are eliminated and not replaced, to review such technical standards as may be necessary.

B. The City shall conduct public hearings to provide Grantee and the public the opportunity to comment on the issues which are to be considered in this five and ten year review, and shall consider whether a change in the franchise requirements are appropriate to meet the reasonable cable-related needs and interests of the community, after considering the costs of meeting those needs and interests.

C. If pursuant to such hearing, the City reasonably requires a material change in the Grantee's obligation under this franchise (with a reasonable period of time given to complete the material change and a sufficient increase in rates to permit a recoupment of the cost of such material change), then the Grantee shall (1) make the material change, or (2) commence renewal proceedings pursuant to Section 626 of the Cable Act.

Section 9-430 FURTHER AGREEMENT BY GRANTEE.

The Grantee agrees to abide by all provisions of this ordinance and further agrees that it will not at any future time set up as, against the City, the claim that the provisions of this ordinance are unreasonable, arbitrary or void, except to the extent that federal law supersedes such provisions.

Section 9-431 REMEDIES CUMULATIVE.

Except as otherwise expressly provided herein, remedies provided herein are cumulative and in addition to other rights

either party may have at law or equity or under the franchise or this ordinance. The exercise of one remedy shall not foreclose the exercise of others, nor shall it relieve either party of its obligation to comply with any provision of the franchise and ordinance.

Section 9-432 COMPLIANCE WITH APPLICABLE LAW.

The parties shall at all time be subject to and shall comply with all applicable federal and state laws and regulations.

Section 9-433 MATERIAL VIOLATIONS.

For purposes of illustration and not limitation, the refusal of Grantee to provide available books, records and reports as required herein is a material violation of this franchise and ordinance, provided at Grantee's request, the City agrees to keep specified records and reports confidential, subject to the City's compliance with the Oklahoma Open Records Act (51 O.S. Section 24 A.1 et seq.).

Section 9-434 DESCRIPTIVE HEADINGS.

The headings set forth herein are descriptive only.

Section 9-435 CHOICE OF LAW, VENUE, ATTORNEYS FEES.

Except as otherwise provided herein, this agreement shall be governed by the laws of the State of Oklahoma. Both the Noble County and United State District Court for the Western District of Oklahoma shall have venue and jurisdiction exclusively for any action in law or equity which may be instituted to enforce the terms of this franchise or ordinance. If any legal action is instituted to enforce any of the terms of this franchise or ordinance, one party's reasonable attorney's fees and all costs of the action, including court costs, expert witness fees and all other actual expenses incurred in the prosecution or defense of the action, shall be paid by the other party, to the extent the party prevails.

Section 4-436 NON-DISCRIMINATION.

Grantee shall not unlawfully discriminate against any person, including in its provision of services and equipment, on the basis of race, color, religion, national origin, sex, age,

disability or income; or deny service to any group of potential subscribers because of the income of the residents of the area in which a group of potential subscribers reside. The Grantee shall provide information concerning the cost and availability of equipment to facilitate the reception of services by the hearing impaired.

DIVISION 4

RATE REGULATION

Section 9-440 DEFINITIONS.

In this division:

BASIC CABLE RATES mean the monthly charges for a subscription to the basic service tier and the associated equipment.

BASIC SERVICE TIER means a separately available service tier to which subscription is required for access to any other tier to which subscription is required for access to any other tier of service, including as a minimum, but not limited to, all must-carry signals, all PEG channels, and all domestic televisions signals other than superstations.

BENCHMARK means a per channel rate of charge for cable service and associated equipment which the FCC has determined is reasonable.

CABLE ACT OF 1992 means the Cable Television Consumer Protection and Competition Act of 1992.

CABLE OPERATOR means any person or group of persons:

A. Who provide cable service over a cable system and directly or through one or more affiliates owns a significant interest in such a cable system; or

B. Who otherwise controls or is responsible for through any arrangement, the management and operation of such a cable system.

CHANNEL means a unit of cable service identified and selected by a channel number or similar designation.

CITY OF SERVICE SHOWING means a filing in which the cable operator attempts to show that the benchmark rate or the price cap is not sufficient to allow the cable operator to fully recover the costs of providing the basic service tier and to continue to attract capital.

FCC means the Federal Communications Commission.

INITIAL BASIC CABLE RATES mean the rates that the cable operator is charging for the basic service tier, including charges for associated equipment, at the time the City notifies the cable operator of the City's qualification and intent to regulate basic cable rates.

MUST-CARRY SIGNAL means the signal of any local broadcast station (except superstations which is required to be carried on the basic service tier).

PEG CHANNEL means the channel capacity designated for public, educational, or governmental use, and facilities and equipment for the use of that channel capacity.

PRICE CAP means the ceiling set by the FCC on future increases in basic cable rates regulated by the City, based on a formula using the GNP fixed weight price index, reflecting general increases in the cost of doing business and changes in overall inflation.

REASONABLE RATE STANDARD means a per channel rate that is at or below, the benchmark or price cap level.

SUPERSTATION means any non-local broadcast signal secondarily transmitted by satellite.

Section 9-441 INITIAL REVIEW OF BASIC CABLE RATES.

A. Notice. Upon the adoption of this Division and the certification of the City by the FCC, the City shall immediately notify all cable operators in the City, by certified mail, return receipt requested, that the City intends to regulate subscriber rates charged for the basic service tier and associated equipment as authorized by the Cable Act of 1992.

B. Cable operator response. Within 30 days of receiving notice from the City, a cable operator shall file with the City, its current rates for the basic service tier and associated

equipment and any supporting material concerning the reasonableness of its rates.

C. Expedited determination and public hearing.

1. If the City Council is able to expeditiously determine that the cable operator's rates for the basic service tier and associated equipment are within the FCC's reasonable rate standard, as determined by the applicable benchmark, the City Council shall:

a. hold a public hearing at which interested persons may express their views; and

b. Act to approve the rates within 30 days from the date the cable operator files its basic cable rates with the City.

2. If the City Council takes no action within 30 days from the date the cable operator filed its basic cable rates with the City, the proposed rates will continue in effect.

D. Extended review period.

1. If the city Council is unable to determine whether the rates in issue are within the FCC's reasonable rate standard based on the material before it, or if the cable operator submits a cost-of-service showing, the City Council shall, within 30 days from the date the cable operator files its basic cable rates with the City and by adoption of a formal resolution, invoke the following additional periods of time, as applicable, to make a final determination:

a. 90 days if the City Council needs more time to ensure that a rate is within the FCC's reasonable rate standard; or

b. 150 days if the cable operator has submitted a cost-of-service showing seeking to justify a rate above the applicable benchmark.

2. If the City Council has not made a decision within the 90 or 150 day period, the City Council shall issue a brief written order at the end of the period requesting the cable operator to keep accurate account of all amounts received by reason of the proposed rate and on whose behalf the amounts are paid.

E. Public hearing. During the extended review period and before taking action on the proposed rate, the City Council shall hold at least one public hearing at which interested persons may express their views and record objections.

F. Objections. An interested person who wishes to make an objection to the proposed initial basic rate may request the City Clerk to record the objection during the public hearing or may submit the objection in writing any time before the decision resolution is adopted. In order for an objection to be made part of the record, the objector must provide the City Clerk with the objector's name and address.

G. Benchmark analysis. If a cable operator submits its current basic cable rate schedule as being in compliance with the FCC's reasonable rate standard, the City Council shall review the rates using the benchmark analysis in accordance with the standard form authorized by the FCC. Based on the City Council's findings, the initial basic cable rates shall be established as follows:

1. If the current basic cable rates are below the benchmark, those rates, shall become the initial basic cable rates and the cable operator's rates will be capped at that level.

2. If the current basic cable rates exceed the benchmark, the rates shall be the greater of the cable operator's per channel rate on September 10, 1992, reduced by 10 percent, or the applicable benchmark, adjusted for inflation and any change in the number of channels occurring between September 10, 1992 and the initial date of regulation.

3. If the current basic cable rates exceed the benchmark, but the cable operator's per channel rate was below the benchmark on September 10, 1992, the initial basic cable rate shall be the benchmark, adjusted for inflation.

H. Cost-of-service showings. If a cable operator does not wish to reduce the rates to the permitted level, the cable operator shall have the opportunity to submit a cost-of-service showing in an attempt to justify an initial basic cable rates above the FCC's reasonable rate standard. The City Council will review a cost-of-service submission pursuant to FCC standards for cost-of-service review. The City Council may approve initial basic cable rates above the benchmark if the cable operator makes the necessary showing; however, a cost-of-service

determination resulting in rates below the benchmark or below the cable operator's September 10, 1992 rates minus 10 percent, will prescribe the cable operator's new rates.

I. Decision.

1. By formal resolution. After completion of its review of the cable operator's proposed rates, the City Council shall adopt its decision by formal resolution. The decision shall include one of the following:

a. If the proposal is within the FCC's reasonable rate standard or is justified by a cost-of-service analysis, if any, the City Council shall approve the initial basic cable rates proposed by the cable operator; or

b. If the proposal is not within the FCC's reasonable rate standard and the cost-of-service analysis, if any, does not justify the proposed rates, the City Council shall establish initial basic cable rates that are within the FCC's reasonable rate standard or that is justified by a cost-of-service analysis.

2. Rollbacks and refunds. If the City Council determines that the initial basic cable rates as submitted exceed the reasonable rate standard or that the cable rates as submitted exceed the reasonable rate standard or that the cable operator's cost-of-service showing justifies lower rates, the City Council may order the rates reduced in accordance with Paragraph (g) or (h) above, as applicable. In addition, the City Council may order the cable operator to pay to subscribers, refunds of the excessive portion of the rates with interest (computed at applicable rates published by the Internal Revenue Service for tax refunds and additional tax payments), retroactive to September 1, 1993. The method for paying any refund and the interest rate will be in accordance with FCC regulations as directed in the City Council's decision resolution.

3. Statement of reasons for decision and public notice. If rates proposed by a cable operator are disapproved in whole or in part, or if there were objections made by other parties to the proposed rates, the resolution must give public notice of its decision. Public notice will be given by advertisement once in the official newspaper of the City.

J. Appeal. The City Council's decision concerning rates

for the basic service tier or associated equipment, may be appealed to the FCC in accordance with applicable federal regulation.

Section 9-442 REVIEW OF REQUEST FOR INCREASE IN BASIC CABLE RATES

A. Notice. A cable operator in the City who wishes to increase the rates for the basic service tier or associated equipment shall file a request with the City and notify all subscribers at least 30 days before the cable operator desires the increase to take effect. This notice may not be given more often than annually and not until at least one year after the determination of the initial basic cable rates.

B. Expedited determination and public hearing.

1. If the City Council is able to expeditiously determine that the cable operator's rate increase request for basic cable service is within the FCC's reasonable rate standard, as determined by the applicable price cap, the City Council shall:

- a. hold a public hearing at which interested persons may express their views; and
- b. act to approve the rate increase within 30 days from the date the cable operator filed its request with the City.

2. If the City Council takes no action within 30 days from the date the cable operator filed its request with the City, the proposed rates will go into effect.

C. Extended review period.

1. If the City Council is unable to determine whether the rate increase is within the FCC's reasonable rate standard based on the material before it, or if the cable operator submits a cost-of-service showing, the City Council shall, by adoption of a formal resolution, invoke the following additional periods of time, as applicable, to make a final determination, as follows:

- a. 90 days if the City Council needs more time to ensure that the requested increase is within the FCC's reasonable rate standard as determined by the applicable price cap; and

- b. 150 days if the cable operator has submitted a cost-of-service showing seeking to justify a rate increase above the applicable price cap.

2. The proposed rate increase is tolled during the extended review period.

3. If the City Council has not made a decision within the 90 or 150 day period, the City Council shall issue a brief written order at the end of the period requesting the cable operator to keep accurate account of all amounts received by reason of the proposed rate increase and on whose behalf the amounts are paid.

D. Public hearing. During the extended review period and before taking action on the requested rate increase, the City Council shall hold at least one public hearing at which interested persons may express their views and record objections.

E. Objections. An interested person who wishes to make an objection to the proposed rate increase may request the City Clerk to record the objection during the public hearing or may submit the objection in writing any time before the decision resolution is adopted. In order for an objection to be made part of the record, the objector must provide the City Clerk with the objector's name and address.

F. Delayed determination. If the City Council is unable to make a final determination concerning a requested rate increase within the extended time period, the cable operator may put the increase into effect, subject to subsequent refund if the City Council later issues a decision disapproving any portion of the increase.

G. Price cap analysis. If a cable operator presents its request for a rate increase as being in compliance with the FCC's price cap, the City Council shall review the rate using the price cap analysis in accordance with the standard form authorized by the FCC. Based on the City Council's findings, the basic cable rates shall be established as follows:

1. If the proposed basic cable rate increase is within the price cap established by the FCC, the proposed rates shall become the new basic cable rates.

2. If the proposed basic cable rate increase exceeds the

price cap established by the FCC, the City Council shall disapprove the proposed rate increase and order an increase that is in compliance with the price cap.

H. Cost-of-service showings. If a cable operator submits a cost-of-service showing in an attempt to justify a rate increase above the price cap, the City Council will review the submission pursuant to the FCC standards for cost-of-service review. The City Council may approve a rate increase above the price cap if the cable operator makes the necessary showing; however, a cost-of-service determination resulting in a rate below the price cap or below the cable operator's then current rate will prescribe the cable operator's new rate.

I. Decision. The City Council's decision concerning the requested rate increase shall be adopted by formal resolution. If a rate increase proposed by a cable operator is disapproved in whole or in part, or if objections were made by other parties to the proposed rate increase, the resolution must state the reasons for the decision. Objections may be made at the public hearing by a person requesting the City Clerk to record the objection or may be submitted in writing at any time before the decision resolution is adopted.

J. Refunds.

1. The City Council may order refunds of subscribers' rate payments with interest if:

- a. the City Council was unable to make a decision within the extended time period as described in Paragraph (c) above; and
- b. the cable operator implemented the rate increase at the end of the extended review periods; and
- c. the City Council determines that the rate increase as submitted exceeds the applicable price cap or that the rate increase as submitted exceeds the applicable price cap or that the cable operator failed to justify the rate increase by a cost-of-service showing, and the City Council disapproves any portion of the rate increase.

2. The method for paying any refund and the interest rate will be in accordance with FCC regulations as directed in the City Council's decision resolution.

K. Appeal. The City Council's decision concerning rates for the basic service tier or associated equipment, may be appealed to the FCC in accordance with applicable federal regulations.

Section 9-443 CABLE OPERATOR INFORMATION.

A. City may require.

1. In those cases when the cable operator has submitted initial rates or proposed an increase that exceeds the reasonable rate standard, the City Council may require the cable operator to produce information in addition to that submitted, including proprietary information, if needed, to make a rate determination. In these cases, a cable operator may request the information be kept confidential in accordance with this Section.

2. In cases where initial or proposed rates comply with the reasonable rate standard, the City Council may request additional information only in order to document that the cable operator's rates are in accord with the standard.

B. Request for Confidentiality.

1. A cable operator submitting information to the City Council may request in writing that the information not be made routinely available for public inspection. A copy of the request shall be attached to and cover all of the information and all copies of the information to which it applies.

2. If feasible, the information to which the request applies shall be physically separated from any information to which the request does not apply. If this is not feasible, the portion of the information to which the request applies shall be identified.

3. Each request shall contain a statement of the reasons for withholding inspection and a statement of the facts which those reasons are based.

4. Casual requests which do not comply with the requirements of this subsection, shall not be considered.

C. City Council action. Requests which comply with the requirements of Subsection C, will be acted upon by the City Council. The City Council will grant the request if the cable

operator presents by a preponderance of the evidence, a case for non-disclosure consistent with applicable federal regulations. If the request is granted, the ruling will be placed in a public file in lieu of the information withheld from public inspection. If the request does not present a case for non-disclosure and the City Council denies the request, the City Council shall take one of the following actions:

1. If the information has been submitted voluntarily without any direction from the City, the cable operator may request that the City will comply with this request. Only in the unusual instance that the public interest so requires, will the information be made available for public inspection.

2. If the information was required to be submitted by the City Council, the information will be made available for public inspection.

D. Appeal. If the City Council denies the request for confidentiality, the cable operator may seek review of that decision from the FCC within five working days of the City Council's decision, and the release of the information will be stayed pending review.

Section 9-444 AUTOMATIC RATE ADJUSTMENTS.

A. Annual inflation adjustment. In accordance with FCC regulations, the cable operator may adjust its capped base per channel rate for the basic service tier annually by the final GNP-PI index.

B. Other external costs.

1. The FCC regulations also allow the cable operator to increase its rate for the basic service tier automatically to reflect certain external cost factors to the extent that the increase in cost of those factors exceeds the GNP-PI. These factors include retransmission consent fees, programming costs, state and local taxes applicable to the provision of cable television service, and costs of franchise requirements. The total cost of an increase in a franchise fee may be automatically added to the base per channel rate, without regard to its relation to the GNP-PI.

2. For all categories of external costs other than retransmission consent and franchise fees, the starting date for

measuring changes in external costs for which the basic service per channel rate may be adjusted will be the date on which the basic service tier becomes subject to regulation or February 28, 1994, whichever occurs first. The permitted per channel charge may not be adjusted for costs of retransmission consent fees or changes in those fees incurred before October 6, 1994.

C. Notification and review. The cable operator shall notify the City at least 30 days in advance of a rate increase based on automatic adjustment items. The City shall review the increase to determine whether the item or items qualify as automatic adjustments. If the City makes no objection within 30 days of receiving notice of the increase, the increase may go into effect.

Section 9-445 ENFORCEMENT.

A. Refunds. The City may order the cable operator to refund to subscribers a portion of previously paid rates under the following circumstances:

1. A portion of the previously paid rates have been determined to be in excess of the permitted tier charge or above the actual cost of equipment; or

2. The cable operator has failed to comply with a valid rate order issued by the City.

B. Fines. If the cable operator fails to comply with a rate decision or refund order, the cable operator shall be subject to a fine of \$100 for each day the cable operator fails to comply.

Note: Approved as Ordinance No. 94-3206 passed on April 4, 1994.

ARTICLE 5

MEDICAL MARIJUANA DISPENSARIES, MEDICAL MARIJUANA GROWER FACILITIES, AND MEDICAL MARIJUANA PROCESSOR FACILITIES

Section 9-501 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 Perry City Clerk or his/her designee.

3. "Code Enforcement Officer" means the Perry 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. For purpose of this Article, Medical Marijuana Processor Facility means and permits Tier I, Tier II and Tier III Medical Marijuana Processing.

14. "Tier I Medical Marijuana Processor" means a facility defined and regulated by Oklahoma state law as a medical marijuana processor, and which engages in only the following activity or activities: the preparation (from medical marijuana in compliance with state law), including necessary grinding, of "pre-rolled" marijuana cigarettes, "joints" or "blunts" for sale on-site. Nothing in this Code affects state law license categories for medical marijuana establishments. local zoning and licensing applicants may be required to seek multiple state licenses to comply with state law.

15. "Tier II Medical Marijuana Processor" means a facility defined and regulated by Oklahoma state law as a medical marijuana processor, and which engages in Tier I medical marijuana processor activities and/or the following activities: the use of marijuana concentrate(s) in compliance with state law, to make derivative infused products for sale on-site. Tier II medical marijuana processing does not include extraction processes of any kind. Examples of Tier II medical marijuana processing are the cooking, baking or preparation of medical marijuana edible products, or the addition of marijuana concentrate to products pre-manufactured off-site, such as lotions or soaps. Nothing in this Code affects state law license categories for medical marijuana establishments.

16. "Tier III Medical Marijuana Processor" means a facility defined and regulated by Oklahoma state law as a medical marijuana processor, and which engages in any type of medical marijuana processing, including all allowed extraction processes, except that on-site sales are not permitted.

Section 9-502 MEDICAL MARIJUANA DISPENSARY

1. No person shall operate a Medical Marijuana Dispensary at any time or any location within the City of Perry 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. Effective April 1, 2024, a Medical Marijuana Dispensary Permit shall only be located within a C-2 General Commercial District, but not within the following specific tracts and areas, nor within any other zoning district located within such specific tracts and areas, as follows:

All of Lots One (1) and Two (2) in Block Nine (9), in the ORIGINAL TOWNSITE OF PERRY, County of Noble, State of Oklahoma, according to the recorded Plat thereof, and

Beginning at the Southeast corner of the intersection of Fir Street and Eighth Street, thence South to the Northeast corner of the Intersection of 8th Street and Ash Street, thence East to the intersection of Ash Street and the Burlington Northern Sante Fe Railroad Right-of-Way, thence Northeast along the west boundary line of the Burlington Northern Sante Fe Railroad right-of-way to the intersection of the west boundary line of the Burlington Northern Sante Fe Railroad right-of-way and the Alley running East And West and lying between Fir Street and Grove Street, thence West to 8th Street, thence South along 8th Street to the point of beginning which is the Southeast corner of the intersection of Fir Street and Eighth Street and as further shown on a map on file in the Office of the City Clerk and incorporated herein by reference, or a C-4 Planned Commercial District, not as a permitted use but subject to approval by a Use by Review procedure.

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 Perry 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 Perry. 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 terms of its zoning 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:

D. 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.

E. 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.

F. A valid, unexpired driver's license or state issued ID for all owners, directors, officers, and managers of the proposed Establishment.

G. Evidence of a valid sales tax license for the business if such a license is required by state law or local regulations.

H. Non-refundable Application fee.

I. 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.

J. 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.

K. 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.

L. Any other information reasonably requested by the City of Perry to be relevant to the processing or consideration of the Application.

Section 9-503 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. Any violations of this Article will result in the revocation of the Medical Marijuana Dispensary permit.

D. It is the intent of the City of Perry 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 9-504 MEDICAL MARIJUANA GROWER FACILITIES

A. Medical Marijuana Grower Facilities are hereby allowed within the municipal boundaries of Perry, 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. The Medical Marijuana Grower Facility shall only be located within an A-G Agricultural District or an I-1 Light Industrial District, not as a permitted use but subject to approval by a Use by Review procedure, and as a permitted use in an I-2 Heavy Industrial District, and with all grow operations contained within an enclosed structure.

3. 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.

4. 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.

5. 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.

6. The Medical Marijuana Grower Facility shall collect the applicable sales tax on any sales subject to municipal sales taxes.

Section 9-505 Medical Marijuana Processor Facilities.

Medical Marijuana Processor Facilities are hereby allowed within the municipal boundaries of Perry, Oklahoma under the following

conditions:

1. The facility must acquire a permit for the facility from the Municipal Clerk. The permit for all Medical Marijuana Processor Facilities, regardless of tier, shall be one thousand five hundred dollars (\$1,500.00) per year, or other amount as set periodically by Council resolution. Only one permit fee shall be paid for one or more tiered Medical Marijuana Processor Facilities in the same location.

2. Effective April 1, 2024, a Tier I Medical Marijuana Processor Facility and/or a Tier II Medical Marijuana Processor Facility may be located in a C-2 General Commercial District, but not within the following specific tracts and areas, nor within any other zoning district located within such specific tracts and areas, as follows:

All of Lots One (1) and Two (2) in Block Nine (9), in the ORIGINAL TOWNSITE OF PERRY, County of Noble, State of Oklahoma, according to the recorded Plat thereof, and

Beginning at the Southeast corner of the intersection of Fir Street and Eighth Street, thence South to the Northeast corner of the Intersection of 8th Street and Ash Street, thence East to the intersection of Ash Street and the Burlington Northern Sante Fe Railroad Right-of-Way, thence Northeast along the west boundary line of the Burlington Northern Sante Fe Railroad right-of-way to the intersection of the west boundary line of the Burlington Northern Sante Fe Railroad right-of-way and the Alley running East And West and lying between Fir Street and Grove Street, thence West to 8th Street, thence South along 8th Street to the point of beginning which is the Southeast corner of the intersection of Fir Street and Eighth Street and as further shown on a map on file in the Office of the City Clerk and incorporated herein by reference, or a C-4 Planned Commercial District, not as a permitted use but subject to approval by a Use by Review procedure.

3. 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.

4. 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.

5. 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.

6. The Medical Marijuana Processor Facilities shall collect the applicable sales tax on any sales subject to municipal sales taxes.

7. Buildings where marijuana is stored or dispensed must be equipped with ventilation/air filtration systems so that no odors are detectable off premises.

8. Any violations of this section will result in the revocation of the Medical Marijuana Processor Facilities permit.

Section 9-506 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.

F. The City Manager is authorized to determine and waive any minor requirement provided in this Article in the event it reasonably appears such requirement may be in conflict with

state law or legal precedent or custom and practice in the State of Oklahoma.

ARTICLE 6

CLARITY CATV PERMITTING ORDINANCE

Section 9-601 Definition 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 an entity which owns or controls, is owned or controlled by, or is under common ownership or control with Cable Operator.

"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, consisting 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 Subscribers. Cable Operator's cable system will be a fiber to the home/business network within the City utilizing the latest GPON/XGS PON infrastructure. Services available over the Cable System will include an Internet Protocol video service that includes the channels and programs commonly offered in the video marketplace in the City, as well as an integrated over-the-top (OTT) marketplace providing consumers access to content from providers like Netflix, Amazon Prime, Hulu, HBO max, etc. In addition, the Cable System will be capable of delivering high speed, symmetrical, bi-directional Internet to residential customers ranging from 500 Mbps to 2 Gbps and upwards of 10 Gbps for business customers.

"FCC" means Federal Communications Commission, or successor governmental entity thereto.

"Permit" means the initial authorization, or renewal thereof, issued by the City whether 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.

"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 to, public utility easements, dedicated utility strips, or rights-of-way dedicated for compatible uses and any temporary or permanent fixtures or improvements located thereon now or hereafter held by City in the Service Area which shall entitle City and Cable Operator to the use thereof for the purpose of installing, operating, repairing, and maintaining the Cable System. "Public Way" also means any easement now or hereafter held by City within the Service Area 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 and meaning entitle City and Cable Operator to the use thereof for the purposes of installing or transmitting Cable Operator'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 the City of Perry, Oklahoma and all areas annexed into the City in the future.

"Subscriber" means a user of the Cable System who lawfully receives Cable Service with Cable Operator's express permission.

"Video Programming" means programming provided by, or generally considered comparable to programming provided by, a television broadcast station.

1. Grant; Build-Out Requirements. The City hereby grants to Cable Operator a nonexclusive Permit which authorizes Cable Operator 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, conduits, vaults, manholes, pedestals, amplifiers, appliances, attachments, and other related property or equipment as may be necessary or appurtenant to the Cable System. Nothing in this Permit shall be construed to prohibit Cable Operator from offering any service over its Cable System that is not prohibited by applicable law. Cable Operator shall build out the Cable System over a reasonable period of time, and provided that the City timely issues permits and other owners and users of critical infrastructure (such as utility poles) do not cause delay, not less than 50% build-out in two years and 90% build-out in three years to every residence (provided that there is a request for Cable Service from Cable Operator in such area and excluding any home subscribing to any satellite service) within the Service Area where there is a minimum density of at least thirty (30) residences per linear strand mile of cable as measured from Cable Operator's closest commercially reasonable tie-in point that is actively delivering Cable Service as of the date of such request for service. If such residence is located within one hundred twenty-five (125) feet of Cable Operator's feeder cable, the Cable Service will be provided at Cable Operator's published rate for standard installations. Cable Service offered to Subscribers pursuant to this Article shall be conditioned upon Cable Operator having legal access to any such Subscriber's dwelling unit or other units wherein such Cable Service is provided. Nothing herein shall be construed to limit Cable Operator's ability to offer or provide bulk rate discounts or promotions.

2. Term. The Permit granted pursuant to this Article shall be for a term of ten (10) years from the passed and adopted date of the Permit unless otherwise lawfully terminated in accordance with the terms of this Article. The Cable Operator shall accept the Permit granted pursuant hereto by accepting and executing said Permit Acceptance and filing same with the City Clerk within sixty days after the granting of the Permit.

3. Acceptance. Cable Operator shall accept the Permit granted pursuant hereto by signing a Permit Agreement incorporating by reference this Article and filing same with the City Clerk within sixty (60) days after the passage and final adoption of this Article.

4. Favored Nations. In the event City enters into or has entered into a binding Permit of any kind with any Person other than Cable Operator to enter into the Public Ways for the purpose of constructing or operating a Cable System or providing Cable Service or video 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. If another provider of Cable Services, video services or other television services utilizing any system or technology requiring use of the Public Way in the Service Area, is lawfully authorized by any governmental entity or otherwise exempt in the future from obtaining a permit as provided for in this Article in order to provide such services, City hereby agrees that, upon a request from Cable Operator, as a matter of law, Cable Operator's Permit will be modified within thirty (30) days of the granting of such authorization or exemption for the purpose of establishing the same terms and conditions as such person(s) on a competitively neutral basis. Except as specifically provided in this paragraph, neither City nor Cable Operator shall be permitted to take any unilateral action that materially changes the explicit mutual promises and covenants contained in this Permit, and any changes, modifications or amendments to this Permit must be made in writing, signed by City and Cable Operator.

5. Change of Law. In the event the federal, state or local law, rules or regulations are amended, modified or created that have the effect of modifying the terms and conditions of this Permit during the Term or any extension thereof, Cable Operator has the sole option to terminate this Permit upon ninety (90) days' notice to City. Nothing in this Permit shall impair the right of Cable Operator to terminate this Permit and, at Cable Operator's option, negotiate a renewal or replacement franchise, license, consent, certificate or other authorization with any appropriate government entity (such as the State of Oklahoma). To the extent that Cable Operator lawfully obtains an authorization to operate a network and serve customers under applicable laws in lieu of this Permit, Cable Operator shall have the right to terminate this Permit upon 90 days prior

written notice to City.

6. Renewal of Permit. Prior to the end of the Permit term, City and Cable Operator agree to enter into good faith negotiations regarding the renewal, modification, and/or extension of this Permit.

Section 9-603 Standards of Service **Conditions of Street**
Occupancy.

All transmission and distribution structures, poles, other lines, and equipment installed or erected by Cable Operator 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. Cable Operator shall comply with all right-of-way and easement management ordinances and/or regulations enacted by City, including such ordinances and/or regulations enacted after the effective date of this Permit.

1. Restoration of Public Ways. If during the course of Cable Operator's construction, operation, or maintenance of the Cable System there occurs a disturbance of any Public Way by Cable Operator, 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.

2. Relocation at Request of Permitting Authority. Upon its receipt of reasonable advance notice, Cable Operator shall, at its own expense, protect, support, temporarily disconnect, relocate in the Public Way, or remove from the Public Way, any property of Cable Operator when lawfully required by City by reason of traffic conditions, public safety, street abandonment, freeway and street construction, change or establishment of street grade, installation of sewers, drains, gas or water pipes, or any other type of structures or improvements by City; but Cable Operator 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 Cable Operator.

3. Relocation at Request of Third Party. Cable Operator shall, on the request of any Person holding a building or other

structure moving permit issued by City, temporarily raise or lower its wires to permit the moving of such building or other structure, provided: (a) the expense of such temporary raising or lowering of wires is paid by such Person, including, if required by Cable Operator, making such payment in advance; and (b) Cable Operator is given not fewer than ten (10) business days' advance written notice to arrange for such temporary wire changes.

4. Trimming of Trees and Shrubbery. Cable Operator shall have the authority to trim trees or other natural growth overhanging any of its Cable System in the Service Area so as to prevent branches from coming in contact with Cable Operator wires, cables, or other equipment. Cable Operator shall reasonably compensate City or property owner for any damages caused by such trimming.

5. 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.

6. 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, Cable Operator likewise shall construct, operate, and maintain all of its transmission and distribution facilities underground; provided that such facilities are actually capable of receiving Cable Operator'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, Cable Operator shall have the sole discretion to construct, operate, and maintain all of its transmission and distribution facilities, or any part thereof, aerially or underground. Nothing contained in this Subsection 1.14 shall require Cable Operator 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 anything to the

contrary contained in this Subsection 1.14, 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, Cable Operator 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.

7. Subscriber Charges for Extensions of Service. No Subscriber shall be refused service arbitrarily. However, if an area does not meet the density requirements of Section 9-602, Subsection 2.1, Cable Operator shall only be required to extend the Cable System to Subscribers in that area if the Subscribers are willing to cover the capital costs of extending the Cable System. Cable Operator may require that payment of the capital contribution for construction borne by such potential Subscribers be paid in advance. Subscribers shall also be responsible for any standard/non-standard installation charges to extend the Cable System from the tap to the residence

8. Pole Attachments. Utility poles owned by City or an affiliated entity shall be available for use by Cable Operator. Cable Operator shall pay City the maximum cable services pole rental rate as determined by the rules of the FCC for the use of poles owned by City or its affiliate, but not to exceed the amount paid by any other Cable Service provider attaching to such poles pursuant to a current and effective pole agreement.

Section 9-604 Permit Fee, Rates and Charges, Conditions of Sale or Transfer

1. Permit Fee. During the term of this Permit, Cable Operator shall pay to City a fee equal to five percent (5%) of the gross revenues that Cable Operator and its affiliates collected from each subscriber to Cable Operator's Cable Services, and five percent (5%) of the portion of gross revenues from advertising which are defined below the fee ("Permit Fee"). The Permit Fee may be identified and passed through on any subscriber bill by Cable Operator, and all such fees collected will be forwarded to City quarterly and shall be due forty-five (45) days after the end of each calendar quarter.

2. For purposes of this Permit, gross revenues are limited to the following:

- recurring charges for Cable Services;
 - event-based charges for Cable Services, including but not limited to pay-per-view and video-on-demand charges;
 - rental of set top boxes and other Cable Services equipment;
 - service charges related to the provision of Cable Services, including, but not limited to, activation, installation, and repair;
 - administrative charges related to the provision of Cable Services, including, but not limited to, service order and service termination charges; and
 - amounts billed to Cable Services subscribers to recover the Permit Fee authorized by this section.
3. For purposes of this Permit, gross revenues do not include:
- uncollectible fees, provided that all or part of uncollectible fees which is written off as bad debt but subsequently collected, less expenses of collection, shall be included in gross revenues in the period collected;
 - late payment fees;
 - revenues from contracts for in-home maintenance service unless they relate solely to maintenance on equipment used only for the provisioning of Cable Services and not for the provisioning of any other service provided by Cable Operator or its affiliates;
 - amounts billed to Cable Services subscribers to recover taxes, fees or surcharges imposed upon Cable Services subscribers in connection with the provision of Cable Services, other than the Permit Fee authorized by this section;
 - revenue from the sale of capital assets or surplus equipment; or
 - charges, other than those described in subsection (A), that are aggregated or bundled with amounts billed to Cable Services subscribers.

4. Gross revenues which are subject to the Permit Fee paid by Cable Operator additionally include a pro rata portion of all revenue collected by Cable Operator pursuant to compensation arrangements for advertising (less any commissions Cable Operator receives from any third parties for advertising) and home-shopping sales derived from the operation of Cable Operator's Cable System within the Service Area. Advertising commissions paid to third parties (excluding any refunds, rebates, or discounts the Company may make to advertisers) shall not be deducted from advertising revenue included in gross revenue. The allocation of advertising and home-shopping revenue referred to above shall be based on the number of subscribers in the City divided by the total number of subscribers in relation to the relevant regional or national compensation arrangement.
5. Bundling discounts shall be apportioned fairly among video and other services. Cable Operator shall not apportion revenue in such a manner as to avoid the Permit Fee.
6. The Permit Fee shall not apply to Internet access or Internet-based telephone services offered by Cable Operator. If the FCC or any other federal or state governmental authority with jurisdiction to do so authorizes the collection of such a fee during the term of this Permit, then Cable Operator shall, upon reasonable notice of the imposition of such a fee by the City that applies equally to all Internet access or Internet-based telephone service providers within the Service Area, commence remittance of a fee in the amount of not more than five percent (5%) of the gross revenues collected from the sale of such Internet access or Internet-based telephone services during the remaining term of this Permit; provided that the City and Cable Operator agree to the specific amount in an amendment to this Article/Permit. *This exclusion shall not apply to the payment of statutory "911" fees; such fees shall be collected and remitted by Cable Operator beginning the effective date of this Permit as required by applicable law.*
7. In the event that any other video services provider, including but not limited to a cable operator or open video service provider, enters into any agreement or makes any arrangement with City during the term of this Permit whereby it is required or allowed to pay a fee to City that

is similar to the Permit Fee described herein, this Permit shall be amended to allow Cable Operator to substitute the definition of "gross revenue" set forth in that agreement or arrangement for the definition of "gross revenue" set forth in this Permit immediately upon request of Cable Operator.

8. Cable Operator and City agree that the Permit Fee shall be in lieu of all other concessions, charges, excises, franchise, license, privilege, permit fees, taxes, or assessments except sales taxes, personal or real property taxes, and act valorem taxes.
9. Rates and Charges. City 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, Cable Operator has the right to modify its rates and charges, at its discretion and without consent of City, including, but not limited to, the implementation of additional charges and rates; provided, however, that Cable Operator shall give notice to City of any such modifications or additional charges thirty (30) days prior to the effective date thereof.'
10. Conditions of Sale. Except to the extent expressly required by federal or state law, if a renewal or extension of the Permit is denied or the Permit is lawfully terminated, and City 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.
11. Cable Operator and City agree that in the case of a lawful revocation of the Permit, at Cable Operator's request, which shall be made in its sole discretion, Cable Operator shall be given a reasonable opportunity to effectuate a transfer of its Cable System to a qualified third party. City further agrees that during such period of time, it shall authorize Cable Operator to continue to operate pursuant to the terms of its prior Permit; 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, Cable

Operator is unsuccessful in procuring a qualified transferee or assignee of its Cable System which is reasonably acceptable to City, Cable Operator and City may avail themselves of any rights they may have pursuant to federal or state law; it being further agreed that Cable Operator'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 City or Cable Operator. Notwithstanding anything to the contrary set forth in this Subsection 1.19, neither City nor Cable Operator shall be required to violate federal or state law.

12. Transfer of Permit. All of the rights and privileges and all of the obligations, duties and liabilities created by this Permit shall pass to and be binding upon the successors of City and the successors and assigns of Cable Operator and the same shall not be assigned or transferred without the written approval of the City Council, which approval shall not be unreasonably withheld, conditioned or delayed; provided, however, that this Section shall not prevent the assignment or hypothecation of the Permit by Cable Operator as security for debt without such approval; and provided further that transfers or assignments of this Permit 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 City ("intracompany transfers"). Cable Operator shall notify City in writing within thirty (30) days of the closing of such intracompany transfer.

Section 9-605

Compliance and Monitoring

1. Books and Records. Cable Operator agrees that City may review such of Cable Operator's books and records, during normal business hours and on a nondisruptive basis, as are reasonably necessary to monitor compliance with the financial terms hereof. Such records include, but are not limited to, any public records required to be kept by Cable Operator pursuant to the rules and regulations of the FCC. Notwithstanding anything to the contrary set forth herein, Cable Operator shall not be required to disclose information which it reasonably deems to be proprietary or confidential in nature. City agrees to treat any information disclosed to it by Cable Operator as confidential, to the extent

not prohibited by law, and to disclose it only to employees, representatives, and agents of City that have a need to know, or in order to enforce the provisions hereof.

Section 9-606 Insurance. indemnification. and Bonds or Other Surety

Insurance Requirements. Cable Operator shall maintain in full force and effect during the term of the Permit, at its own cost and expense, Comprehensive General Liability Insurance in the amount of at least \$1,000,000. Such insurance shall designate City as an additional insured to the liability limits imposed by the Oklahoma Governmental Tort Claims Act, 51 O.S. §151, *et seq.*

Indemnification. Cable Operator agrees to indemnify, save and hold harmless, and defend City, its officers, boards and employees, from and against any liability for damages and for any liability or claims, in each case resulting from property damage or bodily injury (including accidental death) which arise out of Cable Operator's construction, operation or maintenance of its Cable System, including, but not limited to, reasonable attorneys' fees and costs.

Bonds and other Surety. Except as expressly provided herein, Cable Operator shall not be required to obtain or maintain bonds or other surety as a condition of being awarded the Permit or continuing its existence. City acknowledges that the legal, financial, and technical qualifications of Cable Operator are sufficient to afford compliance with the terms of the Permit and the enforcement thereof. Cable Operator and City 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, City agrees to require bonds and other surety only in such amounts and during such times as there is a reasonably demonstrated need therefor. City agrees that in no event, however, shall it require a bond or other related surety in an aggregate amount greater than \$100,000 conditioned upon the substantial performance of the material terms, covenants, and conditions of the Permit. Initially, no bond or other surety shall be required. In the event that one is required in the future, City agrees to give Cable Operator at least sixty (60) days' prior written notice thereof stating the exact reason for the requirement. Such reason must demonstrate a change in Cable Operator's legal, financial, or technical qualifications which would materially prohibit or impair its ability to comply with the terms of the Permit or afford compliance therewith.

Section 9-607Free Internet Service; Emergency Alert

Free Internet Service. Cable Operator shall provide, at no charge, its fiber-based, bi-directional, symmetrical Internet service with speeds of up to 1 Gbps download x 1 Gbps upload, to five (5) municipal buildings located within the Service Area, including free monthly service to such municipal buildings during the term of this Permit (the "Public Building Internet Service"). Installation costs and equipment charges relating to the Public Building Internet Service shall be paid by Cable Operator up to a maximum of \$25,000. The Public Building Internet Service shall be used solely for Internet access and not for any commercial use. Accordingly, while Cable Operator shall use commercially reasonable efforts to ensure that the Public Building Internet Service is available 24 hours per day, 7 days per week, consistent with its own network availability, Cable Operator shall have no liability whatsoever to the City or otherwise under this Permit for any failure or unavailability of the Public Building Internet Service. Buildout and availability of the Public Building Internet Service shall occur concurrently with Cable Operator's planned buildout of the Cable System, but in any event as quickly as commercially practicable.

Emergency Alert. Cable Operator shall comply with the federal Emergency Alert System regulations (47 C.F.R. Part 11).

Section 9-608Miscellaneous Provisions

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 Permit, then, to the extent such jurisdiction shall preempt and supersede or preclude the exercise of the like jurisdiction by City, the jurisdiction of City shall cease and no longer exist.

Employment Requirements. Cable Operator shall afford equal opportunity in employment to all qualified persons. No person shall be discriminated against in employment because of race, color, sex, religion, gender, national origin, age, familial status or disability. Cable Operator 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.

Notice. Unless expressly otherwise agreed between the parties, every notice or response to be served upon City or Cable Operator shall be in writing and shall be delivered by 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. If questioned, the party sending a notice shall have the burden to prove receipt or rejection. Rejected notices shall be deemed delivered. The parties may designate such other address or addresses from time to time by giving notice to the other in the manner provided for in this section. The notice and contact information for City and Cable Operator shall be set forth in the Permit.

Descriptive Headings. 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.

Force Majeure. Cable Operator shall not be held in default under, or in noncompliance with, the provisions of the Permit, nor suffer any enforcement or penalty relating to noncompliance or default, where such noncompliance or alleged defaults occurred or were caused by circumstances reasonably beyond the ability of Cable Operator to control. This provision includes, but is not limited to, severe or unusual weather conditions, fire, flood, or other acts of God, strikes, work delays caused by failure of utility providers to service, maintain or monitor their utility poles to which Cable Operator's Cable System is attached, as well as unavailability of materials and/or qualified labor to perform the work necessary.

ARTICLE 7

CATV PERMITTING ARTICLE

Section 9-701 DEFINITIONS.

For the purpose of this 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: an entity which owns or controls, is owned or controlled by, or is under common ownership or control with Cable Operator.

BASIC CABLE: the tier of Cable Service regularly provided to all Subscribers that includes the retransmission of local broadcast television signals.

CABLE SERVICE: the one-way transmission to Subscribers of Video Programming or other programming service, and Subscriber interaction, if any, which is required for the selection or use of such Video Programming or other programming service.

CABLE SYSTEM: a facility, consisting 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 Subscribers.

FCC: the Federal Communications Commission, or successor governmental entity thereto.

PERMIT: the initial authorization, or renewal thereof, issued by the City whether 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.

PERSON: an individual, partnership, association, joint stock company, trust, corporation, or governmental entity.

PUBLIC WAY: 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 to, public utility easements, dedicated utility strips, or rights-of-way dedicated for compatible uses and any temporary or permanent fixtures or improvements located thereon now or hereafter held by the City in the Service Area which shall entitle the City and the Cable Operator to the use thereof for the purpose of installing, operating, repairing, and maintaining the Cable System. "Public Way" also means any easement now or hereafter held by City within the Service Area 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 and meaning

entitle the City and the Cable Operator to the use thereof for the purposes of installing or transmitting the Cable Operator'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: the present municipal boundaries of the City and all areas annexed into the City in the future.

SUBSCRIBER: a user of the Cable System who lawfully receives Cable Service with Cable Operator's express permission.

VIDEO PROGRAMMING: programming provided by, or generally considered comparable to programming provided by, a television broadcast station.

Section 9-702 GRANT OF PERMIT.

The City hereby grants to the Cable Operator a nonexclusive Permit which authorizes Cable Operator 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, conduits, vaults, manholes, pedestals, amplifiers, appliances, attachments, and other related property or equipment as may be necessary or appurtenant to the Cable System. Nothing in this Permit shall be construed to prohibit the Cable Operator from offering any service over its Cable System that is not prohibited by applicable law.

Section 9-703 BUILD-OUT REQUIREMENTS

As of the passed and adopted date of this Permit the Cable System is completed throughout the existing Service Area. Cable Operator shall extend the Cable System where there is a minimum density of at least thirty (30) residences per linear strand mile of cable as measured from the Cable Operator's closest commercially reasonable tie-in point that is actively delivering Cable Service as of the date of such request for service. If such residence is located within one hundred twenty-five feet

of the Cable Operator's feeder cable, the Cable Service will be provided at the Cable Operator's published rate for standard installations. Cable Service offered to Subscribers pursuant to this Article shall be conditioned upon the Cable Operator having legal access to any such Subscriber's dwelling unit or other units wherein such Cable Service is provided. Nothing herein shall be construed to limit the Cable Operator's ability to offer or provide bulk rate discounts or promotions.

Section 9-704 TERM AND ACCEPTANCE.

The Permit granted pursuant to this Article shall be for a term of ten years from the passed and adopted date of the Permit unless otherwise lawfully terminated in accordance with the terms of this Article. The Cable Operator shall accept the Permit granted pursuant hereto by accepting and executing said Permit Acceptance and filing same with the City Clerk within sixty days after the granting of the Permit.

Section 9-705 FAVORED NATION CLAUSE.

In the event City enters into or has entered into a binding Permit of any kind with any Person other than Cable Operator to enter into the Public Ways for the purpose of constructing or operating a Cable System or providing Cable Service or video 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.

If another provider of Cable Services, video services or other television services utilizing any system or technology requiring use of the Public Way in the Service Area, is lawfully authorized by any governmental entity or otherwise exempt in the future from obtaining a permit as provided for in this Article in order to provide such services, the City agrees that, upon a written request from the Cable Operator, as a matter of law, the Cable Operator's Permit will be modified within sixty days of the granting of such authorization or exemption for the purpose of establishing the same terms and conditions on a competitively neutral basis. Except as specifically provided in this paragraph, neither the City nor the Cable Operator shall be permitted to take any unilateral action that materially changes the explicit mutual promises and covenants contained in this Permit, and any changes, modifications or amendments to

this Permit must be made in writing, signed by the City and the Cable Operator.

Section 9-706 CHANGE OF LAW.

In the event the federal, state or local law, rules or regulations are amended, modified or created that have the effect of modifying the terms and conditions of this Permit during the Term or any extension thereof, the Cable Operator has the sole option to terminate this Permit upon ninety days' notice to City. Nothing in this Permit shall impair the right of the Cable Operator to terminate this Permit and, at the Cable Operator's option, negotiate a renewal or replacement franchise, license, consent, certificate or other authorization with any appropriate government entity (such as the State of Oklahoma). To the extent that the Cable Operator lawfully obtains an authorization to operate a network and serve customers under applicable laws in lieu of this Permit, the Cable Operator shall have the right to terminate this Permit upon 90 days prior written notice to City.

Section 9-707 RENEWAL OF PERMIT AND NOTICE

A. Renewal

Prior to the end of the Permit term, the City and the Cable Operator agree to enter into good faith negotiations regarding the renewal, modification, and/or extension of this Permit. The City and Cable Operator agree that any proceedings undertaken by the City that relate to the renewal of this Permit shall be governed by and comply with Section 626 of the Communications Act, 47 U.S.C. § 546, as amended.

B. Notice

Unless expressly otherwise agreed between the parties, every notice or response to be served upon the City or the Cable Operator shall be in writing and shall be delivered by 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. If questioned, the party sending a notice shall have the burden to prove receipt or rejection. Rejected notices shall be deemed delivered. The parties may designate such other address or addresses from time to time by giving notice to the other in the manner provided for in this section. The notice and contact

information for the city and Cable Operator shall be set forth in the Permit.

Section 9-708 STANDARDS OF SERVICE.

A. Conditions of Street Occupancy

All transmission and distribution structures, poles, other lines, and equipment installed or erected by the Cable Operator 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. The Cable Operator shall comply with all right-of-way and easement management ordinances and/or regulations enacted by the City, including such ordinances and/or regulations enacted after the effective date of this Permit.

B. Restoration of Public Ways

If during the course of the Cable Operator's construction, operation, or maintenance of the Cable System there occurs a disturbance of any Public Way by the Cable Operator, 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 the City

Upon its receipt of reasonable advance notice, the Cable Operator shall, at its own expense, protect, support, temporarily disconnect, relocate in the Public Way, or remove from the Public Way, any property of the Cable Operator when lawfully required by the City by reason of traffic conditions, public safety, street abandonment, freeway and street construction, change or establishment of street grade, installation of sewers, drains, gas or water pipes, or any other type of structures or improvements by the City; but the Cable Operator 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 the Cable Operator.

D. Relocation at Request of Third Party

Upon the request of any Person holding a City moving permit for a building or structure, the Cable Operator shall temporarily raise or lower its wires to permit the moving of such building or other structure, provided: (a) the expense of such temporary raising or lowering of wires is paid by such Person, including, if required by the Cable Operator, making such payment in advance; and (b) the Cable Operator is given not fewer than ten business days advance written notice to arrange for such temporary wire changes.

E. Trimming of Trees and Shrubs

The Cable Operator shall have the authority to trim trees or other natural growth overhanging any of its Cable System in the Service Area so as to prevent branches from coming in contact with the Cable Operator's wires, cables, or other equipment. The Cable Operator shall reasonably compensate the City or the property owner for any damages caused by such trimming.

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, the Cable Operator likewise shall construct, operate, and maintain all of its transmission and distribution facilities underground; provided that such facilities are actually capable of receiving Cable Operator'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, the Cable Operator shall have the sole discretion to construct, operate, and maintain all of its transmission and distribution facilities, or any part thereof, aerially or underground. Nothing contained in this subsection, shall require the Cable Operator 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 anything to the contrary contained in this subsection 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, the Cable Operator 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. Subscriber Charges for Extension of Service

No Subscriber shall be refused service arbitrarily. However, if an area does not meet the density requirements of Section 9-703, the Cable Operator shall only be required to extend the Cable System to Subscribers in that area if the Subscribers are willing to cover the capital costs of extending the Cable System. The Cable Operator may require that such potential Subscribers pay the capital contribution for such construction in advance. Subscribers shall also be responsible for any standard/non-standard installation charges to extend the Cable System from the tap to the residence.

I. Office and Service in Perry

During the term of the Permit, the Cable Provider will have an office and service technicians located in the City.

J. Force Majeure

The Cable Operator shall not be held in default under, or in noncompliance with, the provisions of the Permit, nor suffer any enforcement or penalty relating to noncompliance or default, where such noncompliance or alleged defaults occurred or were caused by circumstances reasonably beyond the ability of the

Cable Operator to control. This provision includes, but is not limited to, severe or unusual weather conditions, fire, flood, or other acts of God, strikes, work delays caused by failure of utility providers to service, maintain, or monitor utility poles to which the Cable Operator's Cable System is attached, as well as unavailability of materials and/or qualified labor to perform the work necessary.

K. Pole Attachments.

Utility poles owned by City or an affiliated entity shall be available for use by Cable Operator. Cable Operator shall pay City the maximum cable services pole rental rate as determined by the rules of the FCC for the use of poles owned by City or its affiliate, but not to exceed the amount paid by any other Cable Service provider attaching to such poles pursuant to a current and effective pole agreement.

Section 9-709 PERMIT FEE

A. Permit Fee

During the term of this Permit, the Cable Operator shall pay to the City a fee equal to five percent of (i) the gross revenues that the Cable Operator and its affiliates collected from each subscriber for the Cable Operator's Cable Services during the applicable calendar quarter; and (ii) of the advertising revenues collected by Cable Operator as further described in clause (g) below (collectively, the "Permit Fee"). The portion of the Permit Fee described in clause (i) above may be identified and passed through on any subscriber bill by the Cable Operator, and all such fees collected will be forwarded to the City quarterly and shall be due forty-five days after the end of each calendar quarter. The Cable Operator and the City agree that the Permit Fee shall be in lieu of all other concessions, charges, excises, franchise, license, privilege, permit fees, taxes, or assessments except sales taxes, personal or real property taxes, and ad valorem taxes.

1. For purposes of this Permit, gross revenues are limited to the following:

- a. recurring charges for Cable Services;
- b. event-based charges for Cable Services, including but not

limited to pay-per-view and video-on-demand charges;

c. rental of set top boxes and other Cable Services equipment;

d. service charges related to the provision of Cable Services, including, but not limited to, activation, installation, and repair;

e. administrative charges related to the provision of Cable Services, including, but not limited to, service order and service termination charges;

f. amounts billed to Cable Services subscribers to recover the Permit Fee authorized by this section; and,

g. a pro rata portion of all revenue collected by the Cable Operator pursuant to compensation arrangements for advertising (less any commissions the Cable Operator receives from any third parties for advertising) and home-shopping sales derived from the operation of the Cable Operator's Cable System within the Service Area. Advertising commissions paid to third parties (excluding any refunds, rebates, or discounts the Cable Operator may make to advertisers) shall not be deducted from advertising revenue included in gross revenue. The allocation of advertising and home-shopping revenue referred to above shall be based on the number of subscribers in the City divided by the total number of subscribers in relation to the relevant regional or national compensation arrangement.

2. For purposes of this Permit, gross revenues do not include:

a. uncollectible fees, provided that all or part of uncollectible fees which is written off as bad debt but subsequently collected, less expenses of collection, shall be included in gross revenues in the period collected;

b. late payment fees;

c. revenues from contracts for in-home maintenance service unless they relate solely to maintenance on equipment used only for the provisioning of Cable Services and not for the provisioning of any other service provided by Cable Operator or its affiliates;

d. amounts billed to Cable Services subscribers to recover taxes, fees or surcharges imposed upon Cable Services subscribers in connection with the provision of Cable Services,

other than the Permit Fee authorized by this section;

e. revenue from the sale of capital assets or surplus equipment;
or

f. charges, other than those described in subsection 1, that are aggregated or bundled with amounts billed to Cable Services subscribers.

3. In the event that any other video services provider, including but not limited to a cable operator or open video service provider, enters into any agreement or makes any arrangement with the City during the term of this Permit whereby it is required or allowed to pay a fee to the City that is similar to the Permit Fee described herein, this Permit shall be amended to allow the Cable Operator to substitute the definition of "gross revenue" set forth in that agreement or arrangement for the definition of "gross revenue" set forth in this Permit immediately upon request of Cable Operator.

B. Bundling Discount

Bundling discounts shall be apportioned fairly among video and other services. The Cable Operator shall not apportion revenue in such a manner as to avoid the Permit Fee.

C. Exclusion

The Permit Fee shall not apply to Internet access or Internet-based telephone services offered by the Cable Operator. If the FCC or any other federal or state governmental authority with jurisdiction to do so authorizes the collection of such a fee during the term of this Permit, then the Cable Operator shall, upon reasonable notice of the imposition of such a fee by the City that applies equally to all Internet access or Internet-based telephone service providers within the Service Area, commence remittance of a fee in the amount of not more than five percent of the gross revenues collected from the sale of such Internet access or Internet-based telephone services during the remaining term of this Permit; provided that the City and the Cable Operator agree to the specific amount in a Permit amendment. This exclusion shall not apply to the payment of statutory "911" fees; such fees shall be collected and remitted by the Cable Operator beginning the effective date of this Permit as required by applicable law.

Section 9-710 RATES AND CHARGES

The City 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, the Cable Operator has the right to modify its rates and charges, at its discretion and without consent of the City, including, but not limited to, the implementation of additional charges and rates; provided, however, that Cable Operator shall give notice to City of any such modifications or additional charges thirty (30) days prior to the effective date thereof.

Section 9-711 SALE AND TRANSFER OF PERMIT

Except to the extent expressly required by federal or state law, if a renewal or extension of the Permit is denied or the Permit is lawfully terminated, and the City 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.

The Cable Operator and the City agree that in the case of a lawful revocation of the Permit, at the Cable Operator's request, which shall be made in its sole discretion, the Cable Operator shall be given a reasonable opportunity to effectuate a transfer of its Cable System to a qualified third party. The City further agrees that during such period of time, it shall authorize the Cable Operator to continue to operate pursuant to the terms of its prior Permit; however, in no event shall such authorization exceed a period of time greater than six months from the effective date of such revocation. If, at the end of that time, the Cable Operator is unsuccessful in procuring a qualified transferee or assignee of its Cable System which is reasonably acceptable to the City, the Cable Operator and the City may avail themselves of any rights they may have pursuant to federal or state law; it being further agreed that the Cable Operator's continued operation of its Cable System during the six month period shall not be deemed to be a waiver, nor an extinguishment of; any rights of either the City or the Cable Operator.

All of the rights and privileges and all of the obligations, duties and liabilities created by this Permit shall pass to and be binding upon the successors of the City and the successors and assigns of the Cable Operator and the same shall not be assigned or transferred without the written approval of the City Council, which approval shall not be unreasonably withheld, conditioned or delayed; provided, however, that this Section shall not prevent the assignment or hypothecation of the Permit by the Cable Operator as security for debt without such approval; and provided further that transfers or assignments of this Permit 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 City. The Cable Operator shall notify City in writing within thirty days of the closing of such intracompany transfer.

Section 9-712 COMPLIANCE AND MONITORING

The Cable Operator agrees that the City may review such of the Cable Operator's books and records, during normal business hours and on a nondisruptive basis, as are reasonably necessary to monitor compliance with the financial and standards of service terms hereof. Such records include, but are not limited to, any public records required to be kept by the Cable Operator pursuant to the rules and regulations of the FCC. Notwithstanding anything to the contrary set forth herein, the Cable Operator shall not be required to disclose information which it reasonably deems to be proprietary or confidential in nature. The City agrees to treat any proprietary or confidential information, if identified as such by the Cable Operator prior to receipt, as confidential, to the extent not prohibited by law, and to disclose it only to employees, representatives, and agents of City that have a need to know, or in order to enforce the provisions hereof.

Section 9-713 INSURANCE, INDEMNIFICATION, BONDS AND SURETY

A. Insurance

The Cable Operator shall maintain in full force and effect during the term of the Permit, at its own cost and expense, Comprehensive General Liability Insurance in the amount of at least \$1,000,000.00. Such insurance shall designate City as an

additional insured to the liability limits imposed by the Oklahoma Governmental Tort Claims Act, 51 O.S. §151, et seq.

B. Indemnification

The Cable Operator agrees to indemnify, save and hold harmless, and defend the City, its trusts, its officers, boards and employees, from and against any liability for damages and for any liability or claims, in each case resulting from property damage or bodily injury (including accidental death) which arise out of Cable Operator's construction, operation or maintenance of its Cable System, including, but not limited to, reasonable attorneys' fees and costs.

C. Bonds and Surety

Except as expressly provided herein, the Cable Operator shall not be required to obtain or maintain bonds or other surety as a condition of being awarded the Permit or continuing its existence. The City acknowledges that the legal, financial, and technical qualifications of the Cable Operator are sufficient to afford compliance with the terms of the Permit and the enforcement thereof. The Cable Operator and the City recognize that the costs associated with bonds and other surety may ultimately be borne by the Subscribers in the form of increased rates for the Cable Service or other service. In order to minimize such costs, the City agrees to require bonds and other surety only in such amounts and during such times as there is a reasonably demonstrated need therefor. The City agrees that in no event, however, shall it require a bond or other related surety in an aggregate amount greater than \$100,000.00 conditioned upon the substantial performance of the material terms, covenants, and conditions of the Permit. Initially, no bond or other surety shall be required. In the event that one is required in the future, the City agrees to give the Cable Operator at least sixty days prior written notice thereof stating the exact reason for the requirement. Such reason must demonstrate a change in the Cable Operator's legal, financial, or technical qualifications which would materially prohibit or impair its ability to comply with the terms of the Permit or afford compliance therewith.

Section 9-714 PUBLIC, GOVERNMENT AND EDUCATION ACCESS

During the term of this Permit, Cable Operator shall provide to City, two dedicated, noncommercial access

channels for use by City, and one dedicated, noncommercial access channel for use by educational institutions within the City through the Cable Operator's Cable System so long as the City and the educational institutions designated by the City provide any educational or governmental programming content in a format compatible with the Cable Operator's technology. The City and the educational institutions designated by the City shall provide this programming, and the Cable Operator shall receive this programming, at the Cable Operator's signal origination point. The City and the educational institutions designated by the City shall be solely and individually responsible for their own programming content.

Section 9-715 EMERGENCY ALERT

The Cable Operator shall comply with the federal Emergency Alert System regulations pursuant to 47 C.F.R. Part 11 or any other federal emergency system regulations that apply to Cable Operator in the future with which Cable Operator is required to comply under applicable federal law.

Section 9-716 PREEMPTION

If the FCC or any other federal or state agency exercises exclusive jurisdiction over the subject matter of the Permit, to the extent such jurisdiction preempts or supersedes the permitting jurisdiction of the City, said jurisdiction of the City shall cease.

CHAPTER 10: MISCELLANEOUS PROVISIONS & OFFENSES

ARTICLE 1

IN GENERAL

Section 10-101 ATTEMPT TO COMMIT AN OFFENSE
Section 10-102 AIDING AND ABETTING
Section 10-103 - 10-109 RESERVED

ARTICLE 2

OFFENSES INVOLVING INJURY TO PERSONS

Section 10-201 ASSAULT
Section 10-202 BATTERY
Section 10-103 FIGHTS OR QUARRELS
Section 10-104 - 10-106 RESERVED

ARTICLE 3

OFFENSES INVOLVING PROPERTY

Section 10-301 DEFINITIONS
Section 10-302 TRESPASS ON PUBLIC PROPERTY
Section 10-303A CRIMINAL TRESPASS
Section 10-303 TRESPASS ON PRIVATE PROPERTY
Section 10-304 TAMPERING WITH PRIVATE OR PUBLIC PROPERTY
Section 10-305 LARCENY
Section 10-305A LIBRARY THEFT
Section 10-306 FRAUDULENT SCHEMES, BAD CHECKS, ETC.
Section 10-307 TAMPERING WITH, DAMAGING OR LARCENY OF
PUBLIC UTILITIES; OBTAINING SERVICE FROM
PUBLIC UTILITY WITHOUT AUTHORIZATION.
Section 10-308 - 10-310 RESERVED

ARTICLE 4

OFFENSES AGAINST DECENCY AND MORALITY

DIVISION 1

GENERALLY

Section 10-401 NUDITY INDECENT EXPOSURE OR LEWD ACTS IN PUBLIC
Section 10-402 PROSTITUTION

Section 10-403 GAMBLING, DEFINITION
Section 10-404 GAMBLING GAMES PROHIBITED
Section 10-405 SLOT MACHINES
Section 10-406 GAMBLING ROOMS AND PARAPHERNALIA
Section 10-407 DISORDERLY PLACES, DEFINITIONS
Section 10-408 MAINTAINING A DISORDERLY HOUSE
Section 10-409 LEASING PROPERTY FOR DISORDERLY HOUSE
Section 10-410 RESIDENTS AND VISITORS TO DISORDERLY HOUSES
Section 10-411 RESERVED
Section 10-412 URINATING OR DEFECATING IN PUBLIC

ARTICLE 5

OFFENSES AGAINST PUBLIC PEACE AND ORDER

Section 10-501 RIOTOUS CONDUCT; DISTURBING PEACE
Section 10-502 UNLAWFUL ASSEMBLY
Section 10-503 OBSTRUCTING STREETS, SIDEWALKS, ETC.
Section 10-504 FIGHTING WORDS OR GESTURES
Section 10-505 MAKING AN EMERGENCY CALL WITHOUT AN EMERGENCY;
FALSE ALARMS
Section 10-506 REMOVAL OF BARRICADES
Section 10-507 ELUDING POLICE OFFICERS
Section 10-508 LOUD NOISE OR MUSIC PROHIBITED; AMPLIFIED SOUND
Section 10-509 COMPRESSION BRAKE OR JAKE BRAKE

ARTICLE 6

OFFENSES AGAINST GOVERNMENT

Section 10-601 OBSTRUCTING OR INTERFERING WITH OFFICIAL PROCESS
Section 10-602 RESISTING ARREST
Section 10-603 AIDING IN ESCAPE
Section 10-604 ESCAPES FROM CUSTODY
Section 10-605 IMPERSONATING AN OFFICER OR EMPLOYEE.

ARTICLE 7

WEAPONS AND RELATED OFFENSES

Section 10-701 CARRYING DANGEROUS WEAPONS
Section 10-702 RECKLESS CONDUCT
Section 10-703 DISCHARGING FIREARMS; EXCEPTIONS
Section 10-704 FIREWORKS REGULATED

ARTICLE 8

ALCOHOL, DRUGS AND RELATED SUBSTANCES

Section 10-801 RESERVED
Section 10-802 RESERVED
Section 10-803 DEFINITIONS
Section 10-804 POSSESSION
Section 10-805 IMPLEMENTS FOR CONTROLLED DANGEROUS SUBSTANCES
Section 10-806 SMELLING, INHALING, ETC., OF GLUE, ETC.

ARTICLE 9

CURFEW

Section 10-901 CURFEW FOR MINORS

ARTICLE 10

PREVENTION OF YOUTH ACCESS TO TOBACCO AND VAPOR PRODUCTS
AND OTHER TOBACCO REGULATIONS

Section 10-1001 DEFINITIONS
Section 10-1002 FURNISHING OR SALE OF TOBACCO PRODUCTS AND
VAPOR PRODUCTS TO MINORS
Section 10-1003 RECEIPT OF TOBACCO PRODUCTS AND VAPOR
PRODUCTS BY MINORS.
Section 10-1004 DISTRIBUTION OF TOBACCO PRODUCT AND VAPOR
PRODUCT SAMPLES
Section 10-1005 PUBLIC ACCESS TO DISPLAYED TOBACCO PRODUCTS
AND VAPOR PRODUCTS
Section 10-1006 REPORT OF VIOLATIONS AND COMPLIANCE CHECKS.
Section 10-1007 USE OF TOBACCO AND VAPOR PRODUCTS PROHIBITED
IN CITY BUILDINGS

ARTICLE 11

TRUANCY

Section 10-1101 TRUANCY
Section 10-1102 EXCEPTIONS
Section 10-1103 VIOLATIONS

ARTICLE 12

REGULATING THE USE OF TOBACCO PRODUCTS AND/OR VAPOR PRODUCTS
AND/OR MARIJUANA PRODUCTS ON MUNICIPAL PROPERTY AND INDOOR AND
OUTDOOR AREAS AND OTHER PROHIBITED CONDUCT

SECTION 10-1201	TOBACCO-FREE AND MARIJUANA-FREE IN CITY-OWNED AND OPERATED BUILDINGS AND REAL PROPERTIES LOCATED WITHIN THE CORPORATE LIMITS OF THE CITY OF PERRY.
Section 10-1202	DEFINITIONS
Section 10-1203	PROHIBITION OF TOBACCO PRODUCTS AND MARIJUANA PRODUCTS AND VAPOR PRODUCTS ON CITY-OWNED AND OPERATED PROPERTIES WITHIN THE CORPORATE LIMITS; PROHIBITED CONDUCT.
Section 10-1204	POSTING.
Section 10-1205	ENFORCEMENT.

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 public property or area or a public building or structure in violation and contrary to the provisions of any official sign posted to regulate and govern such entry or use. "Trespass" shall also mean remaining upon public property, or area or a public building or structure, whether such public property, area, building or structure is posted or not, and after having committed a breach of the peace, engaged in disruptive behavior, committed disorderly conduct or any other criminal offense, or posed a safety risk to any person, including the perpetrator, and after having been told to leave by any authorized person.

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.

D. Any person convicted of a violation of this section shall be guilty of Public Trespass and shall be punishable as provided in the fine schedule to this municipal code.

State Law Reference: Trespass, 21 O.S. Section 1835.

SECTION 10-303A CRIMINAL TRESPASS

A. Every person, partnership, corporation or other legal entity engaged in any public business, trade, or profession of any kind wherein merchandise, goods or services are offered for sale may forbid the entry or presence of any person upon the premises of the place of business, if the person has been convicted of a crime involving entry onto or criminal acts

occurring upon any real property owned, leased, or under the control of such person, partnership, corporation or other legal entity. Such crimes shall include, but are not limited to, shoplifting, vandalism, and disturbing the peace while upon the premises of any place of business of the person, partnership, corporation, or other legal entity.

B. In order to exercise the authority conferred by subsection A of this section, the owner, or an agent of the owner of a public business, trade, or profession must notify the person whom the owner or agent desires to prohibit from such owner's place of business.

C. No person shall willfully enter or remain upon the premises after being expressly forbidden to do so in the manner provided for in this section. Any person convicted of a violation of this section shall be guilty of Criminal Trespass and shall be punishable as provided in the fine schedule to this municipal code.

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.

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 10-305A LIBRARY THEFT.

A. As used in this section, the following words shall have the following meanings:

1. "Library facility" shall mean the Perry Carnegie Library and/ or any of the following:

- a. public library; or
- b. library of an educational, historical, or eleemosynary institution, organization, or society; or
- c. museum; or
- d. a repository of public or institutional records.

2. "Library material" means any book, plate, picture, photograph, engraving, painting, drawing, map, newspaper, magazine, pamphlet, broadside, manuscript, document, letter, record, microform, sound recording, audiovisual materials in any format, magnetic or other tapes, catalog cards or catalog records, electronic data processing records, computer software, artifacts, or other documentary, written or printed materials regardless of physical form or characteristics, belonging or on loan to, or otherwise in the custody of a library facility.

3. "Demand" means either actual notice to the possessor of any library materials or the mailing of written notice to the possessor at the last address of record which the library facility has for said person, demanding the return of designated library materials. If demand is made by mail, it shall be deemed to have been given as of the date the notice is mailed by the library facility.

B. Any person shall be guilty, upon conviction, of library theft who willfully:

1. Removes or attempts to remove any library material from the premises of a library facility without authority; or

2. Mutilates, destroys, alters, or otherwise damages, in whole or in part, any library materials; or

3. Fails to return any library materials which have been lent to said person by the library facility, within seven (7) days after demand has been made for the return of the library materials.

C. A person convicted of library theft shall be guilty of a misdemeanor and shall be subject to a fine of not to exceed Five Hundred Dollars (\$500.00), court costs, state assessments and fees.

D. Copies of this section shall be posted on the premises of each library facility and referenced in any borrowing agreement between the library facility and the borrower.

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 TAMPERING WITH, DAMAGING OR LARCENY OF PUBLIC UTILITIES; OBTAINING SERVICE FROM PUBLIC UTILITY WITHOUT AUTHORIZATION.

A. For the purposes of this section, "public utility" shall mean any entity, public or private, which has a lawful right to use of the right-of-way for delivering services. It includes, but it not limited to, provision of gas, water, wastewater, stormwater, electricity, telephone, community antenna television services, Internet and telecommunications service, and includes but is not limited to the utilities owned and/operated by the City of Perry.

B. It is unlawful for any person to damage, molest, tamper with, or destroy, injure or alter, any distribution structure, transmission system, line, equipment, facility, wire, meter, pipe, pole or other part of public utility located within the corporate limits of the city.

C. It is unlawful for any person to connect, cause to connect, or permit to connect or attach any kind of pipe, wire or other contrivance to any pipe, wire, line or other conductor carrying services from and owned by a public utility in such a

manner as to enable such person to consume or use the services thereof without its passage through a meter or in any other way so as to evade payment therefor. 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.

D. Any person who receives the benefit, directly or indirectly, of services when such person knew or should have known the public utility service was connected in violation of this section shall be guilty of an offense.

E. Any person who violates this section, by act or omission, shall upon conviction thereof be deemed guilty of an offense and shall pay a fine of not to exceed Five Hundred Dollars (\$500.00), plus court costs, state assessments and fees, as appropriate. In addition, the court may order restitution to the utility, including payment for services used and actual costs to the utility, including but not limited to, service calls, repair service, disconnection, or reconnection.

F. A charge of violation of this section shall not preclude the public utility from pursuing civil remedies.

Section 10-308 - 10-310 RESERVED.

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, sub-lease 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.

SECTION 12-411 RESERVED.

SECTION 12-412 URINATING IN PUBLIC

A. For purpose of this section the following definition shall apply:

"Public Place" included streets and alleys, public highways or public buildings, public meeting halls, schools, playgrounds, parks, restaurants, stores, professional offices (and waiting rooms used in conjunction therewith), filling stations, and public conveyances of all kinds and any other place of like or similar nature which is open to and generally used by the public with the consent, express or implied, of the owner of the place or premises.

B. A person is guilty of urinating in public if he/she intentionally urinates or defecates in a public place, other than a washroom or toilet room, under circumstances where such act is or could be observed by any member of the public situated in or near a public place.

C. Urinating or defecating in public is an offense.

Note: This section was adopted pursuant to Ordinance No. 2007-27 approved on December 3, 2007.

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 MAKING CALLS TO THE 9-1-1 OPERATOR WHICH ADVERSELY AFFECT THE PUBLIC SERVICE; FALSE ALARMS.

A. For purpose of subsections B & C, the following

definition shall apply:

"Public agency" means any county, municipal corporation, public district, public trust, public authority or any other entity, public or private, located within this state which provides, has the authority to provide, or is licensed to provide firefighting, law enforcement, ambulance, emergency medical or other emergency services.

B. No person shall call the number 9-1-1 or any other telephone number answered by an on-duty 9-1-1 operator for the purpose of making a knowingly false alarm or complaint or knowingly reporting false information which could result in the dispatch of emergency services from any "public agency" as defined in subsection A of this section or call such telephone number(s) three (3) or more times within any twenty-four (24) hour period concerning any non-emergency matter, which call adversely affects the provision of dispatching services. Whether the provision of dispatching services has been adversely affected may be based on numerous factors, including but not limited to the number or length of such telephone calls, whether the caller's calls delayed, obstructed or adversely impacted the provision of emergency or other law enforcement, fire or ambulance services, the purpose or non-purpose of the calls, and whether the caller has been warned that continued calls may lead to a criminal offense with such calls nevertheless continuing. A false alarm shall also include the activation of an alarm, the purpose of which is to communicate or indicate a specific emergency situation, when in fact that specific emergency does not exist.

C. 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 any public agency or any officer or employee thereof with reference to any fire alarm or reported fire, accident or other emergency or knowingly to cause the public agency or its officers or employees to make a useless run.

Note: This section was amended by Ordinance No. 2011-02 approved on January 3, 2011 and by Ordinance No. 2012-27 approved on August 6, 2012.

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.

A. It is unlawful for any person to disturb the peace and quiet of any part of the city by operating, having operated, or permitting to be operated, any contrivance, whether electric or not, 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.

B. It shall be unlawful for any person in lawful control of a motor vehicle to cause, suffer or allow any unreasonable loud and excessive noise in such motor vehicle, to include noise from a radio, car stereo or electronic audio equipment or similar equipment. A violation will occur if the noise is clearly audible from a location not less than fifty feet (50') from its source. Violations of this subsection may be filed only by police officers and code enforcement personnel.

Section 10-509 COMPRESSION BRAKE OR JAKE BRAKE.

No person shall operate or use any vehicle engine compression brake or "jake brake" within the corporation limits of the City, between the hours of 7:00 p.m. and 7:00 a.m. on the following day, and except on any state or federal highway.

ARTICLE 6

OFFENSES AGAINST GOVERNMENT

Section 10-601 OBSTRUCTING OR INTERFERING WITH OFFICIAL PROCESS.

No person shall willfully delay, oppose, obstruct, or otherwise interfere with a police officer or other public 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/herself 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 a purse or other container belonging to the person, any dagger, Bowie knife, dirk knife, switchblade knife, spring-type knife, sword cane, knife having a blade which opens automatically by hand pressure applied to a button, spring, or other device in the handle of the knife, blackjack, loaded can, billy, hand chain, metal knuckles or any other offensive or dangerous weapon, other than a forearm, where such weapon is concealed or unconcealed.

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.

Section 10-704 FIREWORKS REGULATED; SELLING FIREWORKS WITHIN CITY LIMITS; PERMIT REQUIRED.

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. Provided however, the transportation of fireworks in their unopened original packaging in a motor vehicle within the corporate limits of the City is not prohibited.

C. The 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.

E. It is unlawful for any person, persons, firm or corporation, either directly or indirectly, by themselves or through an agent or other representative to manufacture, sell or offer for sale any fireworks within the city limits, except as provided in Subsection F hereof.

F. Fireworks may be sold within the city limits beginning on the 20th day of June of each year from 8:00 a.m. until 10:00 p.m. and their sale may continue until the 5th day of July at 10:00 p.m., at which times sales shall be discontinued. Sales may only be made from properly zoned commercial property. Only charitable or not-for-profit entities may operate fireworks stands in the City. All state laws regarding the sale of fireworks shall be followed. Applications for fireworks stands shall be made on itinerant merchant/transient street vendor forms, provided that no charge shall be made for obtaining such permit.

G. Unless permitted by vote of a majority of the members of the governing body, no public displays of fireworks or the possession or discharge of fireworks shall be permitted in CCC Lake, CCC Park, Perry Lake and the city owned property adjacent and contiguous to Perry Lake; provided however, the governing body shall authorize the dates and times for public displays and the possession and discharge of fireworks and the Parks Superintendent shall designate the areas within which fireworks may be discharged. Any person shall violate any provision of this section, by act or omission, shall constitute an offense and be punishable as provided by this municipal code.

State Law Reference: Bottle rockets 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.

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 parentally 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. Bongs;

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:

Statements by an owner or by anyone in control of the object concerning its use;

a. 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;

b. 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;

l. 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.

ARTICLE 9

CURFEW FOR MINORS

Section 10-901 CURFEW FOR MINORS

A. Definition. For the purpose of this Section, a 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, between the hours of 11:00 P.M. and 6:00 A.M. of the following day, of every night and morning in the week, except Friday and Saturday nights and the following morning, and between the hours of 1:00 A.M. Friday and Saturday nights and 6:00 A.M. of the following morning.

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 1:00 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 1:00 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. A police officer who has probable cause to believe that a minor is in violation of this Section for the first time shall issue the minor a written warning with a copy of the warning mailed to 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 occurs or as otherwise provided by this Section. A police officer who has probable cause to believe that a minor is in violation of this Section for a second or subsequent time shall issue the minor a written complaint, if the minor signs the written promise to appear, with a copy of the complaint mailed to 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 occurs or as otherwise provided by this Section. In the event that the minor fails, refuses or neglects to sign the promise to appear or fails to go home after being instructed to by the police officer, then the police officer may take the minor to the police station. At that time, the minor's parent, legal guardian, or adult person having the care and custody of the minor shall be immediately contacted. In the event that such parent, legal guardian or adult person having the care and custody of the minor does not appear, the minor may be referred to a state approved agency pursuant to state law, released to a responsible adult or relatives, or such other action as the police officer deems necessary.

2. The police shall send the minor's parent, legal guardian or adult person having the care and custody of the minor, written notice of the violation, or by serving such notice personally on such person, warning them that two or more violations of this ordinance by the minor may result in the filing of a charge against such parent, legal guardian or adult person having the care and custody of the minor for a violation of subsection D3.

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 on two (2) or more occasions, together with proof that the parent, legal guardian or adult person having the care and custody of such minor was given written notice of two(2) or more previous violations 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.

Note: Approved as Ordinance No. 95-3254 on 12-4-95.

ARTICLE 10

PREVENTION OF YOUTH ACCESS TO TOBACCO AND VAPOR PRODUCTS AND OTHER TOBACCO REGULATIONS

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. "Nicotine product" means any product that contains

nicotine extracted or isolated from plants, vegetables, fruit, herbs, weeds, genetically modified organic matter, or that is synthetic in origin and is intended for human consumption; provided, however, this term shall not include products approved by the United States Food and Drug Administration for smoking cessation;

C. Person: means any individual, firm, fiduciary, partnership, corporation, trust, or association, however formed;

D. Proof of age: means a driver license, license for identification only, or other generally accepted means of identification that describes the individual as Twenty-one (21) years of age or older and contains a photograph or other likeness of the individual and appears on its face to be valid;

E. Sample: means a tobacco product or vapor product distributed to members of the public at no cost for the purpose of promoting the product;

F. Sampling: means the distribution of samples to members of the public in a public place;

G. 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.

H. 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

I. 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.

J. "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 and any vapor cartridge or other container of a solution, that may or may not contain nicotine, that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, or electronic device.

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 Twenty-one (21) 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 Twenty-one (21) 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 Twenty-one (21) 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 Twenty-one (21) 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 Perry; 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.

For purpose of determining second or subsequent violations, both the offenses penalized by the ABLE Commission as administrative fines and the offenses penalized by this subsection and reported to the ABLE Commission, shall be considered together in such determination.

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 Twenty-one (21) 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 PURCHASE OF TOBACCO AND VAPOR PRODUCTS BY PERSONS UNDER 21 YEARS OF AGE PROHIBITED.

(a) It shall be unlawful for a person who is under 21 years of age to purchase, accept receipt of, or have in their possession, a tobacco or vapor product or to present or offer to any person any purported proof of age which is false, fraudulent, or not actually his or her own, for the purpose of purchasing or receiving any tobacco or vapor product. Provided, however, that it shall not be unlawful for an employee who is under 21 years of age to handle such tobacco or vapor product when required in the performance of such person's employment

duties.

(b) Any person violating the provisions in subsection (a) shall be guilty of an offense, and upon conviction, shall be punished by a fine of:

(1) Not to exceed \$50.00 for a first offense; and

(2) Not to exceed \$100.00 for a second or subsequent offense within a one-year period following the first offense.

(c) Upon the failure of the individual to pay any such fine within 90 days of the date of such fine, the municipal court clerk shall notify the Department of Public Safety and the department shall suspend or not issue a driver license to the individual until proof of payment has been furnished to the Department of Public Safety.

For purpose of determining second or subsequent violations, both the offenses penalized by the ABLE Commission as administrative fines and the offenses penalized by this subsection and reported to the ABLE Commission, shall be considered together in such determination.

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 Twenty-one (21) 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 Twenty-one (21) 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.

For purpose of determining second or subsequent violations, both
the offenses penalized by the ABLE Commission as administrative
fines and the offenses penalized by this subsection and reported
to the ABLE Commission, shall be considered together in such
determination

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
Twenty-one (21) 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 Twenty-one (21) years of age may be
enlisted by the Police Department to assist in enforcement of
this Article pursuant to the rules of the ABLE Commission.

C.

Section 10-1007 USE OF TOBACCO AND VAPOR PRODUCTS PROHIBITED IN CITY BUILDINGS

No person shall use any tobacco products or vapor products within any building, structure, office, or room owned, leased or utilized by the City of Perry or any of its public authorities. Violations shall be punishable as provided by Section 1-108 of this code.

ARTICLE 11

TRUANCY

Section 10-1101 TRUANCY

A. Parental Responsibility. For those public, private and other schools wherein attendance is mandated by the State of Oklahoma, it shall be unlawful for a parent or legal guardian of a minor who is over the age of six (6) years and under the age of eighteen (18) years to neglect or refuse to cause or compel the minor to attend and comply with the rules of such public, private or other school of the parent or legal guardian's choosing in which the minor is enrolled.

B. Refusal of Minor to Attend School: For those public, private and other schools wherein attendance is mandated by the State of Oklahoma, it is unlawful for any minor, who is over the age of six (6) and who has not finished four (4) years of high school work, to neglect or refuse to attend and comply with the rules of such public, private or other school or receive an education by other means for the full term the schools of the district in which the minor attends are in session.

Section 10-1102 EXCEPTIONS

The following shall constitute valid exceptions to the operation of Section 11-1101 of this Article:

A. Mental or Physical Disability. If any such minor is prevented from attending school by reason of mental or physical disability as determined by the board of education of the district, upon a certificate of the school physician or public health physician; or if no physician is available, a duly licensed and practicing physician.

B. Emergency Situation. If any such minor is excused from attendance at school, due to an emergency, by the principal of the school in which the minor is enrolled, at the request of the parent or legal guardian of the minor.

C. Excused by School and Parent: If any such minor is excused attending school by:

1. The administrator of the school or district where the minor attends school; and

2. The parent of the minor. Providing, further, that no minor shall be excused from attending school by such joint agreement between a school administrator and the parent or legal guardian of the minor unless and until it has been determined that such action is in the best interest of the minor and/or community, and that said minor shall, therefore, be under the supervision of the parent or legal guardian until the minor has reached the age of eighteen (18) years.

D. Observing Religious Holy Days. If any such minor is observing religious holy days, if, prior to the absence, the parent or legal guardian of the minor submits a written request for the absence. The school district shall excuse a student pursuant to this subsection for the days on which the religious holy days are observed and for the days on which the student must travel to and from the site where the student will observe the holy days.

Section 10-1103 VIOLATIONS

A. Separate Offense Each Day. Each separate day of violation shall constitute a separate offense whether against the parent or legal guardian of a minor for violation of Section 11-1101A or the minor for a violation of Section 11-1101B of this Article.

C. Penalty. A violation of this Article shall be subject to a fine of not to exceed \$250.00 plus costs and state assessments.

Article 12

REGULATING THE USE OF TOBACCO PRODUCTS AND/OR VAPOR PRODUCTS AND/OR MARIJUANA PRODUCTS ON MUNICIPAL PROPERTY AND INDOOR AND OUTDOOR AREAS AND OTHER PROHIBITED CONDUCT

SECTION 10-1201 TOBACCO-FREE AND MARIJUANA-FREE IN CITY-OWNED AND OPERATED BUILDINGS AND REAL PROPERTIES LOCATED WITHIN THE CORPORATE LIMITS OF THE CITY OF PERRY.

Section 10-1201 through Section 10-1205 shall be hereafter known as the Tobacco-Free and Marijuana-Free in City-Owned and Operated Buildings and Real Properties located within the corporate limits of the City of Perry.

Section 10-1202 DEFINITIONS

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

- A. "Indoor area" shall mean any indoor city-owned and operated property located within the Perry 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 Perry and located within the Perry corporate limits;
- C. "Recreational area" shall mean any area that is owned and operated by the City of Perry located within the Perry 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 and skateboard parks;

- 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, at any time, at any prohibited location as further defined by Sections 10-1201 through 10-1205.
- F. "Vapor Product" means any noncombustible product, that may or may not contain nicotine, that employs 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 Product 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 and any vapor cartridge or other container of a solution, that may or may not contain nicotine, that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, or electronic device.
- G. "Marijuana products" 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.
- H. "Marijuana-free" shall mean to prohibit the use of marijuana products by anyone, at any time, at any prohibited location as further defined by Sections 10-1201 through 10-1205.

Section 10-1203 PROHIBITION OF TOBACCO PRODUCTS AND MARIJUANA PRODUCTS AND VAPOR PRODUCTS ON CITY-OWNED AND OPERATED PROPERTIES WITHIN THE CORPORATE LIMITS; PROHIBITED CONDUCT.

- A. The possession of lighted tobacco or lighted marijuana products in any form is a public nuisance and dangerous to public health and is hereby prohibited:
 - 1. When such possession is in any indoor or outdoor areas owned and operated by the City of Perry located within the Perry corporate limits;
 - 2. When such possession is in any indoor place used by or open to the public or any indoor workplace, unless otherwise exempted or excepted by state law; and
 - 3. Within fifteen (15) feet of any exterior public doorway or any air intake of a restaurant.
- B. All buildings and other properties, including indoor and outdoor areas, owned and operated by the City of Perry located within the Perry corporate limits, shall be entirely tobacco free to include all forms of tobacco products including vapor products and entirely marijuana-free to include all forms of marijuana products including vapor products using marijuana. No tobacco smoking or tobacco vaping or marijuana smoking or marijuana vaping shall be allowed within twenty-five (25) feet of the entrance or exit of any building specified in in this subsection.
- C. All indoor and outdoor recreational areas owned and operated by the City of Perry located within the Perry corporate limits, shall be entirely tobacco free to include all forms of tobacco products including vapor products and entirely marijuana-free to include all forms of marijuana products including vapor products using marijuana.
- D. Smoking Tobacco Products or lighted marijuana products are prohibited in all places in which Smoking Tobacco Products or lighted marijuana products are prohibited by Oklahoma state law.
- E. Smoking or vaping Tobacco Products or lighted or vaping marijuana products are prohibited at all events on property operated by the City, including the streets and sidewalks,

during festivals and events, which festivals and events are permitted, sanctioned or conducted by the City.

- F. The possession of lighted tobacco or lighted marijuana products in any form, the smoking or vaping tobacco or smoking or vaping marijuana, or the use of any and all tobacco products or the possession or use of any and all marijuana products are prohibited in all vehicles owned or operated by the City.
- G. No person or entity shall intimidate, threaten, or otherwise retaliate against another person or entity that seeks to attain compliance with this section.

Note: See Title 21, Section 1247 and Title 63, Section 1-1521 through 1-1527 of the Oklahoma Statutes, as amended.

Section 10-1204 POSTING.

The City of Perry shall post a sign or decal, at least four inches by two inches in size, at each entrance of city owned and/or operated property or building located within the Perry corporate Limits indicating the property and/or building is tobacco-free and marijuana-free.

The City of Perry is responsible for posting weather resistant signage of at least 15" by 15" in size with at least 1" lettering at the entrance of outdoor areas owned or operated by the City that clearly state that smoking or tobacco use is prohibited or that a tobacco-free environment is provided.

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 Perry corporate limits.

Notwithstanding the provision of this section, the presence or absence of signs shall not be a defense to a charge of the violation of Section 10-1203.

Section 10-1205 ENFORCEMENT.

The City of Perry shall, at a minimum, do the following in order to prevent tobacco and marijuana products and vapor product use in city owned and operated property located within the Perry corporate limits:

Post signs at entrances to city owned and operated properties

located within the Perry corporate limits which state that tobacco use and/or marijuana product use and/or vapor product use are prohibited; and

Ask tobacco users to refrain from using any form of tobacco products, including vapor products upon observation of anyone violating the provisions of this Chapter. In addition, ask marijuana product users to refrain from using any form of marijuana products, including marijuana vapor products upon observation of anyone violating the provisions of this Chapter.

The Perry Police Department is responsible for the enforcement of this Chapter.

CHAPTER 11: LIBRARIES, CEMETERIES, AND LAKE REGULATIONS

ARTICLE 1

LIBRARIES

Section 11-101	DEFINITIONS
Section 11-102	CREATED
Section 11-103	CREATED; COMPOSITION; APPOINTMENT AND TERMS OF MEMBERS; QUARTERLY MEETINGS; ANNUAL FILING.
Section 11-104	DIRECTORS NOT COMPENSATED
Section 11-105	RESERVED
Section 11-106	RESERVED
Section 11-107	ELECTION OF OFFICERS
Section 11-108	GENERAL POWERS AND DUTIES
Section 11-109	RESERVED
Section 11-110	BYLAWS, RULES AND REGULATIONS
Section 11-111	DAMAGING, DEFACING OR FAILING TO RETURN BOOKS OR OTHER PROPERTY
Section 11-112	USE, TRANSFER OF LIBRARY
Section 11-113	ACCEPTANCE OF DONATIONS
Section 11-114	ANNUAL REPORT

ARTICLE 2

CEMETERY

Section 11-201	SEXTON
Section 11-202	DUTIES OF SEXTON
Section 11-203	RULES
Section 11-204	CEMETERY CARE FUND
Section 11-205	CONTRACTS FOR LOTS
Section 11-206	OFFENSE
Section 11-207	RESERVED
Section 11-208	FUNERAL DIRECTOR RESPONSIBILITIES
Section 11-209	POLICE TO LEAD FUNERAL PROCESSIONS
Section 11-210	RESPONSIBILITY OF CITY, PERMITS FOR MONUMENTS
Section 11-211	GRACE HILL CEMETERY FEE SCHEDULE
Section 11-212	PURCHASE OF GRAVE SITES
Section 11-213	USE OF GRAVE SITES
Section 11-214	RULES, REGULATIONS AND REQUIREMENTS
Section 11-215	FUNERALS NOT TO BE CONDUCTED ON SUNDAY
Section 11-216	REPURCHASE OF LOTS FROM OWNERS
Section 11-217	MAUSOLEUM RULES AND REGULATIONS

ARTICLE 3

LAKE REGULATIONS

Section 11-301	DEFINITIONS
Section 11-302	PERMITS
Section 11-303	BOAT DOCKS REGULATIONS; PERRY CITY LAKE ONLY
Section 11-304	CAMPER AND HOUSE TRAILER REGULATIONS
Section 11-305	C.C.C. LAKE REGULATIONS
Section 11-306	DUCK BLIND REGULATIONS
Section 11-307	GENERAL LAKE REGULATIONS
Section 11-308	PERMIT FEES

ARTICLE 4

PARKS AND RECREATION

Section 11-400	SWIMMING POOL FEES
Section 11-401	DEFINITIONS
Section 11-402	CLOSING HOURS FOR CITY PARKS
Section 11-403	USE OF AMPLIFYING EQUIPMENT OR LOUD NOISES
Section 11-404	NO GLASS CONTAINERS IN CITY PARKS, C.C.C. LAKE OR THE CITY LAKE
Section 11-405	NO COMMERCIAL SOLICITATION IN CITY PARKS, CCCLAKE OR THE CITY LAKE

CHAPTER 11

LIBRARIES, CEMETERIES, AND LAKE REGULATIONS

ARTICLE 1

LIBRARIES

Section 11-101 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 11-102 CREATED.

There is hereby created a public library with reading rooms for the use and benefit of the citizens of the city.

Section 11-103 CREATED; COMPOSITION; APPOINTMENT AND TERMS OF MEMBERS; QUARTERLY MEETINGS; ANNUAL FILING.

A. There is hereby created a board of directors for the government and control of the library, to consist of all nine (9) members of the Council of the City.

B. The directors shall hold office and shall serve until their successors are elected or appointed and otherwise qualified, and such latter persons, shall without any further act or conveyance become fully vested with all the estate, properties, rights, duties and obligations of their predecessors hereunder, with like effect as if originally named as a Director hereunder.

C. The board of directors shall conduct regular meetings to discuss library business at least quarterly during each calendar year and otherwise meet in special meetings as deemed appropriate to properly and faithfully execute their responsibilities hereunder.

D. At least annually, the board of directors of the library, in conjunction with the head librarian, shall file a

list of directors, terms of office and meeting times with the Oklahoma Department of Libraries.

Section 11-104 DIRECTORS NOT COMPENSATED.

The directors shall serve without compensation.

Section 11-105 RESERVED.

Section 11-106 RESERVED.

Section 11-107 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 11-108 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 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 council.

Section 11-109 RESERVED.

Section 11-110 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 11-111 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 11-112 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 11-113 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 11-114 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 2

CEMETERY

Section 11-201 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 council and shall work under their direction and receive such compensation as the City Manager may direct.

Section 11-202 DUTIES OF SEXTON.

It shall be the duty of the sexton to have actual charge of the cemetery under the supervision of the City Manager and to locate and dig all graves. No grave shall be prepared, or burial permitted, until the city clerk shall have collected the purchase price of the lot and fees for preparing the grave, as provided in Chapter 18.

Section 11-203 RULES.

The City Manager shall pass all 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 11-204 CEMETERY CARE FUND.

Whenever lots are sold or charges made for interments, not less than twelve and one-half percent (12.5%) 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.

Note: Amended by Ordinance No. 2000-03 passed on 2-7-2000.

Section 11-205 CONTRACTS FOR LOTS.

All contracts for the transfer of lots shall be signed and conveyed by certificate signed by the 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 11-206 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 City Manager. 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 11-207 RESERVED

Section 11-208 FUNERAL DIRECTOR RESPONSIBILITIES.

The funeral director is responsible for contacting the sexton and providing all relevant information about the funeral, including but not limited to the time and date of the service, and the kind of outside container to be used. The funeral director is further responsible for submitting a proper form signed by the funeral director, or the owner of the lot, or duly authorized representative of the owner or the estate of the deceased or may verbally authorize the Section to open desired location which form shall both authorize the opening of the space and releases the city from any liability.

Section 11-209 POLICE TO LEAD FUNERAL PROCESSIONS.

The police department of the city may take responsibility for leading all funeral processions going to Grace Hill Cemetery and within Grace Hill Cemetery to the cemetery lot location.

Section 11-210 RESPONSIBILITY OF CITY, PERMITS FOR MONUMENTS.

A. After arrangements with the funeral director are made, the sexton shall provide for the opening and closing of graves upon the payment of the proper fees and receipt of any necessary permits, as provided in Section 11-311.

B. Any person other than an individual owning the grave site or a person related to the owner desiring to set a monument at Grace Hill Cemetery shall first secure a permit from and pay the sexton ty between the hours of 7:00 A.M. and 3:00 P.M., Monday through Friday. Such monument may be set at Grace Hill Cemetery only during such aforementioned hours, except as otherwise agreed to by the sexton, and only after the sexton or his assistant has properly identified and located the exact place for the setting.

Section 11-211 PRICE SCHEDULE.

The price schedule to be utilized in all transactions by the city at Grace Hill Cemetery shall be as set by the city council in the city's fee schedule.

Section 11-212 PURCHASE OF GRAVE SITES.

Grave sites shall be purchased in the following manner:

A. Availability of grave sites shall be determined by the sexton;

B. Selection of the grave sites shall be approved by the sexton, only after the payment in full made for the grave site, and the execution and delivery of the cemetery lot deed;

C. The purchase price of any cemetery lot shall be paid in full, before the opening of any grave, as provided herein, except that the funeral director shall not be required to pay for the lot or grave site if he proves to the city clerk prior to the opening of any grave on the lot that the decedent or his estate is unable to make payment therefore;

D. Arrangements for payment of the purchase price of lots and services performed by the city:

1. Local funeral directors may include opening and closing, tent, greens, device, and property charges in with

other expenses for a service and shall make payment to the city by the following 10th of the next month;

2. Out of town funeral directors may make similar charges as provided hereinabove but shall make payment to the city on the day of the service; and

3. After the cemetery lot has been paid for, as provided herein, and the fees charged are secured by the city, then the city clerk of the city shall issue a cemetery deed to the proper owners.

Section 11-213 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, and 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 11-214 RULES, REGULATIONS AND REQUIREMENTS.

The following rules, regulations and requirements shall apply at Grace Hill Cemetery:

A. No glass decorations or objects or remembrances are permitted in the cemetery due to risks of shattering by mowers and line trimmers;

B. No curb or curbs, whether made of cement, stone, or wood, will be erected, or placed on any property within the confines of the cemetery;

C. No fencing of any kind shall be permitted within the

confines of the cemetery;

D. The planting of trees, shrubs, and rose bushes shall not be permitted within the confines of the cemetery unless approved by the sexton;

E. The travel of wheeled vehicles such as tractors, trucks, motorcycles, cars, on other than designated roadways, within the confines of the cemetery will be permitted by permission of the sexton only;

F. All Memorial Day decorations such as artificial flowers, wreaths, grave blankets, etc., shall be removed within seven (7) days after Memorial Day from any property within the confines of the cemetery and, in the event the decorations are not removed, the sexton shall remove the same without notice should the decorations hinder the performance of his duties;

G. The owners of lots within the cemetery are responsible for the removal of all unsightly boxes, trash, wire, or other items;

H. The sexton shall remove without notice all existing trees, shrubs, rose bushes, or grass on lots within the confines of the cemetery which is unkept or unsightly;

I. The placing of gravel, rock, cement, or stone on property within the confines of the cemetery is prohibited except by permission granted in writing by the sexton;

J. No living trees, bushes, plants, or grass owned by the city within the confines of the cemetery shall be destroyed unless their presence in the cemetery is detrimental or dangerous;

K. Entry into the cemetery after the cemetery gates are closed and locked is prohibited;

L. No upright foot markers shall be permitted on newly opened areas within the cemetery after August 1, 1989; and

M. On and after May 1, 1989, each burial to be performed at Grace Hill Cemetery shall require as a minimum a cement receptacle in which the casket shall be placed. The specifications for and placement of the cement receptacle shall be as approved by the sexton.

N. The provisions of Chapter 4 concerning Animal Regulations shall be applicable to Grace Hill Cemetery and enforceable as if the cemetery was located within the corporate limits of the City.

O. No dog shall be permitted within the boundaries of Grace Hill cemetery. Any owner or keeper of any dog that violates the provisions of this subsection shall be guilty of an offense.

P. Weed killers (such as Round Up) shall only be used in the cemetery by the sexton or designee.

Note: Passed by Ordinance No. 98-3322 on 10-19-98; certain amendment approved by Ordinance No. 2017-17 on June 5, 2017.

Section 11-215 FUNERALS NOT TO BE CONDUCTED ON SUNDAYS.

No funeral shall hereafter be conducted within the corporate limits of the city on Sunday, the first day of each week.

Section 11-216 REPURCHASE OF LOTS FROM OWNERS.

Any owner of any lot in the cemetery desiring to sell any lot(s) previously purchased from the City shall notify and provide the sexton with the following documents:

1. A copy of the deed to such lot(s),
2. Any Last Will and Testament or other probate documents necessary to prove that person purporting to be the owner is in fact the owner of the lot(s),
3. The repurchase amount sought by the owner, and
4. A written opinion from the sexton regarding the need for the lot(s) and an opinion on the lot(s) fair market value and marketability for such lot(s).

The sexton shall deliver the documents to the City Manager and City Attorney. The City Attorney will review the documents and give a title opinion. If the City Manager, or designee, determines that the purchase price of the lot(s) would be in the best interest of the City, the City Manager, or designee, may purchase the lot(s), with the purchase price paid from the Cemetery Capital Outlay Account within the General Fund; providing that no lot shall be purchased for more than 100% of the price of the lot(s) at the time of original purchase of the

lot(s).

Section 11-66 MAUSOLEUM RULES AND REGULATIONS

1. Any person desiring to locate a mausoleum in the cemetery shall file an application with the Sexton containing a site plan and all relevant information concerning the materials, construction and placement of the mausoleum shall be included. Such application shall be reviewed by the Sexton and such mausoleum shall not be erected unless and until approved.

2. After reviewing the site plan, the Sexton shall determine how many lots need to be purchased for the location of the mausoleum.

3. Mausoleums shall be permitted on the Northeast corner of Section V and such other locations as may be surveyed and opened for mausoleum uses as designated by the City Council. Mausoleums shall only be located in such areas appropriate for such use and where the view of existing headstones will not be unduly blocked from the roadway.

4. No mausoleum shall be higher than sixty inches (60"). Sufficient space must be purchased by the person desiring to place the mausoleum in order to provide two feet (2') of open space on each side of the mausoleum. Upon payment for the spaces, the deed shall be transferred and shall be conditioned for mausoleum purposes only; no in-ground burials shall be permitted in a mausoleum area. No casket or urn shall be placed which does not fit within the mausoleum. The entire visible exterior of any permitted mausoleum shall be completely covered with granite slabs.

5. Up to one (1) body, or one (1) body and one (1) cremation (but only if placed at the same time or when the cremation is placed first), or two (2) cremations per niche will be allowed. No body or cremains shall be received for entombment unless it is contained in a substantially constructed casket, urn, or other suitable container suitable for the mausoleum. The Sexton or designee shall have full authority to refuse to accept for entombment or inurnment any casket or urn for cremains deemed unsuitable.

6. All entombments, inurnments, removals, and disentanglements shall be subject to the rules and regulations of the City and all federal, state, and local laws, ordinances, and regulations.

7. All removals and disentanglements shall be done by or under the supervision of the City's personnel. The City will exercise reasonable care in making a removal, but it assumes no liability for damage to any casket or burial case or urn occurring in the process of making a removal.

8. Floral memorials (fresh flowers) will be removed whenever they are unsightly or at the discretion of the Sexton or designee. The City will assume no responsibility for the safekeeping of any floral memorial or container.

9. No structural change or addition shall be made on or about any mausoleum, and the City reserves the right to remove any such ornamentation or correct any such alteration at the expense of the owner without being deemed guilty of any manner of trespass.

10. If the mausoleum is destroyed or damaged for any reason, the City may cause any remains entombed or inurned therein to be either promptly interred elsewhere in the cemetery or delivered on written request to the owner or representative of the mausoleum in which they were entombed or inurned, or temporarily placed in a receiving tomb pending restoration of the mausoleum and upon restoration re-entombed or re-inurned therein, in such case as the City shall determine in view of the extent of the destruction or damage to the entombed or inurned remains, to the mausoleum, the structure containing it and the advisability of restoration.

11. The City reserves the right to correct any errors made by it in granting any mausoleum right by substituting other interment property of like kind, equal value similar location, so far as possible, or as may be selected by the City, or by refunding the amount of money paid on account of said purchase.

ARTICLE 3

LAKE REGULATIONS

Section 11-301 DEFINITIONS.

The following words and phrases as used in this ordinance, unless a different meaning is clearly required by the context, shall have the following meanings:

1. "C.C.C. Lake" means the lake southeast of the city

together with all the land owned by the city or over which the city holds easements, near to or adjoining the lake; and

2. "City lake" means the city's municipal water supply lake located southwest of the city together with all the land owned by the city or over which the city holds easements, near to or adjoining the lake.

Section 11-302 PERMITS.

A. Permits for camping, camp locations, hunting, fishing, boating, duck blinds, and private boat docks on or at the city lake and C.C.C. Lake shall be issued and fees therefor collected by the city who is hereby authorized to secure the proper forms and make and issue the permits and the yearly permits are effective on January 1, of the current year and shall expire December 31, of the current year. Daily permits shall be secured from the lake caretaker and the city clerk of the city is hereby authorized to deliver the same to the caretakers. All fees shall be paid to the city clerk of the city.

B. All persons having permits issued by the city for camping, camp locations, hunting, fishing, boating, duck blinds and private boat docks, shall comply with all applicable state regulations.

C. All persons entering on or adjoining to city lake or C.C.C. Lake for the purpose of camping, camp locations, fishing, hunting, boating, or the use of duck shall be required to have valid and current permits in their possession, issued in their individual name and the fee therefor fully paid, except that the following persons shall not be required to obtain and have in their possession such fishing permits:

1. Minors under the age of sixteen (16) years when accompanied by an adult;

2. Honorably discharged veterans of any Armed Force of the United States who are duly enrolled on the records of the United States Veterans Administration as discharged disabled veterans to the extent of sixty percent (60%) disability or more, providing the veterans carry on his person evidence of the disability; and

3. Any person who is totally blind and who is actually fishing and one person who is accompanying the blind person are

exempt from obtaining a fishing permit.

Section 11-303 BOAT DOCK REGULATIONS; PERRY CITY LAKE ONLY.

A. The holder of a valid and current permit for a boat dock has the privilege, providing he shall comply with the terms of this chapter in all respects, to obtain a new permit for the next succeeding year under the terms and conditions of this chapter, providing that privilege is exercised and the necessary fees paid for a current permit by December 1 of the expiring permit year.

B. All boat docks shall be maintained in good repair and areas around and including the dock shall be kept clean of rubbish and litter. The person in whose name the permit for the dock was issued shall be responsible for the condition of the dock and the immediate area thereto and, by acceptance of the dock permit in his name, agrees to observe all park and lake rules, regulations and ordinances and failure to comply with the rules, regulations and ordinances shall cause immediate revocation of the permit and the dock shall be immediately removed from the city property or the city will cause the same to be removed at the expense of the holder of the permit. The use of boat docks by other persons shall be by owner of dock, permission only.

C. There shall be maintained at all times a distance of not less than one hundred (100) feet between boat docks.

D. In the event a boat dock permit is not renewed and is current or in the event the same is canceled as in this chapter is provided, the dock must be removed from property owned by the city within fifteen (15) days from the time of such expiration or cancellation or the city shall cause the dock to be removed from city property at the expense of the person holding the dock permit and if cost of removal of the dock is not paid within thirty (30) days of the date of the removal caused by the city, then the dock shall be sold by the city without notice to defray the cost of such removal and the dock owner does by acceptance of the dock permit agree to the provisions of this chapter.

E. A dock permit must be obtained by the owner of the dock and for the purpose of this chapter it is conclusively presumed that the person obtaining the permit is the owner of the dock and the site location therefor must be assigned by the lake caretaker in the area approved by the city council of the

city before a boat dock is moved onto city property.

F. Dock permits and the dock permit privilege renewals are not transferable.

G. All rules and regulations of the State Department of Health shall be rigidly complied with by dock permit holders and all other persons and failure of compliance shall cause immediate permit revocation and immediate removal of the boat dock.

H. The city retains the right to require without explanation or reason removal of any or all boat docks at the city lake from city property. In this event the permit cost is to be prorated and the unused portion, together with the deposit, returned to the purchaser of the permit, providing the dock is properly removed and the area cleaned within fifteen (15) days after notice is given by the city to remove the dock.

Section 11-304 CAMPER AND HOUSE TRAILER REGULATIONS.

A. A permit must be obtained and the fee therefor paid for campers and house trailers and the site location therefor assigned by the lake caretaker in the area approved by the city council of the city before a camper or house trailer is moved onto city property. Site locations for designated weekend, weekly or monthly camping sites shall be assigned by the City Clerk. In the event that such a designated space becomes vacant or abandoned, the space will be offered to the next name appearing on the waiting list located in the City Hall.

B. All campers or house trailers shall be maintained in good repair and adjacent areas shall be kept clean of rubbish and litter at all times and the person in whose name the permit was issued is responsible therefor. Failure to comply with the provisions of this Section shall cause the permit to be immediately revoked, in which case the camper or house trailer must be immediately removed from city property. The wheels or axles must not be removed from campers or trailers and must be movable at all times.

C. Camper and house trailer permits are not transferable and non-refundable.

D. Trailers are ineligible for permanent residences. Permanent residence shall be deemed to exist if:

1. The owner or occupant of such camper or trailer does not have another residence or place within the City where such person dwells, or

2. The owner or occupant occupies the camper or trailer for more than one consecutive month.

E. All campers or house trailers shall be maintained in good repair and adjacent areas shall be kept clean of rubbish and litter at all times and the person in whose name the permit was issued is responsible therefor. Failure to comply with the provisions of this subsection shall cause the permit to be immediately revoked, in which case the camper or house trailer must be immediately removed from city property. The wheels or axles must not be removed from the campers or trailers and the same must be moveable at all times.

F. All rules and regulations of the State Department of Health shall be rigidly complied with by permit holders and all other persons and failure of compliance shall cause immediate permit revocation and immediate removal of the camper or house trailer.

Section 11-305 C.C.C. LAKE REGULATIONS.

A. Tube float fishing and rowboat fishing is permitted after compliance with permit provisions of this chapter.

B. Electric power boats, sail or row boats may be used or placed on C.C.C. Lake with a speed limit of 5 mph or no wake. No internal combustion engine driver boats shall be permitted on C.C.C. Lake.

C. There shall be no skiing, including jet skis, at any time on C.C.C. Lake.

D. There shall be no permanent use of C.C.C. Lake property for campers or house trailers but the same may locate at a site located by the lake caretaker for a maximum period of one week after securing the proper permit and paying the fee therefor.

E. No bass fish shall be taken that are in overall length of twelve (12) inches up to and including fifteen (15) inches. Any bass fish within the length limits shall be immediately released back into C.C.C. Lake.

Section 11-306 DUCK BLIND REGULATIONS.

A. On or after each successive July 1 of each year, a notice concerning the duck blind permit lottery will be provided on the City's web site, social media page, and mailed to the preceding year's duck blind permit holders. On the date provided on such notice, the City will begin to accept entry fee applications together with certified checks as provided by Chapter 18, Section 11-308, Subsection 4 of this code, in order to become a part of the lottery. No person shall be entitled to purchase more than two (2) duck blinds permits per hunting season or submit more than two (2) entry fee applications. No more than eighteen (18) duck blind permits shall be sold and/or eligible for the lottery. As provided on a second notice, which notice shall be provided as hereinbefore stated, all persons who filed an entry fee application and paid the Duck blind entry application fee will be notified of the date, place and time that the lottery will be held, at which time the names of the entry fee applicants will be selected at random, by lottery. The entry fee applicants will either be physically present at the lottery drawing or on-line watching the lottery, and after being informed of the order of their drawing in the lottery, such entry fee applicants will choose the specific location of their duck blind as shown by map furnished with the notice to all entry fee applicants. Each entry fee applicant shall choose their specific duck blind location on said map in the order of their drawing and if any entry fee applicant is unavailable to immediately make their decision, their permit will be placed at the bottom of the list. Within seven (days) each such entry fee applicant shall further pay the Duck Blind Specific Location Permit Fee as set out Chapter 18, Section 11-308, Subsection 4, in order to have the selected duck blind for the hunting season. The permit thereafter issued will allow the permit holder the selected location for that year's hunting season. No duck blind or seasonal permits shall be issued, or duck blinds used, or hunting permitted without the payment of the appropriate permit fees as provided by Chapter 18, Section 11-308, Subsection 4 of this code. All duck hunting shall be conducted by individual hunters; no guided or commercial duck hunts shall be permitted.

B. All duck blinds shall be maintained in good repair and areas around and including the blind shall be kept free of rubbish and litter. The permit holder shall be responsible for the condition of the blind and the immediate area thereto and by acceptance of the blind permit in his name agrees to observe all park and lake regulations, rules and ordinances, and failure to

comply with the regulations, rules and ordinances shall cause immediate revocation of the permit without refund of an unused portion of permit.

C. Decoys and blinds shall be anchored by weights only and shall not be anchored by stakes or other objects driven or placed in the ground.

D. The City Manager may provide appropriate, required and additional written rules and regulations to effectively implement these duck blind regulations. Such rules and regulations shall be provided as a part of the application progress. Failure to follow the terms and conditions of such rules and regulations will result in a revocation of the duck blind permit.

Section 11-307 GENERAL LAKE REGULATIONS.

A. It is unlawful to cut, remove or disturb any plant, grass or tree, either wild or cultivated within the confines of the ownership of any city property without first securing permission in writing approved by the city council of the city.

B. It is unlawful to trap, hunt, or disturb furbearing animals, quail, pheasant, prairie chicken or wild turkey or any other animal, fish or fowl within the confines of the ownership of any city property unless provided for by permit issued by the city on payment of proper fee. The lake caretaker is authorized to permit for the hunting of snakes and turtles at the city lake and C.C.C. Lake without a written permit.

C. It is unlawful to discharge any rifle, pistol, shotgun, or any other firearm within the confines of the ownership of any city property except with a valid, current written permit issued therefor by the city.

D. It is unlawful to operate on the city lake or C.C.C. Lake any boat of any description which does not comply with state law.

E. It is unlawful to bring or cause to be brought on any property owned by the city dogs, cats, or other pets unless properly leashed, muzzled or caged except during duck hunting season. Dogs, if properly controlled, may be used to retrieve shot ducks and geese.

F. It is unlawful to litter or destroy property or improvements on any property owned by the city. All material that might be litter must be placed in receptacles provided for that purpose.

G. All trot lines or snag lines will be kept out of the ski area, ski areas will be marked by signs or floats.

H. No house or permanent type construction will be permitted on city property.

I. No person while intoxicated shall operate a vehicle or boat on city property.

J. The use of profanity, drunkenness, indecent exposure or drinking parties is prohibited on city property.

K. The riding of motorcycles or dune buggies shall be confined to the public roads unless permitted in writing by the city.

L. The city assumes no responsibility for any boats, motors or any other equipment left at the city lake unattended.

M. No person or persons shall remove from the city lake any water for irrigation or by truck or trailer without the written approval of the city.

N. Speed limits on city lake property is twenty (20) miles per hour.

O. Ski planes are not allowed on any city lakes.

P. It is unlawful to ski or use surfboards on city lake without each person doing so wearing life jackets, and it is unlawful to ski or surfboard in any direction other than counterclockwise, and it is unlawful to ski or surfboard after sundown, and it is unlawful to ski or surfboard on city lake at any place other than in the main body of water.

Q. It is unlawful for a boat pulling a skier to come within one hundred (100) feet of any object such as a boat, skier, land, trees, etc.

R. It is unlawful to ski between the tower and dam.

S. It is unlawful to give any false or misleading information to any application for any type permit required by the city under this chapter.

T. No person except park employees shall make a fire for any purpose in the parks unless permission is given therefore by the City Manager or his designee.

Section 11-308 PERMIT FEES.

Permits for certain activities are required to be secured from the city. Fees for such activities are required to be paid to the city for such permits. The required permits and permit fees are listed in Chapter 18 or may be set by the city council by motion or resolution. All persons, firms or corporations desiring to engage in such activities shall first secure such permits and pay such fees.

ARTICLE 4

PARKS AND RECREATION

Section 11-400 SWIMMING POOL FEES

The fees charged for admission to the Perry Municipal Swimming Pool shall be as set out in Section 11-400 of the Fee Schedule found in Chapter 18. Pool hours shall be established by the City Manager.

Section 11-401 DEFINITIONS

For purpose of this Article, the definitions contained in Article 3 of this Chapter and the following definitions shall have the following meaning:

"City park" shall mean all public parks owned and operated by the City but shall not include C.C.C. Lake or the City Lake.

Section 11-402 CLOSING HOURS FOR CITY PARKS

A. City parks shall be open daily to the public on the following schedule:

1. Between 6:00 a.m. and 10:30 p.m. every day from the first day of April to the first day of November.

2. From a half hour before sunrise to a half hour after sunset of every day from the first day of November to the first day of April.

B. It shall be unlawful for any person or persons other than city personnel conducting city business therein, to occupy or be present in city parks during any hours the parks are not open to the public.

C. Baseball fields, softball fields, football fields and soccer fields within the city parks, including the spectator and parking areas of said fields, are excluded from the above closing hours while said fields are being used for team playing of baseball, softball, football or soccer. This exception is extended only to teams organized by sports organizations that have filed with the city an approved schedule of proposed use of the fields.

D. Tennis courts within city parks are excluded from the above closing hours while the courts are being used for playing tennis.

E. Persons using track and exercise equipment at Century Park shall be exempted from the above opening and closing hours while engaged in exercise at such facilities.

F. Excepting park employees, no person shall make a fire in any city park excepting in an approved and designated grill.

G. The keepers and watchmen of the parks shall, at all times, have the assistance of the regular police force in enforcing the provisions of this Article.

Section 11-403 USE OF AMPLIFYING EQUIPMENT OR LOUD NOISES

A. No person, other than law enforcement officers or authorized governmental agencies, shall install, use or operate any amplifying equipment in a fixed or movable position or mounted upon any sound truck for the purposes of giving instructions, directions, talks, addresses, lectures, or transmitting music to any person or assemblage of persons in any public park of the city without having first obtained a permit therefor from the City Manager or designee.

B. No person shall use any amplifying equipment or make any excessively loud noises in such a manner as to disturb other

persons in the park or on adjacent property.

C. The application for such a permit shall contain the name and address of the applicant, kind and type of equipment proposed to be used, the manner in which it will be operated and the purpose or purposes for the operation of the same, and such other information as shall be required by the city clerk.

D. As used in this Section the term "amplifying equipment" shall mean any machine or device for the amplification of the human voice, music, or any other sound. It shall not include standard automobile radios when used and heard only by the occupants of the vehicle in which the radio is installed, or warning devices on authorized emergency vehicles or horns or other warning devices used only for traffic safety purposes.

Section 11-404 NO GLASS CONTAINERS IN CITY PARKS, C.C.C. LAKE OR THE CITY LAKE

No person shall be permitted to carry into or possess any glass container within any City park or C.C.C. Lake or the City lake.

Section 11-405 NO COMMERCIAL SOLICITATION IN CITY PARKS, C.C.C. LAKE OR THE CITY LAKE

No person shall solicit, peddle, or engage in the business of itinerant merchant/transient street vendor, coupon book seller, or conduct any other commercial business enterprise, excepting persons, firms or entities making sales or taking order for or on behalf of the public schools or educational, religious or charitable institutions, in any City Park, C.C.C. Lake or the City Lake.

CHAPTER 12: PLANNING, ZONING AND DEVELOPMENT

ARTICLE 1

BOARDS AND COMMISSIONS

DIVISION 1

PLANNING COMMISSION

- Section 12-101 PLANNING COMMISSION CREATED
- Section 12-102 TERM OF OFFICE; PROVISION FOR VACANCIES
- Section 12-103 EX OFFICIO MEMBERS
- Section 12-104 QUORUM
- Section 12-105 MEETINGS; ORGANIZATION AND RULES
- Section 12-106 POWER TO EMPLOY STAFF
- Section 12-107 POWERS AND DUTIES
- Section 12-108 PURPOSES OF COMPREHENSIVE PLAN
- Section 12-109 SUBDIVISION OF LAND
- Section 12-110 UNIFORMITY OF REGULATIONS
- Section 12-111 COMPREHENSIVE PLAN; PURPOSE OF REGULATIONS
AND MATTERS CONSIDERED
- Section 12-112 PLANNING COMMISSION ACTS AS ZONING COMMISSION

DIVISION 2

BOARD OF ADJUSTMENT

- Section 12-120 CREATION AND PROCEDURES, BOARD OF ADJUSTMENT
ESTABLISHED
- Section 12-121 MEETINGS AND RULES
- Section 12-122 APPEALS TO BOARD OF ADJUSTMENT
- Section 12-123 POWERS
- Section 12-124 EXTENT OF RELIEF
- Section 12-125 VARIANCES
- Section 12-126 APPEAL TO DISTRICT COURT

DIVISION 3

- Section 12-130 CAPITAL IMPROVEMENT PLANNING COMMITTEE

ARTICLE 2

ZONING REGULATIONS

DIVISION 1

DEFINITIONS AND GENERAL PROVISIONS

Section 12-201	TITLE
Section 12-202	PURPOSE
Section 12-203	INTERPRETATION AND APPLICATION
Section 12-204	JURISDICTION
Section 12-205	DEFINITIONS

DIVISION 2

ESTABLISHMENT OF DISTRICTS

Section 12-210	ZONING DISTRICTS ESTABLISHED
Section 12-211	ZONING MAP INCORPORATED
Section 12-212	DISTRICT BOUNDARIES ESTABLISHED
Section 12-213	MAINTENANCE OF OFFICIAL ZONING MAP
Section 12-214	PERRY FAMILY FRIENDLY DISTRICT

DIVISION 3

GENERAL PROVISIONS APPLYING TO ALL OR TO SEVERAL DISTRICTS

Section 12-220	APPLICATION OF REGULATIONS IN DISTRICTS AUTHORIZED
Section 12-221	USE OF YARDS AND DIVISION OF LOTS
Section 12-222	STORAGE AND PARKING OF TRAILERS AND COMMERCIAL VEHICLES IN RESIDENTIAL DISTRICTS
Section 12-223	DISPLAY OF TRAILERS IN COMMERCIAL AND INDUSTRIAL DISTRICTS
Section 12-224	SPECIFICATIONS FOR SCREENING WALL OR FENCE
Section 12-225	MAINTENANCE OF SCREENING WALL OR FENCE
Section 12-226	SEWER SERVICE
Section 12-227	PARKING SPACE DEFINED
Section 12-228	OFF-STREET PARKING REQUIRED
Section 12-229	SCHEDULE OF PARKING SPACE REQUIREMENTS
Section 12-230	DEVELOPMENT AND USE OF PARKING SPACES
Section 12-231	COMMERCIAL AND PUBLIC PARKING STANDARDS FOR NEW CONSTRUCTION.
Section 12-232	RESIDENTIAL PARKING AREA CONSTRUCTION STANDARDS.

Section 12-233 POWER GENERATION TOWER OR STRUCTURE; HEIGHT
LIMITATIONS AND OTHER RULES; PLACEMENT OF SOLAR
PANELS

Section 12-234 FRONT YARD AND REAR YARD CARPORTS

DIVISION 3A

SEXUALLY ORIENTED BUSINESSES

Section 12-235 DEFINITIONS.

Section 12-236 ADDITIONAL OPERATOR LICENSE REQUIRED.

Section 12-237 LICENSE FEES.

Section 12-238 OPERATING RULES AND REGULATIONS.

Section 12-239 EXEMPTIONS.

DIVISION 4

NONCONFORMITIES

Section 12-240 NO NONCONFORMITIES USES, INTENT

Section 12-241 NONCONFORMING LOTS OF RECORD

Section 12-242 NONCONFORMING STRUCTURES

Section 12-243 NONCONFORMING USES OF STRUCTURES

Section 12-244 NONCONFORMING USES OF LAND

Section 12-245 CHANGES IN NONCONFORMITY

Section 12-246 RESERVED

Section 12-247 MOBILE, MANUFACTURED/MODULAR HOME REGULATIONS

Section 12-248 NEW MANUFACTURED HOME REGULATIONS

DIVISION 5

SPECIFIC DISTRICT REGULATIONS

Section 12-250 A-G AGRICULTURAL DISTRICT, GENERAL DESCRIPTION

Section 12-251 USES PERMITTED

Section 12-252 USES PERMITTED BY REVIEW IN A-G AGRICULTURAL
DISTRICT

Section 12-253 AREA AND HEIGHT REGULATIONS

Section 12-254 THROUGH

12-259 RESERVED

Section 12-260 R-G RESIDENTIAL DISTRICT, GENERAL DESCRIPTION

Section 12-261 USES PERMITTED

Section 12-262 USES PERMITTED SUBJECT TO ADDITIONAL REQUIREMENTS

Section 12-263 AREA AND HEIGHT REGULATIONS

Section 12-264 MINIMUM GUIDELINES FOR RECREATIONAL VEHICLE

PARKS; GRANDFATHER CLAUSE; VIOLATIONS

Section 12-265 MOBILE HOME PARK
 Section 12-266 R-G RESIDENTIAL/TINY HOUSE OVERLAY DISTRICT
 Section 12-270 R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT, GENERAL
 DESCRIPTION
 Section 12-271 USES PERMITTED
 Section 12-272 USES PERMITTED SUBJECT TO ADDITIONAL REQUIREMENTS
 Section 12-273 AREA AND HEIGHT REGULATIONS
 Section 12-274 RESERVED
 Section 12-275 USE BY REVIEW FOR HOME OCCUPATION
 Section 12-276 ZERO LOT-LINE DISTRICT OVERLAY
 Section 12-280 C-O COMMERCIAL OFFICE DISTRICT
 Section 12-281 C-1 LIGHT COMMERCIAL ZONING DISTRICT
 Section 12-282 C-2 GENERAL COMMERCIAL ZONING DISTRICT
 Section 12-283 C-3 COMMERCIAL BUSINESS DISTRICT
 Section 12-284 C-4 PLANNED COMMERCIAL
 Section 12-285 LOT COMBINATION/APPLICATION/PROCEDURES/EFFECT
 Section 12-286 SITE PLAN REVIEW
 Section 12-287 BUILDING PERMIT AND CERTIFICATE OF OCCUPANCY
 Section 12-288 C-5 PLANNED COMMERCIAL PARK
 Section 12-289 I-1 INDUSTRIAL (LIGHT)
 Section 12-290 I-2 INDUSTRIAL (HEAVY)
 Section 12-291 STANDARDS
 Section 12-292 USES PERMITTED
 Section 12-293 AREA AND HEIGHT REGULATIONS
 Section 12-294 SIGNS AND BILLBOARDS
 Section 12-295 SU SPECIAL USE
 Section 12-296A PUD: SCOPE OF REGULATIONS.
 Section 12-296B PUD: GENERAL PROVISIONS.
 Section 12-296C PUD: DEVELOPMENT GUIDELINES.
 Section 12-296D PUD: ADMINISTRATION.
 Section 12-296E PUD: SITE PLAN FOR PUD DISTRICTS

DIVISION 6

SPECIFIC USE PERMITS

SECTION 12-296.1 PURPOSES.
 SECTION 12-297 CONDITIONS FOR APPROVAL.
 SECTION 12-298 SPECIFIC USE LIST.
 SECTION 12-299 USE CONDITIONS.
 SECTION 12-300 ADMINISTRATION.

ARTICLE 3

DIVISION 1

ENFORCEMENT AND ADMINISTRATION

Section 12-301 DUTY OF ZONING ADMINISTRATOR
Section 12-302 ZONING CLEARANCE PERMIT PURPOSE
Section 12-303 NEW CONSTRUCTION
Section 12-304 CHANGE IN USE OF LAND OR BUILDING
Section 12-305 APPLICATION
Section 12-306 ACCOMPANYING MATERIAL
Section 12-307 FEES
Section 12-308 BUILDING PERMIT REQUIRED
Section 12-309 VIOLATIONS AND PENALTIES

DIVISION 2

AMENDMENTS

Section 12-310 PLANNING COMMISSION RECOMMENDATION REQUIRED
Section 12-311 APPLICATION FOR AMENDMENT
Section 12-312 NOTICE AND PUBLIC HEARING
Section 12-313 PLANNING COMMISSION ACTION
Section 12-314 CITY ACTION
Section 12-315 PROTEST TO AMENDMENT

DIVISION 3

SUBDIVISION REGULATIONS

Section 12-320 SUBDIVISION REGULATIONS ADOPTED, PENALTY.
Section 12-321 CLOSING OF PUBLIC WAYS OR EASEMENTS BY ORDINANCE

ARTICLE 4

FLOOD DAMAGE PREVENTION

DIVISION 1

STATUTORY AUTHORIZATION, FINDINGS OF FACT, STATEMENT OF PURPOSE
AND METHODS

Section 12-401 STATUTORY AUTHORIZATION
Section 12-402 FINDINGS OF FACT
Section 12-403 STATEMENT OF PURPOSE

Section 12-404 METHODS OF REDUCING FLOOD LOSSES

DIVISION 2

DEFINITIONS

Section 12-405 DEFINITIONS

DIVISION 3

GENERAL PROVISIONS

Section 12-406 LANDS TO WHICH THIS ORDINANCE APPLIES

Section 12-407 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD

Section 12-408 ESTABLISHMENT OF DEVELOPMENT PERMIT
HAZARD

Section 12-409 COMPLIANCE

Section 12-410 ABROGATION AND GREATER RESTRICTIONS

Section 12-411 INTERPRETATION

Section 12-412 WARNING AND DISCLAIMER OF LIABILITY

DIVISION 4

ADMINISTRATION

Section 12-413 DESIGNATION OF THE FLOOD PLAIN ADMINISTRATOR

Section 12-414 DUTIES AND RESPONSIBILITIES OF THE FLOOD PLAIN
ADMINISTRATOR

Section 12-415 PERMIT PROCEDURES

Section 12-416 VARIANCE PROCEDURES

DIVISION 5

PROVISIONS FOR FLOOD HAZARDS REDUCTION

Section 12-417 PROVISIONS FOR FLOOD HAZARD REDUCTION; GENERAL
STANDARDS

Section 12-418 PROVISIONS FOR FLOOD HAZARD REDUCTION; SPECIFIC
STANDARDS

Section 12-419 STANDARDS FOR SUBDIVISION PROPOSALS

Section 12-420 STANDARDS FOR AREAS OF SHALLOW FLOODING (AC/AH
ZONES)

DIVISION 6

PENALTY

Section 12-421 PENALTIES FOR NONCOMPLIANCE

ARTICLE 5

SIGN REGULATIONS

SECTION 12-501 PURPOSE

SECTION 12-502 DEFINITIONS

SECTION 12-503 GENERAL SIGN TYPES

SECTION 12-504 GENERAL PROVISIONS

SECTION 12-505 EXEMPT SIGNS

SECTION 12-506 PROHIBITED SIGNS

SECTION 12-507 PERMITS

SECTION 12-508 SPECIFIC SIGN REQUIREMENTS

SECTION 12-509 SIGNS FOR DEVELOPMENT COMPLEXES

SECTION 12-510 SIGN REGULATION AS A PART OF THE SITE PLAN REVIEW
PROCESS.

ARTICLE 6

WIRELESS COMMUNICATION TOWERS AND ANTENNAS

Section 12-601 PURPOSE

Section 12-602 DEFINITIONS

Section 12-603 APPLICABILITY

Section 12-604 GENERAL REQUIREMENTS

Section 12-605 PERMITTED USES

Section 12-606 SPECIAL USE PERMITS

Section 12-607 BUILDINGS OR OTHER EQUIPMENT STORAGE

Section 12-608 REMOVAL OF ABANDONED ANTENNAS AND TOWERS

Section 12-609 ENTITLED NONCONFORMING USES

ARTICLE 7

HISTORIC PRESERVATION

DIVISION 1

GENERALLY

Section 12-701 PURPOSE.

Section 12-702 DEFINITIONS.

Section 12-703 JURISDICTION OF HISTORIC PRESERVATION ZONING
ORDINANCE.

DIVISION 2

PRESERVATION COMMISSION

Section 12-720 GENERALLY.
Section 12-721 TERMS OF MEMBERS.
Section 12-722 MEETINGS AND RULES.
Section 12-723 DUTIES.

DIVISION 3

"HP" HISTORICAL PRESERVATION ZONING DISTRICT

Section 12-730 CREATION.
Section 12-731 GENERAL PROVISIONS AND DESCRIPTION.
Section 12-732 DISTRICT IDENTIFICATION.
Section 12-733 DISTRICT REGULATIONS.
Section 12-734 ORDINARY MAINTENANCE OR REPAIR.
Section 12-735 USES ADJACENT TO HP DISTRICT.

DIVISION 4

HISTORICAL DISTRICT ZONING DESIGNATION PROCESS

Section 12-740 PROCEDURE.
Section 12-741 INTERIM CONTROL.
Section 12-742 DISTRICT DESIGNATION; CRITERIA.
Section 12-743 CERTIFICATE OF APPROPRIATENESS.
Section 12-744 CERTIFICATE OF ECONOMIC HARDSHIP.

DIVISION 5

DEMOLITION

Section 12-750 GENERAL PROVISIONS.
Section 12-751 PROCEDURE AND POSTPONEMENT ORDER.
Section 12-752 CRITERIA FOR REVIEW OF DEMOLITION.

DIVISION 6

MISCELLANEOUS PROVISIONS

Section 12-760 MINIMUM MAINTENANCE.

Section 12-761 HISTORICAL PRESERVATION COMMISSION REVIEW.
Section 12-762 APPEALS.
Section 12-763 TAXES.
Section 12-764 PROPERTY OWNED BY PUBLIC AGENCIES.
Section 12-765 BY-LAWS.

DIVISION 8

HISTORIC PRESERVATION DISTRICTS CREATED

Section 12-770 HP ZONING DISTRICT CREATED.

ARTICLE 8

FENCE AND WALL REGULATIONS

Section 12-801 DEFINITIONS
Section 12-802 PRELIMINARY REQUIREMENTS
Section 12-803 SETBACKS AND VIEW RESTRICTIONS
Section 12-804 VACANT LOTS
Section 12-805 GENERAL STANDARDS AND REGULATIONS
Section 12-806 PRE-EXISTING FENCES AND WALLS
Section 12-807 EXEMPTIONS
Section 12-808 VIOLATIONS

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, which shall consist of five (5) residents of the city, nominated by the Mayor and confirmed by the City Council. The 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.

State Law Reference: Planning commissions may be established, duties and powers, 11 O.S. Section 45-101 et seq.

Section 12-102 TERM OF OFFICE; PROVISION FOR VACANCIES.

Appointive members of the city planning commission shall hold office for a term of three (3) years with the exception that beginning with the initial appointments made on or after December 15, 2005, two (2) shall be appointed to serve a term of two (2) year and two (2) for a term of three (3) years; appointments thereafter shall be made for a term of three (3) years. When a vacancy occurs, the appointment shall be made to fill the unexpired term by the Mayor, with confirmation by the City Council.

Section 12-103 EX OFFICIO MEMBERS.

The Mayor and the city engineer shall be ex officio members of the city planning commission but shall receive no compensation other than their affixed salary as such officials.

Section 12-104 QUORUM.

A majority of the members of the planning commission shall constitute a quorum for the transaction of business. No action

shall be taken and be binding upon the city planning commission unless concurred in by not less than a majority of the quorum.

Section 12-105 MEETINGS; ORGANIZATION AND RULES.

The members of the city planning commission shall meet and organize by electing a chairman, a vice-chairman, and secretary, whose terms shall be one year with eligibility for re-election. The commission shall adopt from time to time such bylaws, rules, and regulations and amendments thereto as may be necessary to effectuate the purposes of this chapter.

Section 12-106 POWER TO EMPLOY STAFF.

The planning commission shall have the power and authority to employ planners, engineers, attorneys, clerks, and other help deemed necessary within the limits of the appropriation fixed by the 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. The city planning commission may incur necessary expenses within the limits of its appropriation to carry out its purposes and responsibility.

Section 12-107 POWERS AND DUTIES.

The planning commission shall have the power and the duty 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 such municipality 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 building, statute, memorial, park, boulevard, street and 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 12-108 PURPOSES OF COMPREHENSIVE PLAN.

In the preparation of such plan, the planning commission shall make careful and comprehensive surveys and studies of present conditions and future growth of the city, and with due regard to its relation to neighboring territory. The plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of 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 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 12-109 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 of the city. All plans, plats, or replats of land laid out in two (2) or more lots, plats, or parcels, or streets, or other ways intended to be dedicated to public use within the corporate limits of the city shall first be submitted to the planning commission for its recommendations. The planning commission shall, with the help of appropriate municipal officials, check the proposed dedications or subdivision of land to ensure compliance with the rules and regulations governing subdivisions of land and with other elements of the comprehensive plan for the city. 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.

Section 12-110 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 purpose. 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 12-111 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 overcrowding 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, with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the city. The latest addition of the Comprehensive Plan of the City of Perry, Oklahoma, is on file in the Office of the City Clerk and is incorporated herein by reference.

Section 12-112 PLANNING COMMISSION TO ACT AS ZONING COMMISSION.

The city planning commission also shall act as the zoning commission and shall have the power to prepare and recommend to the City Council, zoning district boundaries and appropriate regulations relating to 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.

DIVISION 2

BOARD OF ADJUSTMENT

Section 12-120 CREATION AND PROCEDURES; BOARD OF ADJUSTMENT ESTABLISHED.

There is hereby created a board of adjustments consisting of five (5) members, each to be appointed for a term of three (3) years, and removable for cause by the City Council upon

written charges and after public hearing.

Board members 1 and 2 shall serve a term of three years. Board members 3 and 4 shall serve a term of two years. Board member 5 shall serve a term of one year. All successor members shall serve a term of three (3) years. Vacancies shall be filled for the unexpired term of any members whose term becomes vacant. The board of adjustment shall be appointed by the Mayor and confirmed by the City Council.

Section 12-121 MEETINGS AND RULES.

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 12-122 APPEALS TO BOARD OF ADJUSTMENT.

A. Appeals to the board of adjustment may be taken by any person aggrieved or by any officer, department, board, or bureau of the city affected by any administrative decision based on the city's zoning regulations.

B. Such appeal shall be taken within thirty (30) days from the date of the decision by filing with the officer from whom the appeal is taken and with the city clerk a notice of appeal specifying the grounds thereof, and by paying a filing fee established by the city. In addition, the appellant shall pay the cost of publishing the notice of the public hearing and any other costs associated with the hearing. The appellant shall pay such fee and costs upon filing the appeal. The zoning officer shall transmit to the board of adjustment the documents constituting the record.

C. 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 shall have been filed with him that by reason of facts stated in the certificate a stay, in his opinion, would cause imminent peril to life or property. In such cases, 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.

D. 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.

E. 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.

F. At the hearing, any party may appear in person or by agent or by attorney.

Section 12-123 POWERS.

A. The board of adjustment shall have the power to:

1. Hear and decide appeals if it is alleged that there is error in any order, requirement, decision, or determination made by the zoning officer in the enforcement of the zoning regulations;

2. Authorize in specific cases a variance from the terms, standards and criteria that pertain to an allowed use category within a zoning district as authorized by the zoning ordinance when such cases are shown not to be contrary to the public interest if, owing to special conditions, a literal enforcement of the provisions of the regulations will result in unnecessary hardship and so that the spirit of the ordinance shall be observed and substantial justice done; provided, however, the board shall have no power to authorize variances as to use.

B. Variances may be allowed by the board of adjustment only after notice and hearing as provided in subsection D of Section 12-122 of this code. 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 EXTENT OF RELIEF.

A. When exercising the powers provided for herein, the board of adjustment, in conformity with the provisions of this part may reverse or affirm, in whole or in part, or modify the order, requirement, decision, or determination from which appealed and may make such order, requirement or determination as ought to be made.

B. The concurring vote of at least three (3) members of the board of adjustment shall be necessary to reverse any order, requirement, decision, or determination being appealed from, to decide in favor of the applicant, or to decide any matter which may properly come before it pursuant to the zoning regulations.

Section 12-125 VARIANCES.

A variance from the terms, standards and criteria that pertain to an allowed use category within a zoning district as authorized by the zoning ordinance may be granted, in whole or in part, or upon reasonable conditions as provided in this Article, only upon a finding by the board of adjustment that:

A. The application of the ordinance to the particular piece of property would create an unnecessary hardship;

B. Such conditions are peculiar to the particular piece of property involved;

C. Relief, if granted, would not cause substantial detriment to the public good, or impair the purposes and intent of the ordinance or the comprehensive plan; and

D. The variance, if granted, would be the minimum necessary to alleviate the unnecessary hardship.

Section 12-126 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, or any taxpayer, or any officer, department, board or bureau of the city to the district court by filing a notice of appeal with the city clerk and with the board of adjustment within sixty days from filing of the decision by the board, which notice shall specify the ground of such appeal. Upon filing of the notice of appeal as herein provided, the board shall transmit forthwith to the court clerk of the County of Noble 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. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the district court upon application or notice to the administrative officer in charge of the enforcement of the terms and provisions of the ordinance; 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.

Division 3

CAPITAL IMPROVEMENT PLANNING COMMITTEE - FUNCTION AND DUTIES

Section 12-130 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 Mayor and 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 Noble 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.

ARTICLE 2

DIVISION 1

DEFINITIONS AND GENERAL PROVISIONS

Section 12-201 TITLE.

This chapter shall be known as and may be cited and referred to as the "Zoning Ordinance of the City of Perry".

Section 12-202 PURPOSE.

This chapter is enacted for the purpose of encouraging the most appropriate use of land throughout the community and promoting the development of the community in accordance with a comprehensive plan.

Section 12-203 INTERPRETATION AND APPLICATION.

The provisions of this chapter shall be held to be minimum requirements. Where this chapter imposes a greater restriction than is imposed or required by other provisions of law or by other rules or regulations or ordinance, the provisions of this chapter shall control. Terms and words are to be used and interpreted as defined in Section 12-205 of this chapter. The word "shall" be mandatory and not directory, except where the natural construction of the writing indicates otherwise.

Section 12-204 JURISDICTION.

This ordinance shall be in full force and effect in the corporate limits of the city. Territory annexed to the corporate limits of the city, subsequent to the effective date of this chapter shall immediately be subject of the provisions of this chapter and shall be deemed to be designated as single-family residential district until altered or reclassified in the manner provided by law. In case any portion of this chapter shall be held to be invalid or unconstitutional, the remainder of the chapter shall not thereby be invalid but shall remain in full force and effect. Any ordinance now in effect that conflicts with any provision of this chapter is hereby repealed.

Section 12-205 DEFINITIONS.

For the purpose of these regulations, the following terms shall have the meanings respectively provided herein:

1. "Accessory use of structure" means a use or structure customarily incidental, appropriate, and subordinate to the principal use of a building or to the principal use of land and which is located upon the same lot therewith;

2. "Agriculture" means the use of land for agricultural purposes including farming, dairying, pasturage, horticulture, animal and poultry husbandry and the necessary accessory uses for packing, treating, or storing the produce; provided that the above uses shall not include the commercial feeding of swine or other animals, stockyards or commercial feed lots for cattle;

3. "Alley" means a minor right-of-way dedicated to public use affording a secondary means of access to abutting property;

4. "Automobile or trailer sales area" means an open area, other than a street, used for the display, sales, or rental of new or used motor vehicles or trailers in operable condition;

5. "Automobile repair" means general repair, rebuilding or reconditioning of engines, motor vehicles or trailers; collision services including body, frame, or fender straightening or repair; overall painting or paint shop; vehicle steam cleaning;

6. "Automobile service station or filling station" means any area used for retail sale of gasoline or oil fuels or automobile accessories and incidental services including facilities for lubricating, and washing and cleaning, but not including the sale of butane or propane fuels;

7. "Automobile wash or automatic car wash" means a building or structure or chain conveyor, blowers, steam cleaners and other mechanical devices used primarily for the purpose of washing motor vehicles;

8. "Block", in describing the boundaries of a district, refers to the legal description. In all other cases, the work "block" refers to the property abutting on one side of the street between two (2) intersecting streets or between an

intersecting street and a railroad right-of-way or between an intersecting street and a watercourse;

9. "Boarding house and rooming house" mean where meals or lodging are provided for persons other than the family or their relatives and excluding facilities for transient persons such as hotels, motels, inns, and other such facilities;

10. "Board of adjustment" means the board of adjustment of the city, also referred to as the "board";

11. "Building" means any structure having a roof supported by columns or walls that is used or intended to be used for the shelter or enclosure of persons, animals, or property;

12. "Building height" means the vertical distance of the highest points of the building;

13. "Building line" means a line established beyond which no part of a building shall project, except as otherwise provided by this chapter;

14. "Building principal" means a building or buildings in which the principal use of the building site is conducted. In any residential district, any dwelling shall be deemed to be the principal building on the building site;

15. "Bulletin board" means any sign announcing the activities of an educational, religious, institutional, or similar use;

16. "Cemetery" means land used or intended to be used for the burial of the human dead and dedicated for cemetery purposes;

17. "Child care center" means any place, home or institution other than schools or churches which receives three (3) or more children under the age of sixteen (16) years for care apart from their natural parent, legal guardians or custodians, and received for regular periods of time for compensation;

18. "City Council" means the official governing body of the city;

19. "City planning commission" means the Perry City Planning Commission, as established by the statutes. The city planning commission shall also be the zoning commission for the city;

20. "Clinic" means a place used for the care, diagnosis and treatment of sick, ailing, infirm and injured persons and those in need of surgical or medical attention but who are not customarily provided with board and room or kept overnight on the premises;

21. "Club" means a nonprofit association of persons who are bona fide members, paying regular dues, and organized for some common purpose, but not including a group organized solely or primarily to render a service customarily carried on as a commercial enterprise;

22. "Comprehensive plan" means the official city plan of the city; also refers to the specific document, "Comprehensive Plan of Perry, Oklahoma";

23. "Convalescent home" means a nursing home, a rest home, a home for the aged, recuperating, chronically ill, or incurable persons, in which two (2) or more persons not of the immediate family are received, kept, or provided with food and shelter or care for compensation, but not including hospitals, clinics, or similar institutions devoted primarily to the diagnosis and treatment of disease or injury;

24. "Coverage" means the lot area covered by all buildings located thereon including the area covered by all overhanging roofs;

25. "Dwellings" means any building or portion thereof designed or used as a residence of one or more persons, but not including a tent, cabin, boarding or rooming house, hotel, or motel;

26. "Dwelling, single-family" means a building containing one dwelling unit and designed for or used exclusively by one family;

27. "Dwelling, two-family" means a building containing two (2) dwelling units and designed for or used exclusively by two (2) families; also includes the word "duplex";

28. "Dwelling, multi-family" means a building or portion thereof containing three (3) or more dwelling units and designed for or used by three (3) or more families; also includes the word "apartments";

29. "Dwelling unit" means a room or group of rooms arranged, intended, or designed as a habitable unit, containing kitchen, bath and sleeping facilities for not more than one family living independently of any other family;

30. "Essential services" means the erection, construction, alteration or maintenance by public utilities or municipal or other governmental agencies of underground or overhead gas, electrical, steam or water transmission or distribution systems, collection, communication, supply or disposal systems, including poles, wires, mains, drains, sewer, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories thereof, reasonably necessary for the furnishing of adequate services by such public utilities or municipal or other governmental agencies or for the public health or safety or general welfare, but not including buildings;

31. "Family" means a person living alone or two (2) or more persons related by blood or marriage, living together as a single housekeeping unit, for culinary purposes, as distinguished from a group occupying a boardinghouse, lodging house, hotel or motel;

32. "Floor area" means the sum of the gross horizontal areas of the several floors of a building or buildings, measured from the exterior faces of the exterior walls or from the center lines of walls separating two (2) buildings;

33. "Frontage" means the lineal measurement of a lot boundary which is abutting a street;

34. "Garage apartment" means a dwelling for one family erected as a part of a private garage;

35. "Garage, parking" means any building or portion thereof used for the storage of four (4) or more automobiles in which any servicing which may be provided is incidental to the primary use for storage purposes, and where repair facilities are not provided;

36. "Garage, public or for repair" means the structure or portion thereof, other than a private garage, used for the storage, sale, hire, care, repairing or refinishing of any vehicles;

37. "Garage, private" means a detached accessory building or a portion of the principal building used or intended for use by the occupants of the premises for storage of passenger vehicles or trailers;

38. "Home occupation" means any occupation carried on solely by the inhabitants of a dwelling which is clearly incidental and secondary to the use of the dwelling for dwelling purposes, which does not change the character thereof, and which is conducted entirely within the main or accessory building; provided that no trading and merchandising is carried on and in connection with which there is no display of merchandise or advertising sign other than one non-illuminated name plate, not more than two (2) square feet in area, attached to the main or accessory building, and no mechanical equipment is used except such as is customarily used in purely domestic or household purposes. A tearoom, restaurant, rest room, clinic, barber shop, doctor's or dentist's office, childcare center, tourist home or cabinet shop, metal shop, lawn mower repair, or auto repair garage shall not be deemed a home occupation;

39. "Hotel" means a building or group of buildings containing six (6) or more sleeping rooms occupied or intended or designated to be occupied as the more or less temporary abiding place of persons who are lodged with or without meals for compensation;

40. "Industry" means the storage, repair, manufacture, preparation or treatment of any article, substance, or any commodity for commercial use;

41. "Institutional uses" means those uses organized established, used, or intended to be used for the promotion of a public, religious, educational charitable, cultural, social, or philanthropic activity and normally operated on a nonprofit basis;

42. "Junk or salvage yard" means a place where waste, discarded or salvage materials are bought, sold, exchanged, bailed, packed disassembled or handled, including all wrecking yards, house wrecking yards, used lumber yards and places or

yards for storage of salvaged house wrecking and structural steel materials and equipment; but not including such places where such uses are conducted entirely within a completely enclosed building, and not including pawnshops and establishments for the sale, purchase or storage of used furniture and household equipment, used cars in operable condition, or salvage material incidental to manufacturing operations;

43. "Kennel" means any structure or premises on which three (3) or more dogs are kept;

44. "Loading space" means a space on the same lot as the principal use of at least ten (10) feet in width and thirty (30) feet in length and having a vertical clearance of at least fourteen (14) feet, designated for the temporary parking of commercial vehicles while loading or unloading merchandise or materials;

45. "Lot or parcel" means a piece or parcel of land occupied or intended to be occupied by a principal building or a group of such buildings and accessory buildings or utilized for a principal use and uses accessory thereto, together with such open spaces as required by this chapter, and having access on a public street;

46. "Lot, corner" means a lot which has at least two (2) adjacent sides abutting on a street;

47. "Lot, depth" means the horizontal distance between the front and rear lot lines;

48. "Lot, double frontage" means a lot having a frontage on two (2) nonintersecting streets, as distinguished from a corner lot;

49. "Lot, interior" means a lot other than a corner lot;

50. "Lot, line" means any boundary of a lot;

51. "Lot line, front" means the boundary of a lot which abuts a public street, where the lot abuts more than one street, the owner may select the front lot line;

52. "Lot line, rear" means the boundary of a lot which is most distant and most nearly parallel to the front lot line;

53. "Lot line, side" means any boundary of a lot which is not a front lot line or a rear lot line;

54. "Lot, wedge shaped" means a lot situated so that the front is either wider or narrower than the rear of the lot;

55. "Lots of record" means a separate and distinct parcel designated on a legally recorded subdivision plat or a legally recorded deed filed in the records of Noble County, State of Oklahoma;

56. "Mean lot elevation" means the average elevation of a lot;

57. "Medical facilities" means:

a. Dental or medical clinic or doctor or dentist offices: A building used for the examination and treatment of the physically ill;

b. Hospital: An institution providing physical and mental health services primarily for human inpatient medical or surgical care for the sick or injured, and including related facilities such as laboratories, outpatient departments, training facilities, central service facilities, and staff offices which are an integral part of the facilities;

c. Nursing homes, rest, or convalescent homes; and

d. Public Health Center: A facility primarily utilized by a health unit for providing public health services, including related facilities;

58. "Mobile Home" means a manufactured, detached structure not meeting the one-and two-family structure requirements of the building code, but which is originally designed, constructed, and used for long-term occupancy as a complete single-family dwelling, is mounted on a permanent chassis with wheels attached thereto which is transportable in one or more components or two (2) or more units separately towable but designed to be joined into one integral unit, complete and ready for occupancy, except for minor and incidental unpacking and assembly operations, location on piers or permanent foundations, skirting, connection to utilities and similar operations. Mobile homes shall have a steel frame and are tied down with straps and rest on blocks or similar foundation, footing or stem wall.

Motor Homes, Travel trailers and Camping trailers are not deemed Mobile Homes for the purpose of this Section (See Section 12-205.58 and Section 12-222).

59. "Mobile home park" means a parcel of land which has been planned and improved for placement of mobile homes to be occupied as residences;

60. "Mobile home lot" means a portion of a mobile home park allocated to the exclusive use of the occupants of a single mobile home;

61. "Motel" means an area containing one or more buildings designed or intended to be used as temporary sleeping facilities;

62. "Open space" means an area included in any side, rear, or front yard, or any other unoccupied space on a lot that is open and unobstructed to the sky except for the ordinary projection of cornices and eaves of porches;

63. "Story" means that portion of a building included between the surface of any floor and the surface of the floor next above it; or, if there be no floor above it, then the space between the floor and the ceiling next above it;

64. "Street" means a public right-of-way which provides the primary public means of access to abutting property and used primarily for vehicular circulation;

65. "Structural alteration" means any change in the structural members of a building, such as walls, columns, beams, or girders;

66. "Structure" means anything constructed, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground (not including sidewalks, driveways, and similar improvement area);

67. "Trailer" means a portable or mobile unit, other than a mobile home, used or designed to carry or transport material or animals;

67A. "Recreation Vehicle" means all vehicles and portable structures built on a chassis, designed as a temporary or permanent dwelling for travel, recreational, and vacation use,

including but not limited to travel trailers, camping trailers, motor homes and toy haulers. Recreation Vehicles shall be permitted in a mobile home park. The Recreation Vehicle must be capable of be towed or movement under its own power. Wrecked, damaged or dilapidated Recreation Vehicles shall not be permitted within the City if the Building Official shall determine if a Recreation Vehicle is damaged or dilapidated to a point which makes said Recreation Vehicle unfit for human occupancy on either a temporary or permanent basis. At a minimum, all Recreation Vehicles used for temporary or permanent dwelling purposes shall contain an operable sink, shower, and toilet;

68. "Yard" means a required space on a lot unobstructed except as expressly permitted;

69. "Yard front" means a yard extending across the full width of a lot from side lot line to side lot line abutting on a street, into which a building may not protrude;

70. "Yard rear" means a yard extending across the rear of a lot measured from side lot line to side lot line; and

71. "Yard side" means a yard extending from front yard to the rear yard abutting the side lot line, into which no building may protrude.

72. Zero Lot line shall mean the location of a building on a lot in such a manner that one of the building's sidewalls rests directly on a lot line.

DIVISION 2

ESTABLISHMENT OF DISTRICTS

Section 12-210 ZONING DISTRICTS ESTABLISHED.

For the purpose of this chapter and the promotion of public health, safety and general welfare of the community, the following districts are hereby established for the city:

- A. A-G agricultural district;
- B. R-G residential district;
- C. R-1 single-family residential district;

- D. C-0 commercial office district
- E. C-1 commercial zoning district
- F. C-2 general commercial zoning district
- G. C-3 commercial business district
- H. C-4 planned commercial district
- I. C-5 planned commercial district
- J. I-1 industrial district.
- K. I-2 industrial district.
- L. SU special use district
- M. PUD planned unit development district

Section 12-211 ZONING MAP INCORPORATED.

The locations and boundaries of the zoning districts shall be as provided in the "Zoning Map of the City of Perry, Oklahoma" ("Zoning Map"), dated the 15th day of August 2011, which Zoning Map is hereby attached, incorporated as a part of this chapter and on file in the Office of the City Clerk.

Section 12-212 DISTRICT BOUNDARIES ESTABLISHED.

The boundaries of a zoning district shall extend to a center line of abutting streets, regardless of the legal description used in establishing such districts. In the event of uncertainty in the exact boundaries of any of the districts as shown on the "Zoning Map of the City of Perry" the planning commission, upon written application or upon its own motion, shall recommend the location of such boundaries to the board of adjustment, and the board of adjustment shall make the final determination.

Section 12-213 MAINTENANCE OF OFFICIAL ZONING MAP.

It shall be the duty of the zoning administrator to maintain an up-to-date official "Zoning Map of the City of

Perry, Oklahoma", including all amendments directly adopted by the City Council.

Section 12-214 PERRY FAMILY FRIENDLY DISTRICT

Whenever the term "Perry Family Friendly District" is used in this municipal code, it shall refer to the real property and buildings embraced within the following legal description:

All of Lots One (1) and Two (2) in Block Nine (9), in the ORIGINAL TOWNSITE OF PERRY, County of Noble, State of Oklahoma, according to the recorded Plat thereof, and

Beginning at the Southeast corner of the intersection of Fir Street and Eighth Street, thence South to the Northeast corner of the Intersection of 8th Street and Ash Street, thence East to the intersection of Ash Street and the Burlington Northern Sante Fe Railroad Right-of-Way, thence Northeast along the west boundary line of the Burlington Northern Sante Fe Railroad right-of-way to the intersection of the west boundary line of the Burlington Northern Sante Fe Railroad right-of-way and the Alley running East And West and lying between Fir Street and Grove Street, thence West to 8th Street, thence South along 8th Street to the point of beginning which is the Southeast corner of the intersection of Fir Street and Eighth Street and as further shown on a map on file in the Office of the City Clerk and incorporated herein by reference.

DIVISION 3

GENERAL PROVISIONS APPLYING TO ALL OR TO SEVERAL DISTRICTS

Section 12-220 APPLICATION OF REGULATIONS IN DISTRICTS AUTHORIZED.

No land, building structure, or improvement shall be used and no building, structure or improvement shall be made, erected, constructed, moved, altered, enlarged, or rebuilt which is designed, arranged, or intended to be used or maintained for any purpose or in any manner except in accordance with the use, height, area, coverage, yard, space, and other requirements established in the district in which such land, building, structure, or improvement is located, and such use is authorized, except as provided by Article 2, Division 4, entitled "Non-conformities".

Section 12-221 USE OF YARDS AND DIVISION OF LOTS.

A. No building, structure, or improvement shall be permitted to encroach upon required yard spaces set forth in the provisions of this chapter; provided, however, that surfaced parking facilities, signs, fences, and gasoline pumping service units may be permitted to occupy required yard space unless otherwise prohibited in those districts permitting such improvements and provided that no inoperative vehicle may be stored in the front yard of a lot in a residential district.

B. An improved lot shall not hereafter be divided into two (2) or more lots unless all lots resulting from such division comply with all the applicable yard, space, area, parking and loading regulations of the zoning district in which located.

Section 12-222 STORAGE AND PARKING OF TRAILERS AND COMMERCIAL VEHICLES IN RESIDENTIAL DISTRICTS.

Commercial vehicles and trailers of all types, including travel, camping and hauling, and mobile homes shall not be parked or stored on any lot occupied by a dwelling or on any lot in any residential district except in accordance with the following provisions:

A. No more than one commercial vehicle, which does not exceed two and one-half (2 ½) tons rated capacity, per family living on the premises shall be permitted; and in no case shall a commercial vehicle used for hauling explosives, gasoline, or liquefied petroleum products to be permitted;

B. Except as otherwise provided by Section 12-264, no more than one camping or Recreation Vehicle or hauling trailer per family living on the premises shall be permitted. A camping or Recreation Vehicle shall not be occupied permanently while it is parked or stored in any area within the incorporated limits, except in a mobile home or trailer park authorized under the ordinances of the city, except as provided for in Section 12-223;

C. A mobile home shall be parked or stored only in a mobile home park or as provided by Section 12-247.

Section 12-223 DISPLAY OF TRAILERS IN COMMERCIAL AND INDUSTRIAL DISTRICTS.

Commercial vehicles and trailers of all types may be displayed in such commercial districts allowing sales of the vehicles or in such industrial districts allowing the manufacture; provided, however, the vehicles may not be used for dwelling purposes either temporarily or permanently, except as provided in Section 12-247, or in a mobile home park authorized under this Code, or in a Recreation Vehicle Park authorized by Section 12-264.

Section 12-224 SPECIFICATIONS FOR SCREENING WALL OR FENCE.

When the provisions of this chapter require the construction of a screening wall or fence as a condition for the initiation and subsequent continuance of a use, the screening wall or fence:

A. Shall be constructed, designed, and arranged to provide visual separation of uses, irrespective of vegetation;

B. Shall not be less than five (5) feet nor more than eight (8) feet in height; and

C. Shall be constructed with all braces and supports on the interior.

Section 12-225 MAINTENANCE OF SCREENING WALL OR FENCE.

The screening wall or fence shall be maintained by the owner of the zoning lot containing the use requiring the construction of the screening. Failure to maintain after notice by the zoning administrator shall constitute an offense hereunder.

Section 12-226 SEWER SERVICE.

No structure or use in any district shall be erected or commenced which does not have a connection to the public sewer system, unless and until the county public health officer certifies that a septic tank or any substitute disposal system can be installed and operated effectively. As a basis for making his decision, the public health officer may require such percolation tests as he deems to be necessary. Such tests are to be made at the expense of the property owner.

Section 12-227 PARKING SPACE DEFINED.

The term "parking space," as used in this Division, shall mean a parcel of land or a stall Two Hundred (200) square feet in area, exclusive of drives, lanes or aisles, provided with an unobstructed access thereto from a public street, alley or other open space approved by the city.

Section 12-228 OFF-STREET PARKING REQUIRED.

In all residential, commercial and industrial use districts, parking space, as defined herein, shall be provided and maintained as accessory to every principal use, building or structure enumerated in this Division, whenever the principal use, building or structure is hereafter erected or enlarged.

Section 12-229 SCHEDULE OF PARKING SPACE REQUIREMENTS.

For buildings or structures containing more than one occupancy use, the total number of parking spaces required shall be the sum of the number of parking spaces for each individual occupancy or use. Such parking space shall be provided for any principal use, building, or structure, in compliance with the following schedule of requirements:

A. Assembly halls, convention halls, exhibition halls, auditoriums, lecture halls, theaters, stadiums, and any other places of indoor or outdoor assembly: Parking spaces required: One for each four (4) fixed seats, or one for each sixty (60) square feet of assembly floor space where the seats are not fixed, with a minimum of four (4).

B. Automobile washing stations, parking spaces required: Four (4) reserve spaces per washing stall.

C. Automobile service stations, parking spaces required: One for each thousand (1,000) square feet of gross lot area, with a minimum of two (2).

D. Barber shops and beauty shops, parking spaces required: Two for each chair, with a minimum of two (2).

E. Bowling alley, parking spaces required: Four (4) for each lane, plus one per three hundred (300) square feet of gross floor area used for other purposes.

F. Childcare centers or nursery schools, parking spaces required: Two (2) for each three (3) employees, plus one for each six (6) children that the center is licensed to accommodate.

G. Churches, or places of worship, parking spaces required: One for each five seats, at maximum capacity, with a minimum of four (4).

H. Cleaners, automatic self-help, parking spaces required: One for each two (2) washing or cleaning machines, or one for each one hundred (100) square feet of gross floor area, whichever is the greater.

I. Drive-in windows, parking spaces required: Four (4) reserve spaces per Drive-in window.

J. Dwellings, parking spaces required:

1. Single-family, one per bedroom with a minimum of two (2).

2. Multiple-family, two (2) per unit in the dwelling with a minimum of four (4).

K. Group Home: A group home is a facility, licensed by the State of Oklahoma, providing housing services to persons with developmental disabilities. For purposes of zoning, a Group Home providing housing services to five (5) or fewer persons not including staff, shall be considered a single family. One off-street parking space for each staff member calculated on the basis of the maximum on duty at any one time, and one parking space for each four residents.

L. Home occupation, parking spaces required: One (1) in addition to the space required for such residential dwelling.

M. Hotels, transient, parking spaces required: One per thousand (1,000) feet of gross floor area, or one per bedroom, whichever is the greater.

N. Libraries and art galleries, parking spaces required: One for each one hundred (100) feet of floor area with the minimum of two (2).

O. Manufacturing, warehousing, or wholesaling, parking spaces required: Three-fourth space per each employee, calculated on the basis of maximum employees on duty at any one time.

P. Medical clinics, parking spaces required: One for each one hundred fifty (150) feet of gross floor area, with a minimum of three (3).

Q. Mortuaries and funeral homes, parking spaces required: One for each one hundred (100) square feet of gross floor area, or one for each three (3) seats in assembly area, whichever is greater, with a minimum of three (3).

R. Motels, parking spaces required: One per sleeping room.

S. Office buildings, parking spaces required: One for each four hundred (400) square feet of gross floor area, with a minimum of four (4).

T. Passenger stations, parking spaces required: Two (2) per one hundred (100) square feet of waiting area.

U. Private clubs, parking spaces required: One for each four (4) seats provided for customer use, plus one per employee.

V. Public housing (low income), parking spaces required: One per dwelling unit with a minimum of two (2).

W. Retail stores, parking spaces required:

1. Retail stores either free standing or in a shopping center of less than 25,000 square feet parking spaces required: One for each two hundred (200) square feet of floor area (unless otherwise specifically mentioned herein).

2. Retail shopping centers having gross leasable area of over 25,000 square feet, parking spaces required: 4.5 for each 1000 square feet of gross leasable area (One for each two hundred twenty-two square feet of floor area).

X. Restaurants, parking spaces required: One for each four (4) seats provided for customer use, plus one per employee.

Y. Rest homes, philanthropic, rooming homes, asylums, hospitals, sanitariums, parking spaces required: One for each (4) beds, or one for each bedroom, whichever is greater, with a minimum of four (4).

Z. Rooming or boarding houses, one for each two hundred (200) square feet of gross floor area, or one per bedroom, whichever is greater, with a minimum of four (4).

AA. Schools, parking spaces required:

1. Elementary or junior high, one for each classroom and two (2) for each office, with a minimum of four (4).

2. Other schools, a maximum combination of two (2) for each classroom, plus one for each five (5) auditorium seats, with a minimum of four.

BB. Parking for physically disabled for business or industrial districts: One space for each 25 spaces provided with a minimum of one or otherwise provided by the City's building code.

Section 12-230 DEVELOPMENT AND USE OF PARKING SPACES.

The development and maintenance of the premises for the parking of motor vehicles shall be in compliance with the following:

A. Parking spaces as regulated herein shall not be reduced in number or size.

B. In all off-street parking areas containing more than three (3) parking spaces, ingress and egress shall be provided in a manner that will prevent vehicles from backing directly into the traffic lanes of any highway or major arterial.

C. Parking places shall be surfaced in accordance with specifications approved by the City Council to prevent the raising of dust.

D. All lights used to illuminate such parking spaces shall be installed to prevent glare into abutting property.

E. Required parking spaces for property used for residential purposes shall be located on the same lot as the principal building

or upon an adjoining lot. Required parking places for property other than that used for residential purposes shall be located on the same lot as the principal building or on an adjoining lot, except that if insufficient space exists on the same adjoining lot, all or any part of the required parking spaces may be located in any area which permits parking, within three hundred (300) feet of the principal building measured along lines of public access from the nearest boundary of the parking area to the principal building entrance without crossing an arterial street, provided that the location and plan of operation of said parking area shall be approved by the governing body after due hearing and provided further, that a copy of such approval together with any conditions or limitations attached thereto, shall be recorded with the county register of deeds, and shall be covenant running with the land as long as the uses of the premises require the parking. For the purpose of this article, lots separated only by an alley, easement, or street, shall be considered as adjoining lots.

F. Land designated as the required parking area shall be considered as a part of the site of the principal building and the certificate of occupancy for any such principal building shall be valid only during such time as the required number of parking spaces are provided in accordance with this article, and where the parking spaces are on adjoining or other lots other than the one upon which the principal use is located, the certificate of occupancy shall so state and shall be recorded in the office of the register of deeds of the county.

G. Joint use of required parking space by non-conflicting uses is to be encouraged and shall be permitted provided that the maximum parking demands of joint uses occur at non-overlapping times. Joint use parking facilities may carry a zoning designation of either principal use.

Section 12-231 COMMERCIAL AND PUBLIC PARKING STANDARDS FOR NEW CONSTRUCTION.

(1) Paving. All commercial and public off-street parking areas, aisles, and access driveways shall be permanently paved with hard surfaced pavement. The requirement of hard surfacing may be waived by the City Council in certain storage areas or low traffic access isles if it is determined that the public convenience, health or safety is not affected. Such areas must however be surfaced with four (4) inches of gravel on a four-inch base of stabilized subgrade or the equivalent thereto, which has been approved by the City Street Commissioner. All portions of commercial and public access driveways on public right-of-way connected to paved streets for which the grade has been established must be permanently paved with hard-surfaced pavement and comply with all City codes relating to driveway construction. See Paving

Specifications for the City of Perry for details. Permanent hard-surfaced pavement shall mean a surface covering which shall meet or exceed the following minimum standards:

(a) Two (2) inches of hot asphaltic concrete on a four-inch base of stabilized aggregate or the equivalent thereto, which has been approved by the City Manager or designee.

(b) Four (4) inches of Portland cement concrete on a two-inch sand cushion base or the equivalent thereto, which has been approved by the City Manager or designee.

(c) All portions of access driveways on public right-of-way: Six (6) inches of Portland cement concrete on a three-inch sand cushion or the equivalent thereto, which has been approved by the City Manager or designee.

(2) Striping. Hard surfaced off-street parking areas shall be designed to provide systematic and orderly circulation, traffic separation devices, and parking spaces in accordance with this section and with sound traffic engineering practices.

(a) No striping shall be required on lots having only single-family, duplex, triplex or four-plex residential structures. Such parking shall have a minimum of two hundred (200) square feet provided for each parking space.

(b) All off-street parking spaces and means of ingress and egress requiring striping shall be laid out on the parking surface with minimum four inch (4") wide paint or plastic striping which provide a permanent delineation between spaces, aisles, and surrounding structures and land.

(3) Dimensions: The following minimum standards shall be followed for all hard-surfaced parking areas.

AT VARIOUS ANGLES WITH ONE-WAY AISLES

A	B	C	D	E	F	G
45°	10.0'	21.2	14.1	15.0	57.4	50.4
60°	10.0'	22.3	11.5	18.5	63.1	58.1
75°	10.0'	21.9	10.4	22.0	65.8	63.2

AT VARIOUS ANGLES WITH TWO-WAY AISLES

A	B	C	D	E	F	G
45°	10.0'	21.2	14.1	22.0	64.4	67.4
60°	10.0'	22.3	11.5	18.4	63.0	62.6
75°	10.0'	21.9	10.4	24.0	67.8	65.5



<u>A.</u>	<u>Stall Angle</u>	<u>E.</u>	
	<u>Aisle Width</u>		
<u>B.</u>	<u>Stall Width</u>	<u>E.</u>	
	<u>Wall to Wall Width for Double Aisle</u>		
<u>C.</u>	<u>Vehicle Projection for 18' Stall Length</u>	<u>G.</u>	<u>Overlap Center to Overlap Center Width</u>
<u>D.</u>	<u>Curb Length per car</u>		<u>for Double Aisle</u>

PARKING LAYOUT DIMENSIONS
(MINIMUM STANDARDS)
AT 0 AND 90 DEGREE ANGLES

A	B	C	D	E	F
0°	8'0"	8.0	22.0	12.0	28.0 (one-way)
				(24.0)	(40.0) (two-way)

A	B	C	D	E	F
90°	9.0'	18.0	9.0	24.0	60.0
	10.0'	20.0	10.0	24.0	60.0

- A. Stall Angle
- B. Curb Length Per Car
- C. Stall Width
- D. Aisle Width
- E. Vehicle Projection for 18' Stall Length
- F. Wall to Wall Width for Double Aisle

(4) Separation from Public Right-of Way. All off-street parking areas, aisles, and access driveways that abut public street right-of-way shall have concrete header curb, bumper or landscape timbers designed so that vehicles do not overhang public rights-of-way or adjacent property.

(5) Lighting. All lighting equipment used in illumination of off-street parking areas shall not create a nuisance or hazard for streets or adjoining properties.

(6) Clearance:

(a) There shall be a minimum vertical clearance free of all obstructions to a height of eight (8) feet for all portions of any off-street parking space, except when off-street parking spaces are provided in a parking structure, a residential garage or carport. No obstruction shall project into this minimum clearance.

(b) There shall be no obstruction within or near the bounds of any required off-street parking space which would interfere with the normal availability and use thereof.

D. Handicapped Parking.

(1) Parking spaces for vehicles with handicapped drivers shall be provided in accordance with the following table. Said spaces shall be included in the computation of required spaces as specified by this section.

HANDICAPPED PARKING SPACES

Total Parking in Lot
Required Number of Accessible Spaces

Up to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2%
of total Over 1,000	
20, plus 1 for each 100 over 1,000	

(2) Each and every required handicapped parking space shall be posted by the display of a standard international handicapped wheelchair symbol sign or legend not less than twelve (12) inches by eighteen (18) inches in size

permanently mounted above ground immediately in front of said spaces not more than eight (8) feet from the parking surface to the bottom of the sign.

Section 12-232 RESIDENTIAL PARKING AREA CONSTRUCTION STANDARDS.

(1) Paving. All residential off-street parking areas, aisles, and access driveways shall be permanently surfaced with appropriate material so as to prevent the raising of dust and pooling of water. The requirement of surfaced access driveways may be waived by the City Council in areas not designated for development and in other areas if it is determined that the public convenience, health, or safety is not affected. Otherwise, all portions of residential access driveways connected to paved streets for which the grade has been established must be permanently surfaced and comply with this code. All portions of access driveways on residential public right-of-way having curbed streets shall conform to (c) or (d) below and shall otherwise conform to the standard curb opening in the paving specifications for the City of Perry.

Permanent surfacing shall mean a surface covering which is sloped and drained so as to prevent standing pools of water and which shall meet or exceed the following minimum standards:

(a) Four (4) inches of compacted screenings on a four-inch base of stabilized subgrade or the equivalent thereto, which has been approved by the City Manager or designee or

(b) Four (4) inches of gravel contained by timbers or other curbing around its perimeter on a four-inch base of stabilized subgrade or the equivalent thereto, which has been approved by the City Manager or designee or

(c) Two (2) inches of hot asphaltic concrete on a four-inch base of stabilized aggregate or the equivalent thereto, which has been approved by the City Manager or designee or

(d) Four (4) inches of Portland cement concrete on a two-inch sand cushion base or the equivalent thereto, which has been approved by the City Manager or designee.

(2) Separation from Adjoining Property: All off-street parking areas, aisles, and access driveways shall have concrete header curb, bumper, landscape timbers or otherwise designed so that vehicles do not overhang adjacent property and so that

entering and exiting vehicles do not require access or overhang onto adjoining property. The driveway turn radius shall not be in front of adjacent property without the written permission of the adjacent property owner.

(3) Required area for parking space: In all parking areas not requiring striping, a minimum of two hundred (200) square feet shall be provided for each parking space.

Section 12-233 POWER-GENERATION TOWER OR STRUCTURE; HEIGHT LIMITATION AND OTHER RULES; PLACEMENT OF SOLAR PANELS.

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

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

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

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

towers and structures may not be attached or affixed to any residential structures.

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

D. Solar panels may be placed on roofs of structures of the owners using the electric power generated, pursuant to the permitting process provided in subsection E and relevant resolutions of the City or its authority, and no solar panels shall be erected on empty lots (solar farms) or on the front or side yards of any lot visible from the street.

E. No Power-Generating Tower or Structure or Solar Panel shall be placed within the City of Perry without filling out the application at City hall permitting its erection and placement and full compliance with this section and all other provisions contained in this municipal code. The permit fee shall be One Hundred Dollars (\$100.00).

Section 12-234 FRONT YARD AND REAR YARD CARPORTS

A. Notwithstanding any provision to the contrary found in the Perry Municipal Code 2022, as amended, front yard and rear yard carports (hereinafter collective referred to as "carports") that meet the terms of this section shall be administratively approved, after filing an application and paying the applicable permit fee, when placed in an A-G Agricultural District, R-G Residential District and/or a R-1 Single-Family Residential District". A carport shall:

1. not exceed 400 hundred square feet;
2. be set back at least five (5) feet from the near edge of the adjacent sidewalk, if any, and at least ten (10) feet from the curb, or edge of roadway if no curb is present; provided in any event, the setback shall be at least five feet (5') from the front right of way line. In addition, with respect to properties

served by alleys, carports placed in the rear of the property, such carports shall be setback at least two feet (2') from rear property line;

3. meet the same side setbacks as the principal use;

4. not have side panels or screens in the area between grade level and sixty (60) inches above grade level but may have one enclosed side only if the enclosed side is a shared wall with a principal or accessory structure;

5. not interfere with sight distance;

6. be anchored according to the manufacturer's specifications; provided however, if the manufacturer provides no specifications for anchoring, the carport shall be anchored to concrete piers extending at least thirty (30) inches below grade;

7. not jeopardize the health and safety of adjacent property, people, and users of the City's rights-of-way, including but not limited to, public and private utility infrastructure, public works infrastructure, pedestrians and drivers.

8. not be:

a. Clad in unpainted or galvanized metal;

b. Made of non-durable and/or flexible materials, including but not limited to, canvas, plastic, polyester or other tent-like materials.

c. Used for open storage of materials in violation of Section 8-412 of the Perry Municipal Code, 2022, as amended.

B. Pre-made carports that are less than two hundred (200) square feet are exempt from building permits but shall follow all other provisions of this section.

C. All lawfully existing carports in place at the time this section is adopted are deemed legal non-conforming use; provided, if the carport is ever moved or removed from its current location, it must come into compliance with the section.

DIVISION 3A

SEXUALLY ORIENTED BUSINESSES

Section 12-235 DEFINITIONS.

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

Employee means a person who performs any service on the premises of a sexually oriented business on a full-time, part-time or contract basis, whether or not the person is considered an employee, independent contractor, agent or otherwise. Whether or not such person is paid salary, wages, tips, or other compensation by the operator or by the customers of such business shall not change the defined status as an "employee." Employee does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to or the removal of waste from the premises.

Escort means a person who, for wage, fee, tip, or other consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

Escort agency means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one (1) of its primary business purposes for a fee, tip, or other consideration.

Establishment means and includes any of the following:

- (1) The opening or commencement of any sexually oriented business as a new business;
- (2) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;
- (3) The addition of any sexually oriented business to any other existing sexually oriented business as defined under this ordinance; or
- (4) The relocation of any sexually oriented business.

Licensee means a person in whose name a license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a license; and in the case of an employee, a person in whose name

a license has been issued authorizing employment in a sexually oriented business.

Nude model studio means any place where a person who appears in a state of nudity or semi-nudity, or who displays "specified anatomical areas" and is provided to be observed, sketched, drawn, painted, sculptured, photographed, similarly depicted by other persons who pay money or any form of consideration. Nude model studio shall not include a) a proprietary school licensed by the State of Oklahoma or a college, junior college or university supported entirely or in part by public taxation; b) a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or c) in a structure:

(1) That has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing; and

(2) Where in order to participate in a class, a student must enroll at least three (3) days in advance of the class; and

(3) Where no more than one (1) nude or semi-nude model is on the premises at any one (1) time.

Nudity or a state of nudity means the showing of the human genitals, pubic area, vulva, anus, anal cleft with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered genitals in a discernibly turgid state.

Person means an individual, proprietorship, partnership, corporation, association, or other legal entity.

Sexual encounter center means a business or commercial enterprise that, as one (1) of its principal business purposes, offers for any form of consideration:

(1) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or

(2) Contact activities between male and female persons and/or persons of the same sex when one (1) or more of the persons is in a state of nudity.

Sexually oriented arcade means any place to which the public is permitted or invited wherein coin-operated, token-operated, or for any form of consideration, or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, video or laser disc players, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one (1) time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas."

Sexually oriented bookstore, novelty store or video store mean a commercial establishment which, as one (1) of its principal purposes, offers for sale or rental for any form of consideration any one (1) or more of the following:

(1) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; or

(2) Instruments, devices, or paraphernalia which are designed for use in connection with "specified sexual activities."

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing "specified sexual activities" or "specified anatomical areas" and still be categorized as sexually oriented bookstore, novelty store, or video store. Such other business purposes will not serve to exempt such commercial establishments from being categorized as a sexually oriented bookstore, novelty store or video store so long as one (1) of its principal business purposes is the offering for sale or rental for consideration the specified materials which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas." Provided that if such materials are rented for use on site, the business shall be considered either a sexually oriented arcade or a sexually oriented theater.

Sexually oriented business means any arcade, bookstore, novelty store, video store, cabaret, motel, theater, escort agency, nude model studio, sexual encounter center, or other business where live performances or recorded media in any form, or various

devices are used or made available, for any consideration, to patrons for use in or viewing of specified criminal activity or specified sexual activity.

Sexually oriented cabaret means a nightclub, bar, restaurant, auditorium, concert hall, or similar commercial establishment which regularly features:

- (1) Persons who appear in a state of nudity or semi-nudity; or
- (2) Live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities." Provided that the provision of films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas," in addition to live entertainment shall not change this classification of business.

Sexually oriented motel means a hotel, motel, or similar commercial establishment which:

- (1) Offers accommodations to the public for any form of consideration, and i) provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; and ii) has a sign visible from the public right-of-way which advertises the availability of this adult type of graphic reproductions;
- (2) Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or
- (3) Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours.

Sexually oriented theater means a commercial establishment designed to accommodate audiences of more than five (5) persons where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

Specified anatomical areas means:

(1) The human genitals in a discernibly turgid state even if completely and opaquely covered; or

(2) Less than completely or opaquely covered human genitals, pubic area, vulva, anus, or anal cleft.

Specified criminal activity means any of the following offenses:

(1) Prostitution or promotion of prostitution; dissemination of obscenity; sale, distribution or display of harmful material to a minor; sexual performance by a child; possession or distribution of child pornography; public lewdness; indecent exposure; indecency with a child; engaging in organized criminal activity; sexual assault; molestation of a child; regardless of how denominated, any offense for which a convicted person must register as a sex offender; gambling; or distribution of a controlled substance; or any similar offenses to those described above under the criminal or penal code of other cities, states or countries;

(2) For which:

a. Less than five (5) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor or an offense;

b. Less than ten (10) years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense; or

c. Less than ten (10) years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of A) two (2) or more misdemeanors, or B) any offenses or combination of misdemeanor offenses occurring within any twenty-four (24) month period.

d. The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant or a person residing with the applicant.

Specified sexual activities means any of the following:

(1) The fondling or other erotic touching of human genitals,

pubic area, buttocks, anus, vulva, or breasts;

(2) Sex acts, normal or perverted, actual or simulated, including, but not limited to, intercourse, oral copulation, masturbation, or anal copulation;

(3) Excretory functions as part of or in connection with any of the referenced specified sexual activities.

(4) Physical violence, bondage, mutilation, or rape, actual or simulated, as part of or as related to, any of the specified sexual activities.

Substantial enlargement of a sexually oriented business means the increase in floor areas occupied by the business by more than twenty-five (25) percent, as the floor areas exist on the date the ordinance codified in this chapter takes effect or the date of the most recent permit.

Transfer of ownership or control of a sexually oriented business means and includes any of the following:

(1) The sale, lease, or sublease of the business;

(2) The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or

(3) The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

Section 12-236 ADDITIONAL OPERATOR LICENSE REQUIRED.

A. Sexually oriented businesses shall only be permitted in a C-2 General Commercial Zoning District and/or C-4 Planned Commercial District, but subject to a use by review application and approval, and shall not be permitted within the Perry Family Friendly District or within one thousand (1,000) feet of:

1. Any building primarily and extensively used for worship services and religious activities;

2. Any public or private school;

3. Any public park or playground; or

4. Any public library.

Provided, that if any such building used for worship and religious activities, any public or private school, any public park or playground, or any public library shall be established within one thousand (1,000) feet of any such premises after the premises have been established, this shall not be a bar to the continuation of the business so long as it has been in continuous force and effect. The distance indicated in this subsection shall be measured from the nearest property line of such church or school to the nearest public entrance door of the premises of the sexually oriented business along the street right-of-way line providing the nearest direct route usually traveled by pedestrians between such points. For purposes of determining measured distance, property situated on the opposite side of the street from such church or school shall be considered as if it were located on the same side of the street with such church or school.

B. No person shall operate a sexually oriented business in this city without first providing the following information and documents and obtaining a separate valid sexually oriented business operator license as set forth herein. Such license shall be for a one-year period (January 1 through December 31) and may be renewed annually and such information and documents required herein shall be updated annually as part of this renewal process. This sexually oriented business operator license shall be additional and supplemental to, and not in substitution of, any other requirements imposed by the city, county, state, or federal government to obtain a business license or any other required license or permit.

(1) Any person who wishes to operate a sexually oriented business shall be at least eighteen (18) years of age and shall complete and sign the application for a license as an applicant. If a person other than an individual wishes to operate a sexually oriented business, all persons legally responsible for the operations of the sexually oriented business or who have power to control or direct its operations must each sign the application for a license as applicant. Such persons include, but are not limited to, general partners, corporate officers, corporate directors, and controlling shareholder(s). Each application must be qualified under this chapter and each applicant shall be considered a licensee if a license is

granted.

(2) Additionally, any person wishing to operate a sexually oriented business shall also provide the following information and accompanying documents as required with the application:

a. Whether the applicant, or a person residing with the applicant, has been convicted of a specified criminal activity as defined Section 12-235 and, if so, the specified criminal activity involved, the date, place, and jurisdiction of each conviction. If the applicant does not specify whether the offense was a felony or a misdemeanor, the city shall treat the conviction as it would most likely be defined in Oklahoma. Misdemeanors under state law and offenses under municipal law shall all be considered to be misdemeanors.

b. Whether the applicant, or a person residing with the applicant, has had a previous license under this chapter or other similar sexually oriented business ordinances from another city or county that was denied, suspended or revoked; in these events, applicant shall identify the name and location of the sexually oriented business for which the permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation.

c. Whether the applicant or a person residing with the applicant has been a partner in a partnership or an officer, director or principal stockholder of a corporation that is licensed under this division whose license has previously been denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked as well as the date of denial, suspension or revocation.

d. Whether the applicant, or a person residing with the applicant, holds any other licenses under this division or other similar sexually oriented business ordinance from another city or county and, if so, the names and locations of such other licensed businesses.

(3) A sexually oriented business operator license shall be issued for only one (1) type of sexually oriented business as defined in this division.

(4) A sexually oriented business operator license shall be issued only for one (1) sexually oriented business located at a fixed and certain place. Any person, partnership, or corporation

which desires to operate more than one (1) sexually adult business must have a license for each.

(5) The applicant shall provide information ensuring compliance with the additional operating requirements set forth in Section 12-238.

(6) Within thirty (30) days after receipt of a completed sexually oriented business application, the city shall approve or deny the issuance of a license to an applicant. The city shall approve the issuance of a license to an applicant unless it is determined by a preponderance of the evidence that one (1) or more of the following findings is true:

a. An applicant is under eighteen (18) years of age.

b. An applicant or a person with whom applicant is residing is overdue in payment to the city of taxes, fees, fines, or penalties assessed against or imposed upon him or her in relation to any business.

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

d. An applicant or a person with whom the applicant is residing has been denied a license by the city to operate a sexually oriented business within the preceding twenty-four (24) months or whose license to operate a sexually oriented business has been revoked within the preceding twenty-four (24) months.

e. An applicant or a person with whom the applicant is residing has been convicted of a specified criminal activity defined in this division and within the time frames set forth above.

f. An applicant or a person with whom the applicant is residing is under some form of probation or parole as a result of "specified criminal activity" or must register as a sex offender.

g. The premises to be used for the sexually oriented business have not been approved by the county health department, fire department, and the community development department as being in compliance with applicable laws and ordinances.

h. The license fees required by this division have not been paid.

i. An applicant of the proposed establishment is in violation of or is not in compliance with any of the provisions of this division.

(8) If the city denies an operator's license application or the renewal of such a license, the applicant shall not be issued a license for one (1) year from the date of denial.

(9) The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, the address of the sexually oriented business and the type of sexually oriented business (as defined in this division) for which the license is issued. All business licenses shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that they may be easily read at any time.

Section 12-237 LICENSE FEES.

(a) Every application for a sexually oriented business operator license (whether for a new license or for renewal of an existing license) shall be accompanied by a nonrefundable application and investigation fee in the amount of Five Hundred Dollars (\$500.00).

(b) In addition to the application and investigation fee required above, every sexually oriented business that is granted a separate operator license (new or renewal) shall pay to the city an annual nonrefundable license fee in an amount of One Thousand Dollars (\$1,000.00) within thirty (30) days of license issuance or renewal.

Section 12-238 OPERATING RULES AND REGULATIONS.

All sexually oriented business operator license holders shall comply with the following additional regulations as applicable:

(1) *Sexually oriented motels.*

a. Evidence that a sleeping room in any hotel, motel, or a similar commercial establishment has been rented and vacated two (2) or more times in a period of less than ten (10) hours

creates a rebuttable presumption that the establishment is an adult motel as that term is defined in this division.

b. A person commits an offense if, as a person in control of a sleeping room in a hotel, motel, or similar commercial establishment that does not have a sexually oriented license, he rents or sub-rents a sleeping room to a person and, within ten (10) hours from the time the same room is rented or sub-rented again.

c. For the purpose of subsection B of this section, the terms "rent" or "sub-rent" mean the act of permitting a room to be occupied for any form of consideration.

(2) Exhibition of sexually explicit films, videos, or live entertainment in viewing rooms.

a. A person who operates or causes to be operated a sexually oriented business, other than a sexually oriented motel, which exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, a film, video cassette, live entertainment, or other video reproduction which depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:

1. Upon application for a sexually oriented operator license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one (1) or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed thirty-two (32) square feet of floor area. A professionally prepared diagram in the nature of an engineer's or architect's blueprint under seal shall be required. Each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus three (3) inches. The city may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

2. No alteration in the configuration or location of the manager's station may be made without the prior approval of the city.

3. It is the duty of the licensee of the premises to ensure that at least one (1) employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.

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

5. It is the duty of the licensee to ensure that the view area specified above remains unobstructed by any doors, curtains, partitions, walls, merchandise, display racks or other materials and, at all times, to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted.

6. It is the duty of the employee on duty at the manager's station to ensure that no violations of law involving specified criminal activity, or specified sexual activity, or the distribution of controlled substances occur inside the business premises.

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

8. It is the duty of the licensee to ensure that the illumination described above is maintained at all times that any patron is present in the premises.

9. No licensee shall allow openings of any kind to exist in the walls or partitions between viewing rooms or booths.

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

11. The licensee shall, during each business day, regularly inspect the walls between the viewing booths to determine if any openings or holes exist.

12. The licensee shall cause all floor coverings in viewing booths to be nonporous, easily cleanable surfaces, with no rugs or carpeting.

13. The licensee shall cause all wall surfaces and ceiling surfaces in viewing booths to be constructed of, or permanently covered by, nonporous, easily cleanable material. No wood, plywood, composition board or other porous material shall be used within forty-eight (48) inches of the floor.

b. Any person having a duty identified above commits an offense if he knowingly fails to fulfill that duty.

(3) *Escort agencies.*

a. An escort agency shall not employ any person under the age of eighteen (18) years.

b. A person commits an offense if the person acts as an escort or agrees to act as an escort for any person under the age of eighteen (18) years.

(4) *Nude model studios.*

a. A nude model studio shall not employ any person under the age of eighteen (18) years.

b. A person under the age of eighteen (18) years commits an offense if the person appears in a state of nudity or semi-nudity in or on the premises of a nude model studio. It is a defense to prosecution under this subsection if the person under eighteen (18) years was in a restroom not open to public view or visible to any other person.

c. A person commits an offense if the person appears in a state of nudity or knowingly allows another to appear in a state of nudity in an area of a nude model studio premises, which can be viewed from the public right-of-way.

d. A nude model studio shall not place or permit a bed, sofa, or mattress in any room on the premises; except that a sofa may be placed in a reception room open to the public.

(5) *Public nudity prohibited.*

a. It is an offense for a person who knowingly and intentionally, in a sexually oriented business, appears in a state of nudity or depicts specified sexual activities.

b. It is an offense for a person who knowingly or intentionally in a sexually oriented business appears in a semi-nude condition unless the person is an employee who, while semi-nude, shall be at least five (5) feet from any patron or customer and on a stage raised at least two (2) feet higher than the adjacent floor.

c. It is an offense for an employee, while semi-nude in a sexually oriented business, to solicit any pay or gratuity from any patron or customer or for any patron or customer to pay or give any gratuity directly to any employee while such employee is semi-nude in a sexually oriented business.

d. It is an offense for an employee, while semi-nude, to touch a customer or the clothing of a customer.

(6) *Prohibition against children in a sexually oriented business.* A person commits an offense if the person knowingly allows a person under the age of eighteen (18) years on the premises of a sexually oriented business.

(7) *Hours of operation.* No sexually oriented business, except for a sexually oriented motel, may remain open at any time between the hours of 11:00 p.m. and 9:00 a.m. on weekdays and Saturdays. No sexually oriented business, except a sexually oriented motel, may remain open at any time on Sundays.

Section 12-239 EXEMPTIONS.

(a) The terms "sexually oriented business" or "nudity" shall not be construed to include an activity conducted or sponsored:

(1) By a proprietary school, licensed by the State of Oklahoma, or a college, junior college, or university supported entirely or partly by taxation; or

(2) By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely

or partly by taxation;

(b) When any such activity conducted or sponsored by an entity identified above is situated in a structure:

(1) Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing;

(2) Where, in order to participate in a class, a student must enroll at least three (3) days in advance of the class; and

(3) Where no more than one (1) nude model is on the premises at any one time.

DIVISION 4

NONCONFORMITIES

Section 12-240 NO NONCONFORMITIES USES, INTENT.

Within the districts established by this chapter or amendments that may later be adopted, there exist lots, structures, and uses of land and structures which were lawful before this chapter was passed or amended but which would be prohibited, regulated, or restricted under the terms of this chapter or future amendment. It is the intent of this chapter to permit these non-conformities to continue until they are removed, but not to encourage their survival. Such uses are declared by this chapter to be incompatible with permitted uses in the districts involved. It is further the intent of this chapter that nonconformities shall not be enlarged upon, expanded, or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district. A nonconforming use of a structure, a nonconforming use of land or a nonconforming use of a structure and land shall not be extended or enlarged after passage of this chapter.

Section 12-241 NONCONFORMING LOTS OF RECORD.

In any district in which a lot exists of record at the effective date of the adoption or amendment of this chapter which does not conform in size or area to the provisions of this chapter, buildings for the uses permitted in such district may be erected on such lot, notwithstanding limitations imposed by other provisions of this chapter, provided that such lot is in

separate ownership and not of continuous frontage with other lots in the same ownership.

Section 12-242 NONCONFORMING STRUCTURES.

Where a lawful structure exists at the effective date of adoption or amendment of this chapter that could not be built under the terms of this chapter by reason of restrictions on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

A. No such structure may be enlarged or altered in a way which increases its nonconformity; and

B. Should such structure be destroyed by any means to an extent of more than ninety-five percent (95%) in value, it shall not be reconstructed except in conformity with the provisions of this chapter.

Section 12-243 NONCONFORMING USES OF STRUCTURES.

If a lawful use of a structure, or of structure and premises in combination, exists at the effective date of adoption or amendment of this chapter that would not be allowed in the district under the terms of this chapter, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

A. No existing structure devoted to a use not permitted by this chapter in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located;

B. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this chapter, but no such use shall be extended to occupy any land outside such building;

C. Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use shall thereafter conform to the regulations for the district in

which such structure is located, and the nonconforming uses may not thereafter be resumed, except as provided in this chapter;

D. When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for twelve (12) consecutive months, the structure, or structure and premises in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located; and

E. Where nonconforming use status applies to a structure and premises in combination, removal or intentional destruction of the structure shall eliminate the nonconforming status of the land.

Section 12-244 NONCONFORMING USES OF LAND.

A. Where, at the effective date of adoption or amendment of this chapter, lawful uses of land exist that are no longer permissible under the terms of this chapter as enacted or amended, such uses may be continued so long as they remain otherwise lawful, subject to the following provisions:

B. If any such nonconforming use of land ceases for any reason for a period of more than twelve (12) months, any subsequent use of such land shall conform to the regulations specified by this chapter for the district in which such land is located.

Section 12-245 CHANGES IN NONCONFORMITY.

A nonconforming use of a structure, or of a structure and land in combination, shall not be changed to a different nonconforming use unless changed to a use permitted in the district in which located; except that the board of adjustment may permit a change to a different nonconforming use and such change shall be construed as an abandonment of the former permitted nonconforming use.

Section 12-246 RESERVED.

Section 12-247 MOBILE, MANUFACTURED AND MODULAR HOME REGULATIONS

A. General Description. The purpose and intent of these regulations is to establish and provide minimum acceptable standards, requirements, and regulations for the planned use and maintenance of mobile, manufactured and modular homes within the corporate limits of the city, in the interest of health, safety, and general welfare. The standards, requirements, and regulations as herein provided are intended to encourage mobile home use and maintenance in a manner providing for safe and sanitary living conditions and convenience for its occupants and neighbors. It is further intended to discourage any use which would create additional requirements and costs for public services which would be in excess of such requirements and costs required by conventional single-family residential use.

B. Applicability. Except as may be hereinafter provided, no mobile home shall be used or maintained, except in conformance with the standards of these regulations.

C. Definition.

"Mobile Home" means a manufactured, detached structure not meeting the one-and two-family structure requirements of the building code, but which is originally designed, constructed, and used for long-term occupancy as a complete single-family dwelling, is mounted on a permanent chassis with wheels attached thereto which is transportable in one or more components or two (2) or more units separately towable but designed to be joined into one integral unit, complete and ready for occupancy, except for minor and incidental unpacking and assembly operations, location on piers or permanent foundations, skirting, connection to utilities and similar operations. Mobile homes shall have a steel frame and are tied down with straps and rest on blocks or similar foundation, footing or stem wall. Motor Homes, Travel trailers and Camping trailers are not deemed Mobile Homes for the purpose of this Section (See Section 12-205.58 and Section 12-222).

"Manufactured Home" means a manufactured structure bearing a seal verifying it is built in compliance with the federal manufactured housing construction and safety standards, current edition (also known as the HUD building codes), is originally designed, constructed, and used for long term occupancy as a complete single-family dwelling, built off-site using the same materials and components as a conventional house, containing one (1) or more sections, and set on a perimeter foundation or on a poured footing and bolted to the foundation or footing.

"Modular Home" means a manufactured structure fabricated off-site, meeting the one-and two-family structure requirements of the International Building Code, designed, constructed, and used for long term occupancy as a complete dwelling unit(s), containing two (2) or more sections, built in pre-finished modules or pieces off-site and assembled and finished on site and attached to a slab or other foundation properly anchored.

D. Size Requirements. No mobile home may be located within the corporate limits of the city of a size less than 600 square feet, except as provided by city ordinance in approved mobile home parks.

E. Uses permitted by review. Subject to review through the Use by Review procedure as provided by Sec. 12-287, the following uses may be permitted for mobile and manufactured homes:

1. Residential dwelling unit for watchman in I-H Industrial District.

2. Sales office in C-2 General Commercial such as Automobile or Mobile Home sales or ticket sales where the sales office is the primary structure on the lot.

3. A mobile or manufactured home for living or sleeping purposes shall only be located, used, kept, and maintained within zoning districts which specifically allow mobile or manufactured homes and as duly permitted and provided for in these regulations; provided that only one mobile or manufactured home may be located on a single lot, tract or property having a minimum lot width of 50 feet and a minimum lot area of five thousand (5000) square feet. A mobile or manufactured home is not permitted as an accessory or storage building. No Mobile Home shall be stored without tie downs except on a properly zoned commercial sales lot (Also see Section 12-222).

4. Storage and Sales. Mobile or manufactured homes may be placed on an appropriately zoned and approved Commercial sales lots for the purpose of viewing for retail sales and may not be used as a residential dwelling while on said lot. Mobile or manufactured homes displayed for sale are not required to be attached to city utilities nor tied down.

5. Temporary location. A Mobile or manufactured home may be placed on a building site for the purpose of a field office or tool shed and same is exempt from these regulations while construction of the principal structure is in progress, provided that it is removed when construction is ended.

F. Existing mobile or manufactured homes. Any mobile or manufactured home permitted, allowed, authorized and maintained within the corporate limits of the city prior to July 15, 1995 and in compliance with any law hereby repealed or amended, may continue to be maintained under the laws then in effect until such mobile or manufactured home is removed from such lot or property. Any owner who occupies any mobile or manufactured home permitted, allowed, authorized or maintained within the corporate limits of the city on or after June 1, 2015, may apply for a permit to the City Clerk to replace such existing mobile or manufactured home with a new mobile or manufactured home. If such existing mobile or manufactured home constituted a non-conforming use on July 15, 1995, such new mobile or manufactured home shall continue to be a non-conforming use. Only one permit shall be issued for each real property location. This permitting process shall consider and control the location of the residence on the real property, including all provisions in the appropriate zoning district, utility connections, street access and other issues to protect the health, safety and welfare of adjacent property owners.

G. Accepted units. It is the intent of these regulations to Ensure that a mobile or manufactured home permanently located on an individual lot as provided in the preceding subsection shall be of adequate quality and safe design. A mobile or manufactured home to be installed in the corporate city limits must be certified by the manufacturer and must meet the following criteria:

1. All electrical materials, devices, appliances, and electrical equipment are in sound and safe condition. Aluminum conductors are not accepted.

2. All mechanical systems, including space and water heating, are in sound and safe condition.

3. All plumbing, gas piping, and waste systems are in sound and safe condition.

4. All structural systems are in sound and safe condition. Mobile or manufactured homes which show signs of fire damage, are not permitted.

H. Structural additions. It is the intent of these regulations to ensure that structural additions to mobile or manufactured homes located on individual lots are of quality design and construction, in accordance with the applicable provisions of this section.

1. Carports and patio covers shall be permitted, provided they cover a permanently surfaced parking or improved patio area, and meet the minimum building setback requirements.

2. Garages shall be permitted, provided they cover a permanently surfaced parking area and are connected to the streets by a permanently surfaced drive, meet the minimum building setback requirements, and have roof and siding material that is compatible with the primary structure.

3. Living area additions shall be permitted, provided they meet the minimum building set back requirements, have roof and siding material that is compatible with the primary structure, and comply with the same minimum structural standards as required of the primary structure.

4. For purpose of this Section, permanently surfaced shall mean a surface covering which is sloped and drained so as to prevent standing pools of water and which shall meet or exceed the following minimum standards:

a. Four (4) inches of compacted screenings on a four-inch base of stabilized subgrade or the equivalent thereto, which has been approved by the City Manager or designee.

b. Four (4) inches of gravel contained by timbers or other curbing around its perimeter on a four-inch base of stabilized subgrade or the equivalent thereto, which has been approved by the City Manager or designee.

c. Two (2) inches of hot asphaltic concrete on a four-inch base of stabilized aggregate or the equivalent thereto, which has been approved by the City Manager or designee.

d. Four (4) inches of Portland cement concrete on a two-inch sand cushion or the equivalent thereto, has been approved by the City Manager or designee.

I. Individual lot requirements.

1. Each mobile home shall have two (2) permanently surfaced off-street parking spaces no less than two hundred (2000) square feet in area. (See Section 12-227, 12-228 and 12-229).

2. If gas is being supplied it shall be designed such that the connection between the mobile home and gas service line will not occur underneath the mobile home.

3. Setback Requirements. Setback requirements shall conform to those of the zoning district in which the mobile home is placed.

J. Sanitation. A mobile home that does not have a built-in bathroom with water closet, lavatory and shower or tub in working condition shall not be maintained, authorized nor otherwise permitted for occupancy in the corporate city limits.

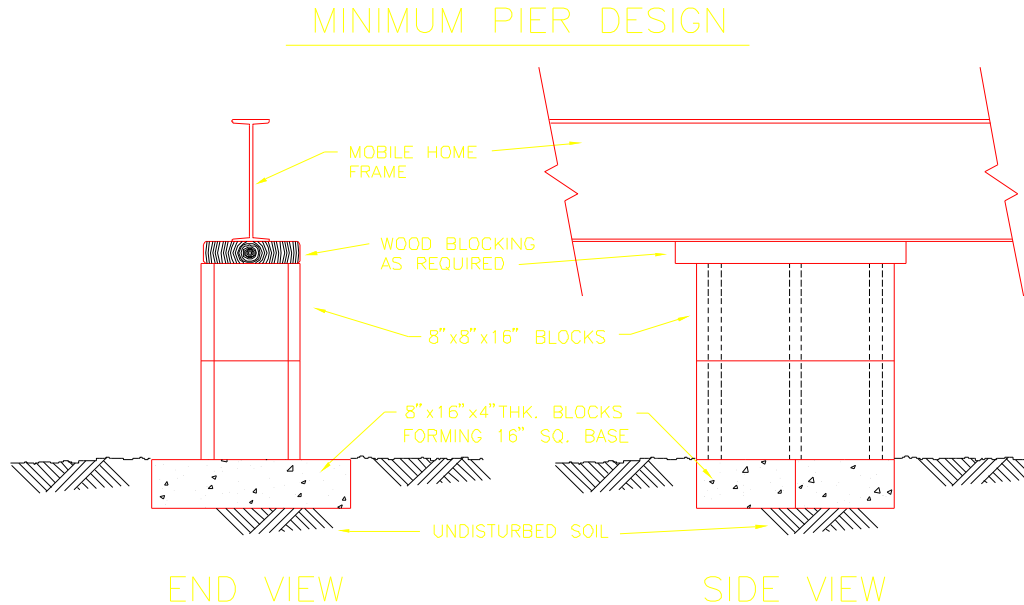
K. Utilities. Utility service shall be provided in a safe and reliable manner in accordance with each and all of the applicable codes set out in Article 1 through 6 of Chapter 5 of the Perry Municipal Code.

L. Gas Connection. Connection shall be made to the public natural gas system and all gas piping shall be installed by a licensed contractor only. Before a mobile home is moved, adequate arrangements shall be made to assure that all gas connections are properly disconnected.

M. Supports and Tie downs. It shall be the responsibility of the owner or occupant of any mobile home to cause such mobile home to be anchored and tied down securely in accordance with the following minimal standards within a period of no longer than thirty (30) days after moving a mobile home onto a city lot.

1. The mobile home shall have its frame supported by a foundation system capable of safely supporting the loads imposed as determined by the character of the soil. The minimum foundation design shall be a series of piers spaced at no more than ten (10) foot intervals and no farther than five (5) feet from the ends of the mobile home. All piers shall be of standard concrete block construction, 8 x 16 inches, and shall

rest on solid concrete blocks or pads of concrete measuring no less than 8 x 16 x 4 inches, forming a base sixteen (16) inches square. For leveling purposes, wood blocking no less than the nominal dimensions of 8 x 16 inches with a maximum thickness of four (4) inches may be used.



2. The tie down and anchoring system shall be provided as recommended by the manufacturer or as follows:

a. Tie down anchors shall be securely installed in soil providing a stable foundation to withstand a minimum pull of three thousand seven hundred fifty (3,750) pounds for each ten (10) feet of a mobile home.

b. All ties and connectors shall be of a type approved by the United States Department of Housing and Urban Development (H.U.D.) for mobile home anchoring.

N. Skirting. It shall be the responsibility of the owner or occupant of any mobile home, within a period of no longer than thirty (30) days after moving such mobile home into a mobile home park or other location within the corporate limits of the City, to cause such mobile home to be totally skirted of metal or other non-degradable solid material. The skirting shall be secured to the mobile home and to the ground in a manner that will prevent the intrusion of animals and will reduce the hazards of strong winds under said home.

O. Home Occupation: A home occupation is permitted as defined in Section 12-275, providing that all requirements for the applicable zoning district are met.

P. Permits, fees, and inspections. Prior to the location of any mobile or manufactured home in the corporate city limits, a permit shall be secured, and a fee paid.

1. Permit. The owner, occupant, mover, or park manager shall apply for a mobile or manufactured home hookup permit from the zoning officer when locating a mobile or manufactured home in the City of Perry.

2. Fees. The applicant shall submit a fee of twenty-five dollars (\$25.00) for a mobile or manufactured home hookup permit. This fee shall cover all required inspections.

3. Inspections. The permit holder shall notify the zoning officer, who thereafter shall cause to be made an inspection, upon completion of the following items:

a. Plumbing and gas hookups, according to the plumbing and gas licensing ordinances and codes.

b. Electrical hookup, according to the electrical licensing ordinance and code.

c. Tie downs and skirting, in accordance with the applicable subsections of these mobile home regulations.

4. Expiration. The mobile home hookup permit shall expire upon the removal of the mobile home.

Q. Revocation. Any act, omission, or condition which violates the mobile home standards, or which violates the building, plumbing, mechanical or electrical codes shall be grounds for revocation of the mobile home permit.

R. In any use by review procedure the Planning Commission may recommend and the City Council may require any other requirement to ensure that the mobile or manufactured home conforms to the neighborhood and protects the public health, safety and welfare of the public.

S. Modular Homes shall be permitted by right in any appropriate zoning district permitting single-family dwellings; provided however:

(1) no Modular Home of less than 1000 square feet of livable floor space shall be permitted in a R-G Residential District; and

(2) no Modular Home of less than 1500 square feet of livable floor space shall be permitted in a R-1 Single-Family Residential District.

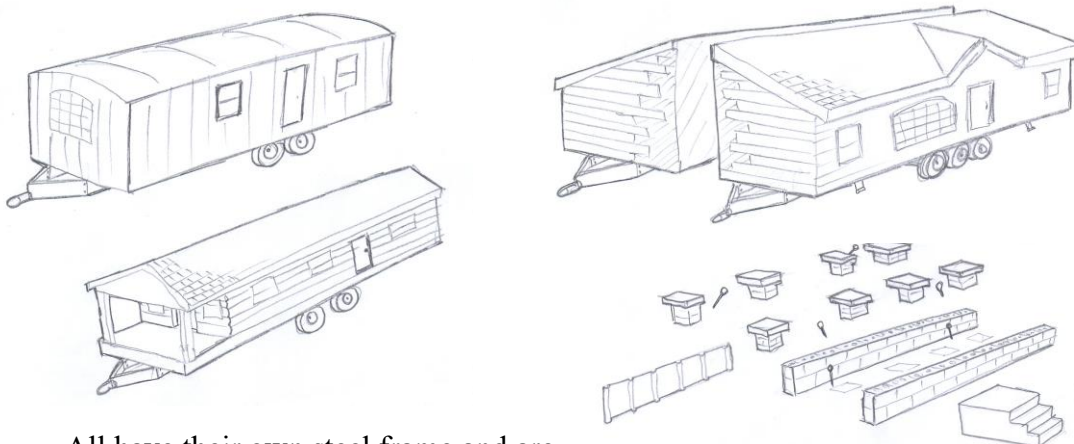
In addition:

(3) The Modular Home shall be set on a perimeter foundation or on a poured footing and bolted to the foundation or footing. Strapping shall not be allowed. The fixed-tongue hitch shall be removed. All Modular Homes located in either residential district shall include a site-built garage and porch.

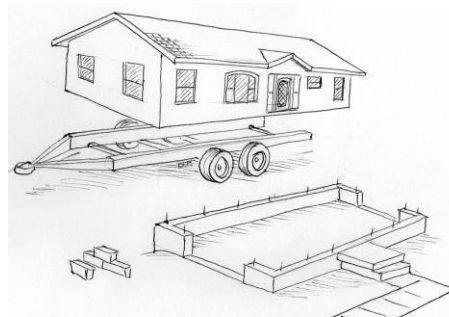
(4) An asphalt or concrete driveway shall be constructed containing at least two (2) off-street parking spaces of no less than two hundred square feet (200') each located from the street and to the garage.

(5) The Modular Home shall comply with the terms of all other provisions of this municipal code.

T. The following are figures of mobile, manufactured and modular homes.



All have their own steel frame and are tied down with straps and rest on blocks.

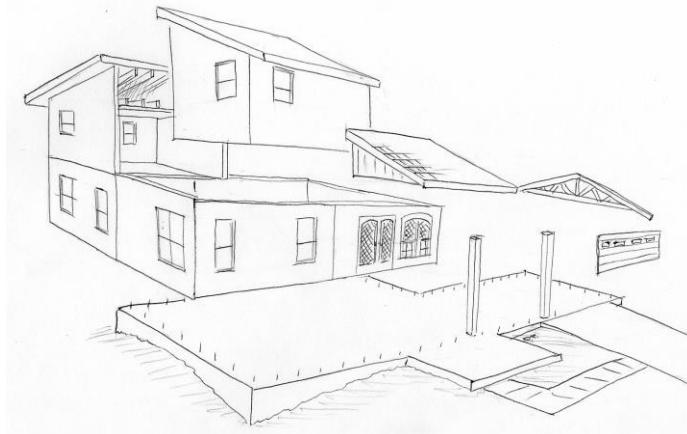


Manufactured and New Manufactured Home:

Built off-site using same materials and components as a conventional house.

Sits on a perimeter foundation, on a poured footing and is bolted down to it.

Transported to site on a trailer or other temporary wheeled apparatus.



Modular Home:

Built in pre-finished modules or pieces off-site and assembled and finished on-site.

Sits on and is attached to a slab or other floor anchored to the ground.

Section 12-248 NEW MANUFACTURED HOME REGULATIONS

A. Definition. For purpose of this section, the following words shall have the referred meaning:

"New Manufactured Home" shall mean a manufactured structure built in accordance with the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C., Section 5401 et seq., and rules promulgated pursuant thereto, as amended, bearing a seal verifying such compliance, or such other manufactured structure that meets or exceeds all state and local building codes, or such other manufactured structures that meets or exceeds all state and local building codes, and is designed, constructed and to be used for long term occupancy as a complete single-family dwelling, pre-manufactured and using the same materials and components as a conventional home, set on a poured footing with perimeter foundation or on an approved slab and bolted to the same and:

1. Is comprised of single or multiple fully enclosed structures with a minimum aggregate size of at least 1000 square feet of livable space if located in an A-G Agricultural District or a R-G Residential District;
2. Is constructed with a composition or wood shake or shingle, coated metal, or similar roof with not less than a 3:12 pitch;
3. Has exterior siding similar in appearance, as determined by the building official, to siding materials commonly used on conventional site-built single-family dwellings built under the International Building Code;
4. Has never been previously installed on real property and constitutes a new and unused residential structure; and
5. Is installed by a state licensed manufactured home installer.
6. If a garage is constructed, either at the time of original placement or any time thereafter, on a tract upon which sets a New Manufactured Home in an A-G Agricultural District or a R-G Residential District, such garage shall be attached. No carport shall ever be permitted on any lot containing a New Manufactured Home.

B. Procedure and Criteria. Any person or other entity desiring to locate and install a new manufactured home on a tract or real property within a permitted zoning district shall file an application for a building permit with the City Clerk pursuant to Section 5-106B and in addition provide all the information required by the Building Official to be provided for a New Manufactured Home Application, including but not limited to photographs of and pamphlets regarding such New Manufactured Home; any required certification that the Building Official deems appropriate to provide such New Manufactured Home meets the terms of the definition or installation criteria; the number of sections, size, nature and composition of the section; the type and nature of siding, roof materials, including pitch; the method and type of installation and attachment; the name and address and other information as desired regarding the seller and the New Manufactured Home Installer. Such information shall be reviewed by an administrative committee to be called the New Manufactured Home Review Committee (the "Committee"), consisting of the City Manager or his designee, the Zoning Officer, the Planning Advisor, the Community Development Director and the

Chairman of the Perry Planning Commission or his designee (hereinafter the "committee"). The following minimum standards shall be met:

1. Installation and attachment method shall as a minimum consist of perimeter bolting to the perimeter foundation or slab and other interior supports as designed by the manufacturer and approved by the Building Official.

2. After installation, the perimeter of the foundation or slab of the New Manufactured Home shall be fully enclosed by concrete or an approved concrete product.

3. A least two (2) permanent surfaced (asphalt or concrete) off-street parking spaces of no less than two hundred square feet each shall be provided in a location as approved by the committee.

4. The New Manufactured Home complies with any design standards applicable to all other homes within the neighborhood in which the New Manufactured Home is to be located.

5. All other requirements relating to conventional housing and as provided in any applicable zoning district shall also apply.

6. No New Manufactured Home shall be permitted to be placed in any location where the same is not permitted by any legally recorded covenant or deed restriction of record.

7. The New Manufactured Home shall comply with the terms of all other provisions of this municipal code.

C. Committee Determination and Appeals. If the committee determines that a building permit shall be issued in accordance with the application, the committee shall make such determination. An appeal from the decision of the committee may be taken to the Perry Planning Commission if filed with the City Clerk within ten (10) days of such adverse decision and thereafter the Perry Planning Commission's decision shall be considered and approved or denied by the City Council.

D. Appropriate Zoning Districts. New Manufactured Homes as approved by the committee or otherwise approved after appeal may be located and shall be permitted by right in any A-G Agricultural District or R-G Residential District as provided in this municipal code.

E. Violations. No person or other entity shall violate, by act or omission, any provision of this section and the applicant shall follow all the requirements of this code and decision of the committee or other regulatory authority's approval or denial.

DIVISION 5

SPECIFIC DISTRICT REGULATIONS

Section 12-250 A-G AGRICULTURAL DISTRICT, GENERAL DESCRIPTION.

The A-G agricultural district is established for several purposes:

A. To provide for the continued use of land for predominantly agricultural purposes;

B. To preserve undeveloped areas until they can feasibility be developed to urban standards and with adequate public safeguards of health, safety, etc.; and

C. To restrict development in areas subject to severe inundation until such time as it can be shown that these areas are no longer subject to flooding.

Section 12-251 USES PERMITTED.

Within the A-G agricultural district, the following uses are permitted:

1. Agricultural, as defined in this chapter;
2. Single-family dwellings and multiple family dwellings;
3. Churches and temples;
4. Elementary schools and high schools;
5. Golf courses, and including golf driving ranges, pitch and putt courses, or miniature golf courses;
6. Parks and forest preserves operated for profit;
7. Temporary buildings and uses for construction purposes only and not for dwelling purposes, nor for a period that exceeds the completion of construction;

8. Accessory buildings or uses incidental to the foregoing principal uses;

9. Municipal or community recreation centers;

10. Police or fire stations;

11. Public buildings or buildings operated in the public interest by a not-for-profit corporation, including art galleries, post offices, libraries, or museums;

12. Public or not-for-profit auditoriums, stadiums, arenas, armories, or sanitariums;

13. Public or private hospitals or sanitariums;

14. Public or private schools or colleges; and

15. Public utility and service uses including electric substations, gas regulator stations, electric, gas, telegraph, telephone and water transmission metering and distribution equipment and structures, microwave relay towers, water reservoirs or pumping stations, and other similar facilities.

16. Deer Processing Facility pursuant to the following conditions:

- A. Minimum of two acres;
- B. Submission of a plan for collection and disposal of animal by-products for approval by the zoning administrator;
- C. No retail or sale of products; customer's deer only;
- D. Seasonal Operation Only from October 1 through January 31 of the subsequent year; and
- E. Subject to annual permits at an annual cost of \$100.00. Prior to issuance of any city permit, applicant shall receive all licenses or certifications required, from any state or federal regulatory authority, for the deer processing facility.

17. New Manufactured Home in strict conformance with Section 12-248 of this Code.

Section 12-252 USES PERMITTED BY REVIEW IN A-G AGRICULTURAL DISTRICT

The following uses may be permitted after review and approval by the Planning Commission and City Council in accordance with Section 12-287C, D, E, F and G (Use by Review)

1. Mobile or manufactured homes, and Mobile Homes Parks (in compliance with Section 12-265 of this code meeting the terms and condition imposed by Section 12-247; and

2. Recreation Vehicle Park in strict accordance with an approved use by review hearing as provided by Section 12-287C, D, E, F and G (Use by Review), after approval and in strict accordance with an approved site plan review hearing as provided by Section 12-286, and consistent with Section 12-264.

3. Medical Marijuana Grower Facility in strict accordance with the applicable provisions of Article 5 of Chapter 9 of the Perry Municipal Code 2018 Supplement.

Section 12-253 AREA AND HEIGHT REGULATIONS.

Minimum Lot Area	Minimum Lot Frontage	Maximum % Coverage	Maximum Height	Minimum Front Yard Setback	Minimum Side Yard Setback	Minimum Rear Yard Setback
1 Acre	100'	None	100'	25'	10'	10'

All lots and improvements within the A-G district shall meet the following requirements:

A. All lots shall have not less than one acre of land, and not more than one principal building shall be placed on any one lot;

B. Each lot shall have a frontage of not less than one hundred (100) feet;

C. No improvement or structure shall exceed one hundred (100) feet in height above the mean elevation of the lot;

D. All structures shall have not less than a twenty-five (25) foot front yard setback;

E. All principal structures shall have not less than a ten (10) foot side yard setback. Accessory buildings may have a rear yard of not less than ten (10) feet.

Section 12-253-259 RESERVED.

Section 12-260 R-G RESIDENTIAL DISTRICT, GENERAL DESCRIPTION.

This residential district is intended to provide for both low and high population density. It is established as a district in which the principal uses of the land are for single-family dwellings and multi-family dwellings and high-density residential development. The intent is to prohibit commercial and industrial uses or any other use which would substantially interfere with the development or continuation of single-family dwellings and multi-family dwellings in this district. It is further intended to discourage any use which would generate traffic or create congestion on the neighborhood streets other than the normal traffic which serves the dwellings or similar residential uses in this district, and discourage any use which because of its character or size, would create additional requirements and costs for public services which would be in excess of such requirements and costs if the district were developed solely for single-family and multi-family or other similar residential uses.

Section 12-261 USES PERMITTED.

Within the R-G residential district, the following uses are permitted:

Single-family detached dwellings;

Duplex;

Multi-family dwelling;

Rooming or boarding house;

Public and private schools;

Public park or playground;

New Manufactured Home in strict conformance with Section 12-248 of this Code.

Agricultural uses of the garden type that are not intended

for commercial purposes; and

Accessory buildings and uses which are not customarily incidental to the Permitted Uses, including those buildings and uses without a principal residential structure on the same lot pursuant to Section 12-285 entitled "Lot Combination; Application, Procedures and Effect."

Section 12-262 USES PERMITTED BY REVIEW IN R-G RESIDENTIAL DISTRICTS

The following uses may be permitted after review and approval by the Planning Commission in accordance with Section 12-287C, D, E, F & G (Use by Review):

1. Accessory buildings and uses which are not customarily incidental to the Permitted Uses;
2. Childcare centers or day nurseries, provided they are located on a lot not less than ten thousand (10,000) square feet in area;
3. Churches with a minimum lot size of one acre;
4. Community services, cultural and utility facilities, provided they are located on a lot of not less than one acre;
5. Convalescent homes, rest home, nursing home, and hospitals, public or private;
6. Golf course, private or public, or country club, provided that the chief activity is for recreational purposes, and any commercial activity is accessory or incidental thereto;
7. Home occupation, provided that it is in keeping ~~the~~ with the meaning of "home occupation" as defined in this chapter;
8. Junior high or senior high schools;
9. Library;
10. Mobile or manufactured homes, and Mobile Home Parks (in compliance with Section 12-265 of this code meeting the terms and conditions imposed by Section 12-247.

11. Plant nursery, provided that no building or structure is maintained in connection therewith and no retailing of any material is carried on upon the premises;

12. Temporary structures which are incidental to the construction of the main building and will be removed when the main structure is completed.

Section 12-263 AREA AND HEIGHT REGULATIONS.

Single-Family:

Minimum Lot Area	Minimum Lot Frontage	Maximum % Coverage	Maximum Height	Minimum Front Yard Setback	Minimum Side Yard Setback	Minimum Rear Yard Setback
3000 Sq. feet	25'	60%	35'	25'	5'	20'

Duplex:

Minimum Lot Area	Minimum Lot Frontage	Maximum % Coverage	Maximum Height	Minimum Front Yard Setback	Minimum Side Yard Setback	Minimum Rear Yard Setback
5000 Sq. feet	35'	75%	35'	25'	5'	20'

Multi-Family:

Minimum Lot Area	Minimum Lot Frontage	Maximum % Coverage	Maximum Height	Minimum Front Yard Setback	Minimum Side Yard Setback	Minimum Rear Yard Setback
6000 Sq. feet	50'	75%	35'	25'	5'	20'

All lots and improvements within the R-G district shall meet the following requirements:

A. All lots shall have an area of not less than three thousand (3,000) square feet for a single-family dwelling, five thousand (5,000) square feet for a two-family dwelling, or six thousand (6,000) square feet for each dwelling unit over two (2) for multi-family dwellings. For uses other than dwelling purposes, the lot area shall not be less than six thousand (6,000) square feet except as otherwise specified.

B. Each lot shall have a frontage of not less than twenty-five (25) feet for single-family dwelling, thirty-five (35) feet for two-family dwelling, and fifty (50) feet for multi-family dwelling and all other uses;

C. Not more than seventy-five percent (75%) of the lot area shall be covered with improvements. Paved areas are not considered improvements within the meaning of this provision;

D. No improvement or structure shall exceed thirty-five (35) feet in height above the mean elevation of the lot;

E. A minimum front yard setback of twenty-five (25) feet shall be provided on all single-family and duplex and multi-family dwellings;

F. For dwellings and accessory buildings located on corner lots, there shall be a side yard setback from the intersecting street of not less than fifteen (15) feet; and

G. A rear yard of twenty (20) feet of the depth of the lot shall be provided for the principal building. 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.

H. Not more than one (1) principal building shall be placed on anyone (1) lot.

SECTION 12-264 MINIMUM GUIDELINES FOR RECREATION VEHICLE PARKS; GRANDFATHER CLAUSE; VIOLATIONS.

A. Minimum Guidelines for Recreation Vehicle Parks:

1. Minimum Square feet; Pads; Spacing: Recreation Vehicle Parks shall be a minimum of twenty-four thousand (24,000) square feet containing not more than one Recreation Vehicle lot for each twenty-four hundred (2400) square feet of space provided. Each Recreation Vehicle lot shall contain a hard surfaced (Pad), of a size not less than fourteen (14) feet by forty (40) feet for the Recreation Vehicle which shall be no closer than ten (10) feet from the access corridor. Spacing shall be such that no Recreation Vehicle shall be closer than twenty (20) feet between Recreation Vehicle units.

2. Off Street Vehicle Space. Each Recreation Vehicle lot shall have a minimum of one off street vehicle Parking Space of two hundred (200) square feet in area no closer than ten (10) feet from the access corridor and shall be paved with a surface maintained in a manner that no dust or rutting will result from continued use.

3. Connection to Utilities. The proposed site shall provide a connection for each Recreation Vehicle pad to City water, electricity, and sewer except as provided in this municipal code.

4. Time Constraints. No Recreation Vehicle shall occupy a site in a Recreation Vehicle Park more than twelve (12) consecutive months and all Recreation Vehicles shall be connected to City utilities unless staying less than twenty-four (24) hours.

5. Park Entrances and Exits. All Recreation Vehicle Park entrances and exits shall be set back from the public street right-of-way a distance of not less than fifty (50) feet to allow movement onto the property without blocking or impeding traffic.

6. Impeding Access. At no time may the driveway or entrance to the occupied Recreation Vehicle Park be blocked, barricaded, or secured in such a way as to prevent or impede access to the park by public service or emergency vehicles.

7. Trash Concerns. Each Recreation Vehicle Park shall provide a minimum of one dumpster for every twenty (20) pads and each dumpster shall have adequate maneuvering space to be serviced.

8. LPG. Recreation Vehicles shall be permitted to use liquefied petroleum gas subject to any other federal, state, or local regulations.

9. Exceptions; Waiver. Notwithstanding any of the requirements of this section, if it be shown to the satisfaction of the Perry Planning Commission, Board of Adjustment and/or City Council, as applicable, that any of the requirements if complied with would cause undue hardship on any applicant for a permit hereunder, and that such requirement or requirements would not be for the best interest and general welfare of the City of Perry and the citizens affected by this section, the

Board of Adjustment and/or City Council, as applicable may waive such requirement or requirements in accordance with law.

B. Grandfather Clause. Any owner, who on the effective date of this ordinance, shall have a lawful use of any real property within the corporate limits of the City of Perry, wherein Recreation Vehicles are lawfully located and used, such owner may continue such lawful use as a non-conforming use and subject to the other terms and conditions of this code.

C. The Building Official is hereby authorized and directed to make inspections to determine the condition of Recreation Vehicle Parks within the City of Perry, Oklahoma, in order to perform the duty of safeguarding the health and safety of occupants of such parks and of the general public. All other ordinances relating to offenses, nuisance, litter, condition of property and other health and safety and code provisions contained in this municipal code shall apply to the owner, person in lawful possession and control and each lessee in a Recreation Vehicle Park.

Section 12-265 MOBILE HOME PARK.

Upon compliance with the provisions as set forth herein, a mobile home park will be allowed within the R-G district:

A. The applicant, upon making application for a zoning clearance permit, must submit a detailed site locating all mobile home stands, screening, or fencing, and plans and specifications for the proposed park in a form suitable for making the determinations required herein.

B. The proposed site shall be a minimum of two and one-half (2 ½) acres in size and shall contain no more than fifteen (15) mobile home stands per acre;

C. Front yards of not less than ten (10) feet and side and rear yards of not less than five (5) feet shall be provided on mobile home park sites; and

D. The proposed site shall provide a connection for each mobile home stand to all public utilities, except as provided in this chapter.

E. The provision contained in Section 12-247K shall apply to mobile homes located in mobile home parks.

Section 12-266 R-G RESIDENTIAL/TINY HOUSE OVERLAY DISTRICT.

This residential overlay district is intended as the location for Tiny Houses as defined in Appendix Q of the International Residential Code and referenced in Section 5-110. The definition of a Tiny House shall be a dwelling that is a minimum of 500 square feet and a maximum of 700 square feet in floor area excluding lofts; requiring a traditional recognized foundations as defined by Chapter 3 of the International Residential Code. Tiny Houses shall be permitted by right in this overlay district. The overlay district is limited to the following locations:

Insert lots and blocks and subdivisions from the David Payne map provided area, height and other regulations are as provided in the R-G Residential Zoning District.

Section 12-270 R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT, GENERAL DESCRIPTION.

The R-1 single-family residential district is established as a district in which the use of land is for single-family dwellings except as noted. It is the purpose and intent of this district to promote the development of and the continued use of the land for single-family dwellings and to prohibit commercial and industrial use or any other use which would substantially interfere with the development or continuation of single-family dwellings in this district. The intent is to further discourage any use in this district which would generate traffic or create congestion on neighborhood streets other than the normal traffic which serves the residents in the area. This district further encourages only those uses which, because of character or size, would not create additional requirements and costs for public services in excess of requirements and costs for single-family dwellings. The intent is to encourage the discontinuance of any existing uses that would not be permitted as new uses under the provisions of this chapter.

Section 12-271 USES PERMITTED.

Within the R-1 single-family residential district, the following uses are permitted:

A. Single-family detached dwellings and duplexes, subject to the requirements of Section 12-273 but not including mobile

homes, Manufactured Homes, New Manufactured Homes, Mobile Home Parks, or similar structures

B. Public park or playground, public buildings, public utility, and municipal uses, and publicly owned recreational facilities;

C. Agricultural uses of the garden type that are not intended for commercial purposes, nor the raising of livestock; and

D. Accessory buildings and uses which are not a part of the main building including a private garage or accessory buildings which are a part of the main building, including a private garage.

Section 12-272 USES PERMITTED BY REVIEW IN R-1 RESIDENTIAL DISTRICTS.

The following uses may be permitted after review and approval by the Planning Commission in accordance with Section 12-287C, D, E, F & G (Use By Review), contingent upon the performance of reasonable conditions, including but not limited to adequate off-street parking:

1. Churches;
2. Library;
3. Home occupation;
4. Plant nursery, provided that no building or structure is maintained in connection therewith and no retailing of any materials is carried on upon the premises;
5. Golf course, private or public, or country club, provided that the chief activity is for recreational purposes, and any commercial activity is accessory or incidental thereto, and not including miniature golf courses, driving ranges or pitch and putt golf courses;
6. Public or private schools; and

7. Temporary structures which are incidental to the construction of the main building and will be removed when the main structure is completed.

8. Accessory buildings and uses which are not customarily incidental to the Permitted Uses, and/or accessory buildings and uses without a principal residential structure on the same lot if approved by the City Council pursuant to Section 12-285 entitled "Lot Combination Use By Review; Application, Procedures and Effect."

Section 12-273 AREA AND HEIGHT REGULATIONS.

Minimum Lot Area	Minimum Lot Frontage	Maximum % Coverage	Maximum Height	Minimum Front Yard Setback	Minimum Side Yard Setback	Minimum Rear Yard Setback
6000	60'	60%	35'	25'	5'	20'

Sq. feet

Interior Lots
10' Street Side of
Corner lots

All lots and improvements within the R-1 district shall meet the following requirements:

A. All lots shall have not less than six thousand (6,000) square feet of lot area and not more than one principal building shall be placed on any one lot;

B. Each lot shall have a frontage of not less than sixty (60) feet;

C. Not more than sixty percent (60%) of the lot area shall be covered with improvements. Paved areas are not considered improvements within the meaning of these provisions;

D. No improvement or structure shall exceed thirty-five (35) feet in height above the mean elevation of the lot;

E. All structures shall have not less than a twenty-five (25) foot front yard setback; and

F. For a single-family dwelling of one story, the minimum width of the side yard shall be five (5) feet for interior lot lines and ten (10) feet for the side yard abutting the side street on a corner lot.

Section 12-274 RESERVED

Section 12-275 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 12-287C, D, E, F & G entitled "Uses by Review." 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 landowner 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 Commission 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 childcare facility for more than five (5) children shall be considered for a home occupation.

F. Special Requirements:

1. Area - Height and Setback Requirements. The height and setback requirements shall be the same as the Residential zone in which the permitted use is located.

2. Special Requirements - Parking areas must be surfaced or otherwise covered with a material which prevents dust. Any application subject to a use by review process shall have on-site parking issues specifically reviewed with appropriate requirements or conditions made, if any.

Section 12-276 Z-0 ZERO LOT-LINE DISTRICT OVERLAY

A. General Description. The Zero Lot-Line District is a supplemental district designation designed to facilitate development of high-density single-family housing in which houses may be located directly on one of the side lot lines. Designation of an area as a Zero Lot-Line District will be accomplished through the adoption of an overlay zoning district which amends and supersedes the applicable requirements set out in Section 12-263, Residential General (R-G) or Section 12-273, Residential Single Family (R-1) areas.

B. General Provisions

1. Intent and Purpose. The purpose of this overlay district is to permit the development of higher density housing, such that detached dwellings may, where permitted, be located in such a manner that an exterior sidewall is constructed with no setback from an interior property line as required in Section 12-263 and 12-273, but otherwise in conformance with such Section.

2. Conflicts and Interpretations. In the event any provision of this Section, or any district ordinance which is adopted pursuant to these regulations, conflicts with or is inconsistent in any manner with any other Section of the Zoning Ordinance, or any Section of the Municipal Code, the provision of this Section or the district ordinance shall supersede and take precedence over such portions or portion in conflict.

3. Designation Procedure.

a. Generally. An area shall be designated a Zero Lot-Line District in accordance with the minimum regulations set forth below:

(1) No windows, doors, or other openings are permitted in the zero-setback sidewall.

(2) The side yard opposite the zero-setback side on the same property shall be a minimum of ten (10) feet in width.

(3) A perpetual ten-foot easement for the purpose of building maintenance and separation between structures shall be provided on the lot adjacent to the exterior dwelling sidewall along the zero-setback line provided that:

(4) The maintenance easement shall allow access to principal buildings and to any accessory structures or vegetation that do not otherwise have reasonable access to their full height and width along the zero-setback side for the purpose of maintenance.

(5) Such easement must be shown on a subdivision plat, or otherwise recorded by an irrevocable covenant which shall run with the land, whereby proof of such recorded documents shall be submitted with applicable for a building permit for any structure to be so constructed.

(6) Roof overhangs from principal buildings may penetrate the easement on the adjacent lot a maximum of two (2) feet excluding gutter, but the roof shall be so designed that water runoff from the structure placed on the lot line is limited to the easement area.

(7) Spacing between structures shall be no less than ten (10) feet, measured from the outermost projections of combustible materials.

(8) If a driveway is to be located along the lot line a note of waiver must be recorded on the plat, or permission otherwise obtained from the zoning officer, for a curb-cut turning radius encroachment on the frontage of the adjacent property.

b. Initiation procedure. Preliminary plat reviews with planning staff members are encouraged. Once the staff members have determined that an area meets the criteria for designation as a Zero Lot-Line District, a hearing shall be set where the Planning Commission will receive input and consider the proposed plat for the district. Public notice shall be provided to the same extent as notice for all re-zoning applications. Should the Perry Planning Commission fail to approve the proposed plat, the zero lot-line district designation process will not continue.

c. Adoption. The City Council may designate an area as a Zero Lot-Line District after meeting the following criteria:

i) Review: The overlay district shall be reviewed by the administrative staff and the Perry Planning Commission for compliance with this and other Section in the Municipal Code and comprehensive plan. Other matters which may be considered include, the effect of the proposed district on traffic conditions, utilities and other public services, and the impact on properties surrounding the areas proposed to be designated. The findings and recommendation of the administrative staff and Perry Planning Commission shall then be reported to the City Council. Upon required notice being given, the City Council shall review the application at a public hearing at which time they shall receive comments from interested parties and receive the recommendations of administrative staff and the Perry Planning Commission.

ii) Approval. The City Council may approve or deny the request for district designation. If approved, the district shall become a part of the comprehensive plan of the City and shall be shown on the Zoning Map as an overlay to the existing zoning.

iii) A drawing of the lot plan of such district is attached to this adopting ordinance and is incorporated herein by reference as if fully set out.

Section 12-280 C-O COMMERCIAL OFFICE DISTRICT.

A. GENERAL DESCRIPTION. The Commercial Office District is designed to accommodate administrative and professional offices and certain basic personal services which can occupy low rise buildings in low land use intensity areas. Emphasis is placed on aesthetic considerations such as landscaping, setbacks, sign control and restrictive building height. The district may serve as a buffer between more intensive land uses and low intensity residential districts. Outdoor storage of goods and merchandise is prohibited.

B. DISTRICT USE REGULATIONS. Uses Permitted

Property and buildings in the C-O Commercial District shall be used only for the following purposes:

1. Any use permitted in any Residential District.

2. Medical and dental offices, including clinics.
3. Office buildings for executive, administrative, professional, accounting, writing, clerical, stenographic, drafting and sales, and non-profit corporations.
4. Publicly owned buildings, exchanges, and public utility offices, but not including electrical or gas substations.
5. Museums, cultural centers, and open space designed to serve persons conducting business in this District.
6. Convalescent Home, Rest Home, Nursing Home and Hospitals, Public or Private.
7. Other uses which are in keeping with the general description of this District and are similar to the above uses.
8. Accessory uses customarily related to a permitted use authorized by this Section.

C. SITE DESIGN REQUIREMENTS. It is intended that building and parking areas be designed to protect, in so far as possible, the value and character of adjacent residential areas. In no case shall the design of a proposed site, provide less than the following standards:

1. Height. No building shall exceed twenty-five (25) feet in height, measured from the mean elevation of the lot.
2. Front yard setback, Ten (10) Feet.
3. Side yard setback; Interior Lot, Ten (10) Feet; Corner Lot Street Side, Fifteen (15) Feet; Corner Lot Interior Side, Ten (10) Feet; side adjacent to a residential district, Twenty-five (25) Feet, measured from the side property line abutting the residential district or development.
4. Rear yard setback, Twenty (20) Feet.
5. No Minimum Lot Area; Frontage, Fifty (50) Feet at the building line.

6. Screening and landscaping. Property shall be landscaped and screened in accordance with Section 12-286 (Site Plan Review).

7. Off-Street Parking, Access. All permitted uses shall contain adequate space to provide for parking, loading, and maneuvering of vehicles in accordance with Section 12-228 (Off-street Parking Requirements).

8. Signs. All advertising signs relating to the permitted uses shall be designed in such a manner as to be harmonious with the other design features of the site, and to conform with Chapter 12. Article 5 of the Perry Municipal Code, 2002, entitled "Sign Regulations".

9. Site Plan. Prior to the issuance of a building permit for any permitted use, a site Plan shall be submitted and approved in accordance with Section 12-286 (Site Plan Review).

Section 12-281 C-1 LIGHT COMMERCIAL ZONING DISTRICT.

A. GENERAL DESCRIPTION. The purpose of this commercial district is for the conduct of general and professional offices and a limited number of retail trade activities to provide for the needs and convenience of the people of adjacent residential areas and the community in such a manner as to not be offensive to a general neighborhood containing, residential, religious, recreational, and educational elements. It is intended that this district be located as not to introduce traffic into a solely residential district, but to serve as a buffer between residential and more intensive commercial activities.

B. DISTRICT USE REGULATIONS. Uses Permitted.

Property and buildings in the C-1 Light Commercial District shall be used only for the following purposes:

1. Any use permitted in the C-O District.
2. Accounting and insurance offices, banks, credit unions, savings and loan companies and associations, real estate offices, and other businesses which perform services on the premises.
3. Dry cleaning establishments or pick-up stations dealing directly with the consumer.

4. Generally recognized retail businesses which supply commodities on the premises for persons residing in adjacent residential areas, such as but not limited to bakeries, or stores selling books, stationary, clothing, dairy products, delicatessens, dry goods, florists, groceries, hardware, meat market, pharmacies, and self-service gas stations (no repair).

5. Personal service establishments which perform services such as but not limited to appliance and small items shops (watches, radio, television, shoe, etc.), beauty parlors or barber shops, dance schools, photographic, artists, and other miscellaneous studios, post offices, self-service laundries, tailor shops, and governmental office buildings serving persons living in adjacent residential areas.

6. Professional services, including medical clinics (out-patient only) and offices of doctors, dentists, osteopaths, and similar professions.

Uses Permitted by Review

The following uses may be permitted after review in accordance with Section 12-287C, D, E, F & G (Uses by Review).

1. Billiard parlors, pool halls.
2. Building, plumbing, electrical and mechanical contractor shops.
3. Business schools.
4. Car wash.
5. Ceramic shops.
6. Commercial greenhouses and garden supply shops.
7. Mortuary establishments.
8. Restaurants, cafes, or drive-in restaurants.
9. Service stations (excluding body repair work)
10. Public or private parking lots needed to accommodate any use permitted in the Commercial Zoning Districts.

11. Other uses which, in the opinion of the Planning Commission, are similar to the above uses and are in keeping with the general description of the zoning district and meet the three (3) standards as specified in Section 12-287D (Conditions for Authorization).

C. SITE DESIGN REQUIREMENTS.

For purposes of this District, the Site Design Requirements applicable to C-0 Commercial Office, and as set out in section, shall be applicable to this District as if fully set out herein. The regulations contained in section shall apply to any site proposed for development after March 16, 1992.

Section 12-282 C-2 GENERAL COMMERCIAL ZONING DISTRICT.

A. GENERAL DESCRIPTION. This District is intended to provide for the normal range of commercial services within the community in such a manner that the District will accommodate both quick-stop and longer visit shopping, as well as provide for additional retail, cultural and entertainment trade. Additionally, District regulations are intended to minimize traffic congestion and noise, provide adequate and controlled parking and expansion area, allow safe pedestrian movement, minimize adverse impacts on residential areas, encourage improved commercial site design and layout, and promote the re-use and development of existing commercial structures and encourage visual quality in commercial development.

B. DISTRICT USE REGULATIONS. Property and buildings in the C-2 General Commercial District shall be used only for the following purposes:

1. Automobile assembling, painting, upholstering, rebuilding, reconditioning, and body work.
2. Automobile sales and service.
3. Bakery (Commercial or wholesale).
4. Banks, Savings and Loans, Finance Companies.
5. Bars and Taverns, private clubs.
6. Billiards and pool halls.

5. Bottling works.
6. Bowling alley.
9. Building plumbing, electrical, and mechanical contractor shop.
10. Business schools.
11. Bus station or service.
12. Car wash.
13. Clothing store.
14. Dancing school or studio.
15. Discount store.
16. Dry cleaners.
17. Feed and seed stores.
18. Florist or gift shops.
19. Food processing (retail on premises).
20. Furniture store.
21. Garages (service, storage, or sales) for motor vehicles.
22. Glass fabrication and installation.
23. Grocery stores.
24. Hardware stores.
25. Itinerant merchant or transient vendor.
26. Jewelry store.
27. Kennel.
28. Laundry or dyeing establishment.

29. Manufacture of articles sold only at retail on the premises.
30. Medical facilities (hospitals and clinics).
31. Metal fabrication, light (sheet metal, ducts, gutters, and leaders).
32. Miniature golf course or commercial driving range.
33. Mini-storage, rental storage.
34. Mobile home sales.
35. Motel or hotel.
36. Movie theaters.
37. Music stores, studios.
38. Offices.
39. Optical and scientific instruments and jewelry manufacturing.
40. Pawnshops, Second-hand and auction stores.
41. Pet store.
42. Printing, lithographic or publishing company.
43. Public garages.
44. Public parking lots.
45. Radio and television broadcasting studios.
46. Recreational facilities (including swimming pool).
47. Restaurants, drive-in restaurants.
48. Service stations.
49. Shoe store and repair.
50. Small animal hospital.

51. Taxidermist.
52. Taxi service.
53. Television and radio repair shop.
54. Tourist courts (for travel, camp trailers)
55. Transfer and storage offices.
56. Upholstering shops.
57. Weaving apparels (fabrication and processing).
58. Wholesale sales office and sample room.
59. Any use permitted by right in a C-1 or C-0 district.

Uses Permitted by Review.

The following uses may be permitted after review and approval by the Planning Commission in accordance with Section 12-287 B, C, D, E, F & G (Use by Review.)

1. Commercial warehouse, provided that the gross floor area of such warehouse shall not exceed forty percent (40%) of the total tract, lot, or parcel of land on which it is situated.
2. Any other similar business or service which is in keeping with the general description and meets the three standards as specified in Section 12-287D (Conditions for Authorization).
3. Public and private utility or contractor equipment and material storage and maintenance yards or buildings, provided that any stored material or equipment shall be within a building or enclosed by a six (6) foot high fence or suitable landscaping to screen the materials or equipment from the view of the adjacent public streets, parks, recreation areas and residential properties.
4. Uses and structures clearly incidental and necessary to the permitted principal uses and structures in this District.
5. Recreation Vehicle Park in strict accordance with an approved use by review hearing as provided by Section 12-287C, D, E, F and G (Use by Review), after approval and in strict

accordance with an approved site plan review hearing as provided by Section 12-286, and consistent with Section 12-264.\

6. Medical Marijuana Dispensaries and/or a Tier I Medical Marijuana Processor Facility and/or a Tier II Medical Marijuana Processor Facility, but only after approval of a site plan review hearing as provided by Section 12-286, if required, and in strict accordance with the applicable provisions of Article 5 of Chapter 9 of the Perry Municipal Code 2022, as amended; provided however, effective April 1, 2024, a Medical Marijuana Dispensary Permit, Tier I Medical Marijuana Processor Facilities and Tier II Medical Marijuana Processor Facilities may not be located in a C-2 General Commercial District, within the Perry Family Friendly District, as provided in Chapter 12, Article 2, Division 2, Section 12-214 of the Perry Municipal Code 2022.

7. Sexually oriented businesses, but after approval of a site plan review hearing as provided by Section 12-286, if required, and in strict accordance with the applicable provisions of Article 2, Division 3A of Chapter 12 of the Perry Municipal Code 2022 Supplement, as amended.; provided however, sexually oriented businesses shall not be permitted within the Perry Family Friendly District, as provided in Chapter 12, Article 2, Division 2, Section 12-214 of the Perry Municipal Code 2022 or within one thousand (1,000) feet of:

- a. Any building primarily and extensively used for worship services and religious activities;
- b. Any public or private school;
- c. Any public park or playground; or
- d. Any public library.

Provided, that if any such building used for worship and religious activities, any public or private school, any public park or playground, or any public library shall be established within one thousand (1,000) feet of any such premises after the premises have been established, this shall not be a bar to the continuation of the business so long as it has been in continuous force and effect. The distance indicated in this subsection shall be measured from the nearest property line of such church or school to the nearest public entrance door of the promises of the sexually oriented business along the street right-of-way line providing the nearest direct route usually

traveled by pedestrians between such points. For purposes of determining measured distance, property situated on the opposite side of the street from such church or school shall be considered as if it were located on the same side of the street with such church or school.

C. SITE DESIGN REQUIREMENTS. The following minimum requirements shall in a C-2 General Commercial Zoning District:

1. No minimum lot area and width.
2. Height. No building shall exceed twenty-five feet (25') in height, measured from the mean elevation of the lot.
3. A twenty-five feet (25') setback.
4. No side yard setbacks, except for sides adjacent to residential properties, in which case the setback shall be twenty-five feet (25'), and except when any side of the subject lot faces a street, in which case the setback from the street shall be twenty-five feet (25').
5. No Rear yard setbacks, except for when the rear yard is adjacent to residential properties, in which case the setback shall be ten feet (10').
6. Screening and Landscaping. Property shall be landscaped and screened in accordance with Section 12-286 (Site Plan Review.)
7. Off-Street Parking, Access. All permitted uses shall contain adequate space to provide for parking, loading, and maneuvering of vehicles in accordance with Section 12-229 (Parking Space Requirements).
8. Signs. All advertising signs relating to the permitted uses shall be designed in such a manner as to be harmonious with Chapter 12. Article 5 of the Perry Municipal Code, 2002, entitled "Sign Regulations".
9. Site Plan. Prior to the issuance of a Building Permit for any permitted use, a Site Plan shall be submitted and approved in accordance with Section 12-286 (Site Plan Review).

Section 12-283 C-3 COMMERCIAL BUSINESS DISTRICT.

A. GENERAL DESCRIPTION. This District is designed to be the Central Business District or the downtown shopping and employment area for the community and surrounding area. This District is intended to provide space for retailing of all kinds, professional offices, financial institutions, upper level apartment dwellings, hotels, and limited wholesaling, conducive to a high volume of pedestrian traffic.

B. DISTRICT USE REGULATIONS. Permitted Uses.

Any use permitted in C-2 General Commercial District.

Any permitted use desiring both a residential and commercial in this district (hereinafter referred to as a "split occupancy") shall be subject to the following rules:

1. In a two-story or three-story building desiring a split occupancy, the residential dwelling unit shall only be located on the 2nd floor or 3rd floor of the building.
2. In a one-story building desiring a split occupancy, the residential dwelling unit shall be located in the rear portion of the building and shall comprise not more than 50% of the total square feet of the ground floor space; provided however, with the recommendation of the Planning Commission, such percentage can be increased by the City Council but not greater than sixty percent (60%).
3. The 1st floor of any two-story or three-story buildings desiring a split occupancy shall be commercial.
4. The front portion of all one-storied buildings desiring a split occupancy shall be commercial.
5. Certificates of occupancy must be issued for each split occupancy use prior to the initiation of each such use.

Use by Review

The following uses may be permitted after review and approval by the Planning Commission in accordance with Section 12-287 B, C, D, E, F & G (Use by Review).

1. Light manufacturing.

2. Warehouses, general.

C. AREA REGULATIONS.

1. No minimum lot area or width.
2. No front yard setbacks.
3. No side yard setbacks, except for any side adjacent to a Residential District.
4. Height. Maximum Twenty-five (25) feet.
5. Signs. All advertising signs relating to the permitted uses shall be designed in such a manner as to be harmonious with Chapter 12. Article 5 of the Perry Municipal Code, 2002, entitled "Sign Regulations".

Section 12-284 C-4 PLANNED COMMERCIAL.

A. GENERAL DESCRIPTION. This District is intended to encourage and facilitate the design of small, planned shopping areas, developed as an unified groupings, in one or more buildings, or retail shops and stores outside of the Central Business District. Any retail shopping area permitted under this District shall be developed as a unit, with adequate off-street parking areas, safe ingress and egress, and appropriate landscaping and use of natural features, to encourage a safe and attractive area for commercial activity, which will not be disruptive of any residential environment.

B. WHERE ESTABLISHED. A planned business center may be established upon any tract of land held by single ownership or under unified control; provided that a plan of development has been submitted in compliance with the regulations of this Section. Unified control, for purpose of this District, implies a joint ownership in the form of a property owners association or partnership agreement whereby all owners agree to the collective development of all the property within the District.

C. SIZE OF DISTRICT. The minimum area of a planned commercial district shall be One (1) acre.

D. PERMITTED USES. Uses permitted in a planned commercial district may include all uses permitted in the C-2 General Commercial District, together with uses and structures clearly

incidental and necessary to the permitted uses and structures in this District.

E. USES BY REVIEW. Subject to the Use by Review provisions contained in this Section 12-287, the following uses may be permitted:

Gasoline, service, or filling stations, provided that it is designed as an integral part of the overall development and it will not create a traffic pattern which is hazardous, unsafe, or detrimental to the entire development.

Medical Marijuana Dispensaries and/or a Tier I Medical Marijuana Processor Facility and/or a Tier II Medical Marijuana Processor Facility, but only after approval of a site plan review hearing as provided by Section 12-286, if required, and in strict accordance with the applicable provisions of Article 5 of Chapter 9 of the Perry Municipal Code, as amended.

Sexually oriented businesses, but after approval of a site plan review hearing as provided by Section 12-286, if required, and in strict accordance with the applicable provisions of Article 2, Division 3A of Chapter 12 of the Perry Municipal Code 2022 Supplement, as amended.; provided however, sexually oriented businesses shall not be permitted within the Perry Family Friendly District, as provided in Chapter 12, Article 2, Division 2, Section 12-214 of the Perry Municipal Code 2022 or within one thousand (1,000) feet of:

- a. Any building primarily and extensively used for worship services and religious activities;
- b. Any public or private school;
- c. Any public park or playground; or
- d. Any public library.

Provided, that if any such building used for worship and religious activities, any public or private school, any public park or playground, or any public library shall be established within one thousand (1,000) feet of any such premises after the premises have been established, this shall not be a bar to the continuation of the business so long as it has been in continuous force and effect. The distance indicated in this subsection shall be measured from the nearest property line of

such church or school to the nearest public entrance door of the premises of the sexually oriented business along the street right-of-way line providing the nearest direct route usually traveled by pedestrians between such points. For purposes of determining measured distance, property situated on the opposite side of the street from such church or school shall be considered as if it were located on the same side of the street with such church or school.

F. SITE DESIGN REQUIREMENTS.

1. Maximum height of a building, Twenty-five (25) feet.
2. Width, minimum of Fifty feet at the building line.
3. Front yard setback, minimum Twenty-five feet.
4. Side yard setbacks, none except minimum of twenty-five feet for side adjacent to residential area.
5. Rear yard setbacks, there shall be a rear yard, alley, service court or combination thereof, of not less than thirty feet.
6. Screening and landscaping. Property shall be screened and landscaped in accordance with Section 12-286 (Site Plan Review). Project structural and street coverage (excluding parking) shall not exceed fifty percent of the total land area.
7. Off-Street Parking, Access. All permitted uses shall contain adequate space to provide for parking, loading, and maneuvering of vehicles in accordance with Section 12-228 (Parking Space Requirements.)
8. Signs. All advertising signs relating to the permitted uses shall be designed in such a manner as to be harmonious with Chapter 12. Article 5 of the Perry Municipal Code, 2002, entitled "Sign Regulations".
9. Site Plan Review. Prior to the issuance of a Building Permit for any permitted use, a Site Plan shall be submitted and approved in accordance with Section 12-286 (Site Plan Review).

Section 12-285 LOT COMBINATION; APPLICATION, PROCEDURES AND EFFECT.

The owner of two adjoining residential lots or parcels of land, in either a R-G Residential District or an R-1 Residential District, who desire to use and develop the lots as a single platted lot for the purpose of complying with the area, height, site design and/or subdivision requirements of the Perry Municipal Code ("combined parcel"), shall make application with the Building Official, and pay the same fee as required for a Use by Review to the City Clerk, for a Lot Combination Use.

1. APPLICATION. A Lot Combination Use Application shall include the following information:

a. The name(s), address(es), phone number(s) of the current owner or owners of record of the lots or parcels to be combined.

b. The consent of all owners of the combined residential lots or parcels.

c. A complete legal description of the existing undivided lots or parcels of record; legal descriptions shall include lot, block, subdivision or a metes and bounds description of the perimeter with all bearings expressed in degrees, minutes and seconds, or based on sectionalized land, and shall identify a point of beginning tied to a known corner of a section or fraction of a section.

d. The application shall describe the purpose for the Application.

e. One copy of a scaled drawing depicting all existing lot or parcel lines with dimensions, all existing buildings and improvements and their distances from lot lines, adjacent streets and street widths, all easements and a north arrow and scale.

f. An executed Lot Combination Agreement and Declaration Document by the owner(s) of the lots or parcels to be combined which provides, among other representations:

(1) The owner(s) of the combined parcel shall not sell, convey, mortgage any of lots or parcels comprising the combined

parcel separate and apart from any of the other lots or parcels within the combined parcel;

(2) Any attempted sale, conveyance, or mortgage of the lots or parcels within the combined parcel separate and apart from any of the other lots or parcels within the combined parcels shall be void and an offense;

(3) The covenants within the Lot Combination Agreement and Declaration Document shall run with the land and the title to the lots or parcels within the combined parcel and shall be binding on all parties having or acquiring any right, title or interest in any part thereof; and

(4) The City shall have the right and standing to enforce the terms of the Lot Combination Agreement and Declaration Document, and the Lot Combination Agreement and Declaration Document shall enure to the benefit of the City.

2. Procedure.

a. Upon receipt of a proper application containing the information and attachments provided hereinabove, an applicant for a Lot Combination Use located in a R-G Residential District, may be approved by the Building Official. In the event the Building Official does not approve the application, and the applicant desires to appeal, the written appeal must be filed with the City Clerk within ten (10) calendar days of the Building Official's denial, which appeal shall be heard and considered pursuant to the notice, public hearing, procedure and requirements as set out in Section 12-285.2.b.

b. Upon receipt of a proper application containing the information and attachments provided hereinabove, an application for a Lot Combination Use located in a R-1 Residential District, shall be subject to notice and public hearing requirements required for Use by Review Hearings, and subject to the Planning Commission's recommendation and any final decision by the City Council.

c. If the application is approved, the Lot Combination Agreement and Declaration Document, forms of which are on file with the City Clerk, shall be approved and executed by the Mayor of the City and filed of record on the lots or parcels thereby combined with the Noble County Clerk.

3. Effect.

1. From and after the filing of record of the Lot Combination Agreement and Declaration Document, the combined parcel shall be considered as a single lot for purposes of complying with the area, height, site design and/or subdivision requirements of the Perry Municipal Code. Failure to comply with such area, height, site design and/or subdivision requirements of the Perry Municipal Code shall be an offense, punishable as provided by the general penalty of this code.

2. The Lot Combination Agreement and Declaration Document shall terminate upon:

a. The replatting of the lots or parcels into a single lot with approvals as required by law; or

b. At such time as it becomes unnecessary for any reason or cause to combine or use the aforementioned properties as a single lot in order to meet or satisfy any of the requirements for a single lot under the controlling residential zoning district.

c. Not more than two (2) lots or parcels shall be combined pursuant to this section.

3. Any applicant for a lot combination for the location of an accessory building or use on a combined lot without a principal residential structure on the same lot may request a minimum front yard setback at least twenty-five feet (25'), which if approved under the procedure provided under this section, shall be the front yard setback.

Section 12-286 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 uses, 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 in accordance with this section.

B. INTENT. The Site Plan Review process recognizes that the developments to which it is made applicable, even though generally suitable for location in a particular district or on a particular site are because of their nature, size, complexity, or other indicators of probable impact, capable of adversely affecting the purposes for which these regulations are established, unless careful consideration has been given to critical design elements. Therefore, it is the intent of this process to ensure that all elements are reviewed for compatibility with the provisions of these regulations. A Site Plan, much like a preliminary plat of subdivision, is intended to serve as a working document for the developer and the City. It shall provide sufficiently detailed information to allow an informed decision concerning the overall acceptability of the proposed development.

C. APPLICABILITY. Site Plan Review shall be required, as a precondition to the issuance of a Building or Occupancy Permit, in the following instance:

The development or establishment of any commercial or special or industrial use.

D. RESERVED.

E. DESIGN STANDARDS. The following design standards shall apply to any development requiring 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 Highways, with the Oklahoma State Highway Commission's Driveway Regulations for Oklahoma Highways.

2.

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, paved and other areas and disposed of in an appropriate drainage system as approved by

the Building Official.

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 Section.

e. The plan shall not interfere with sight triangles at intersections as provided in the Subdivision Ordinance.

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.

g. All landscaping improvements shall at all times be maintained in a live and healthy manner.

h. Existing landscaping and vegetation on the site can be required too be retained in order to satisfy the requirements of this Section.

i. The Zoning Officer, with approval from the City Manager, can exempt any industrial development from compliance with any or all of these landscaping provisions but shall provide the reasons therefore in a written memorandum, containing appropriate zoning and planning considerations at the

time of the consideration of the Site Plan Review.

4. Lighting. All lighting in parking areas, as part of signs and advertising or special lighting, shall be so arranged to avoid unreasonable reflection, glare, or radiation onto operators of motor vehicles, pedestrians, and neighboring land uses or properties. Outdoor lighting when provided, shall have an arrangement of reflectors and an intensity which will not interfere with adjacent land uses or the use of adjacent streets. No flickering, moving, or flashing lights shall be permitted.

5. Parking. The location, width and layout of interior drives shall be appropriate for the proposed interior circulation (See 12-231). 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. The Zoning Officer, with the approval of the City Manager, can exempt any industrial development from compliance with any or all of the these parking provisions but shall provide the reasons therefore in a written memorandum, containing appropriate zoning and planning considerations at the time of the consideration of the Site Plan Review.

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. The

landscaping requirements herein can be amended or waived in certain circumstances to provide for overflow parking when necessary to better serve the interests of the business and the public. For purpose of this section, the term "overflow parking" shall mean parking spaces and areas in excess of that required by this code.

b. Surfacing. Except as otherwise provided herein, 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 hard surface (See Section 12-231). Alternate Pavement Systems. An alternate pavement system may be substituted for concrete or asphalt for the construction of overflow parking of vehicles, storage and display of merchandise, and other locations where vehicles will drive, turn and exit or park, provided the design and construction of such paving system meets the following performance standards:

(1) Rock or gravel paving systems which does not allow the water to permeate into the subsurface directly below the paving system.

(a) MATERIALS. Aggregate shall conform to the applicable requirements of ASTM D 1241 or, if so specified, shall be obtained from designated sources. The aggregate material shall be free from vegetable matter and other deleterious sources. The surface course shall meet the requirement of ASTM D 1241 for Type I with Gradation C or any other gradation, which will grade within the following limits:

Sieve Size	Percent Passing by Weight
$\frac{3}{4}$ "	100
No. 4	38-65
No. 8	25-60
No. 30	10-40
No. 200	3-12

(b) DRIVEWAYS. Driveways shall meet the following requirements:

When tested in accordance with ASTM D 4318, the plasticity index shall not be more than five.

When tested in accordance with ASTM D 4318, the liquid limit shall not be more than 25 percent.

Driveways to be surfaced including the drainage ditches shall be scarified minimally to the top 6 inches of the road bases and mixed with water to within plus or minus 1% optimum moisture and compacted as necessary to provide density of road base matrix not less than 95% maximum Proctor density (ASTM-698).

The road surface coarse material shall be compacted as necessary to provide density of the road gravel surface matrix not less than 95% maximum Proctor density (ASTM-698).

(c) BASE PREPARATION. The area to be surfaced shall be compacted as specified. The surface shall be inspected and approved by the City's engineer before an aggregate surfacing material is placed.

(d) PLACEMENT. The aggregate shall be deposited, spread, processed, and compacted on the prepared subgrade to the required thickness as designated by the City Engineer. Minimum thickness of the rock or aggregate layer shall be six inches. In the event segregation occurs, the material shall be bladed until the various sizes of aggregate are uniformly and satisfactory blended. After being spread, the material shall be watered, mixed, and shaped to the required section, and compacted as specified. The completed course shall be smooth, true to grade and cross-section and free from ruts, humps, depressions, and irregularities.

(e) DRAINAGE. Low drainage channels shall be provided to carry the water to proper and adequate drainage to a designated storm water collection area or conveyance system. Such paving system shall also be designed to direct and/or convey water flow away from a structure.

(f) CROSS-SECTION. The cross-section as provided shall be followed if required by the City Engineer.

(g) CULVERTS. Culverts may be required to be placed in such location(s) as specified by the City.

(h) The approach shall be a minimum of twelve feet (12') in width, six inches (6") in depth, and constructed of concrete.

(2) Rock or gravel paving systems which allow the water to permeate into the subsurface directly below the paving system

(hereinafter referred to as permeable pavement system").

(a) Such paving system is installed in a manner that prevents water from standing for longer than forty-eight (48) hours in, on, or below the pavement following a rainfall event.

(b) Such paving system is installed in a manner which allows for proper and adequate drainage to a designated storm water collection area or conveyance system.

(c) Such paving system is designed to direct and/or convey water flow away from a structure.

(d) Innovative or specialized permeable pavement systems may be utilized provided the design and construction thereof strictly adheres to the manufacturer's specifications for installation and use. Such specifications and/or drawings shall be submitted to the City of Perry for review and approval prior to start of construction.

(e) Design and construction of such permeable paving systems shall conform to all other requirements of the City Code or Standards, including the following standards:

The approach shall be a minimum of twelve feet (12') in width, six inches (6") in depth, and constructed of concrete.

Mirafi Fabric No. #RS380i or an equivalent liner shall be placed from the back of the concrete approach to the edge of any area covered by the aggregate.

Permeable pavement is asphalt or concrete of a type permitted by the City Engineer shall be mixed with fewer fine particles to create more air space which allows water to permeate through it. An underlying layer of fine sediment shall be placed and below in a bed of uniform-grade stones that shall store the water as it infiltrates into the ground. The thickness of each material shall be certified by an engineer or approved by the City Engineer.

As much of the soil in the City is hard clay and does not permit the infiltration of water through it, an appropriate soil test and certification from a licensed engineer shall be required for the installation of a permeable pavement system.

d. The decision whether to permit an alternate pavement system for overflow parking areas shall be based on its intended location, utility, aesthetic considerations, surrounding uses and such other factors as the Planning Commission and City Council deem appropriate. No alternative pavement system may be used on an approach to or from any property, which approach shall be in concrete.

(3) Provisions applicable to both types of alternative paving systems:

No owner or person in lawful possession of the property upon which either of the alternate paving systems are used shall permit rock or other aggregate from being carried out into the street from the property. In the event such occurs, the owner or person in lawful possession of the property shall immediately remedy the occurrence or shall be subject to a fine and costs.

6. Relation of proposed structures to environment. Proposed structures on the site shall be related in style and design and shall also relate visually to the terrain and existing buildings and roads in the vicinity. The achievement of such harmonious relationship may include the enclosure of space in conjunction with other existing buildings or other proposed buildings and the creation of focal points with respect to avenues of approach, terrain features or other buildings. Proposed structures shall be so cited as to minimize any adverse impact upon the surrounding area, and particularly upon nearby residences, by reason of:

- a. Building location, height, bulk, and shadows;
- b. Location, intensity, direction, and time usage of outdoor lighting;
- c. Likelihood of nuisances;
- d. Other similar considerations.

Appropriate screening shall be required to minimize any such adverse impact.

7. Screening. Development and maintenance of plantings, fences, and walls shall be provided as an aesthetic barrier against traffic, noise, heat, glare, and dust for the protection

and conservation of property. Whenever any lot located in any commercial or special use or industrial zone is to be developed or occupied by a commercial or special use or industrial use and it abuts a lot located in any residential zone or a lot developed residentially, or it otherwise abuts any property or lot which should be visually protected from such use as determined in the site review process, 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 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, existing landscaping and vegetation on the site which serves a partial or full screening may be required to be retained in order to satisfy the requirements of this Section. The Zoning Officer, with the approval of the City Manager, can exempt any industrial development from compliance with any or all of the these screening provisions but shall provide the reasons therefore in a written memorandum, containing appropriate zoning and planning considerations, at the time of the consideration of the Site Plan Review.

8. Special Features. Outside storage areas, service and machinery installations, service areas, truck loading areas, utility buildings, and structures, and similar accessory areas and structures shall be subject to such setbacks, screen plantings or other screening methods as shall reasonably be required to prevent any adverse effect upon the environment or nearby property.

9. Waste disposal. All containers for the disposal of wastes can be required to be located on a concrete pad and shall be screened to the extent that the container cannot be viewed by the public.

10. Public Rights-of-Way, Streets and Easements. Each Site Plan shall provide for the appropriate dedication and

improvement of needed rights-of-way and easements as are necessary to adequately serve the proposed development and occupancy and the minimum design standards of the City.

11. Signs. Except as otherwise hereinafter provided, all signs submitted as a part of Site Plan Review Process shall conform to the sign regulations provided for in Chapter 12, Article 5 of this municipal code (hereinafter "Sign Ordinance"). In the case of an application for a sign that does not meet the terms of the Sign Ordinance the applicant may apply to the Board of Adjustment for a variance, or as a part of the Site Plan Process, for a special exception as specifically hereinafter provided. Any request for a special exception to the Sign Ordinance regarding a discretionary decision may only be considered with respect to the location, height, size, or lighting of the sign. The specific criteria to be considered when considering a special exception to the Sign Ordinance are the following:

A. The special exception sought must not violate the terms of any applicable International Code; and

B. The special exception must, as best as possible, take into consideration the natural environment, and the health, safety and welfare of the residents and landowners immediately adjacent to the sign, including issues concerning location, height, size or lighting of the sign; and

C. Whether the special exception is for a temporary or permanent sign.

Reasonable conditions may be required in conjunction with the approval of a special exception to the Sign Ordinance and such reasonable conditions shall be memorialized in the approval of the special exception as a part of the site plan. Moreover, the specific special exception sought to the Sign Ordinance must be identified in the required site plan public notice.

F. PRE-APPLICATION REVIEW. Prior to submission of a Site Plan, the applicant should discuss with the Zoning Officer 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 fifty 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. 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 twenty-five dollars (\$25.00). An application for the approval of a Site Plan may be processed simultaneously with and contingent upon, the approval of, an application for a zoning amendment.

H. CONTENTS OF THE SITE PLAN.

1. All Site Plans shall contain the following information:

a. Location of the tract, with references to names of adjoining streets, streams, bodies of water, railroads, subdivisions, or other landmarks sufficient to clearly identify the location of the property.

b. The name, address and telephone 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 Zoning Officer.

e. All existing and proposed streets, pedestrian circulation systems, utilities, and easements, indicating their name, type and dimensions and the location of all private utility service lines and connections to public utilities.

f. Zoning of all adjacent properties.

g. The delineation of any flood hazard areas and drainage features as defined by the Federal Insurance Administration.

h. Location, type, and dimensions of vehicular entrances to the site.

i. All off-street parking and loading areas in accordance with off-street parking regulations as specified in this Code.

j. The proposed location, use, number of floors, height, and gross floor area for each building; any outside display areas; signs and lighting. Elevation drawings shall be submitted for all signs and buildings.

k. Location, type, size, and height of fencing, retaining walls, screening, plantings, or landscaping. Elevation drawings shall be submitted for all screen planting and fencing.

l. Provisions for the adequate disposition of natural storm water in accordance with the adopted design criteria, standards, and ordinances of the City indicating the location, size, type and grade of ditches, catch basins and dips, and connections to existing drainage systems and on-site storm water detention systems.

m. Proposed finished grading by contours of two (2) feet supplemented where necessary by spot elevation if required by the Zoning Officer.

n. The Zoning Officer, with the approval of the City Manager, can exempt any development from compliance with any of the required contents of the Site Plan but shall provide the reasons therefore in a written memorandum, containing appropriate zoning and planning considerations, at the time of the consideration of the Site Plan Review.

I. SITE PLAN SUBMISSION AND REVIEW. Plans for Development on Property.

1. All Site Plans shall be reviewed and approved by the Site Plan Review Committee prior to the issuance of any Building Permit or Occupancy Permit for the property. The Site Plan Review Committee shall consist of seven (7) members, including the Street Department Supervisor, Water Department Supervisor, Electric Department Supervisor, Zoning Officer, Fire Marshall, Building Official and Advisor to the Planning Commission. As a condition of approval, the Site Plan Review Committee may require certain on-site and off-site improvements to be installed.

2. The Site Plan shall be submitted to the Zoning Officer no later than 10 days prior to the Site Plan Committee's meeting date at which it is to be considered.

3. The Zoning Officer 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 Zoning Officer shall provide to the Site Plan Committee, a written report recommending and listing reasons for the approval or denial of the Site Plan.

5. The Site Plan Review Committee's decision shall be reduced to writing and the Site Plan Checklist shall be made a part of such decision. The Site Plan Review Committee 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. An appeal shall stay the applicability of the building permit until the City Council's decision.

b. Conditional approval. The Site Plan Review Committee may recommend conditional approval of the Site Plan. Such approval shall be in writing and provide for any amendments, conditions and/or special exceptions

c. Denial. If the Site Plan is recommended for denial,

the reasons for such shall be recorded in the minutes of the Site Plan Review Committee. The reasons for denial shall refer to specific provisions of these regulations which the Site Plan does not conform.

d. Exemptions. In making such recommendation of approval or conditional approval of any Site Plan, the Site Plan Review Committee may exempt any development from compliance with any of the Design Standards but shall set out their reasoning in their motion and minutes.

7. Any person may appeal the decision of the Site Plan Review Committee by filing a written notice with the City Clerk within five (5) days of the Site Plan Review Committee's written decision. In the event of an appeal, the decision of the Site Plan Review Board shall be referred to the Planning Commission. A public hearing shall be set, with a notice posted on the property providing for the date, time and location of the public hearing, at least five (5) days prior to the public hearing. The Planning Commission shall consider the appeal and make a decision consistent with the criteria of this section. Such recommendation shall be submitted to the City Council for a final decision. The criteria for review and approval granted the Site Plan Review Committee, including but not limited to the ability to provide conditions and grant special exceptions, shall apply to the review and approval process conducted by the City Council. The City Council shall approve, conditionally approve, or deny the Site Plan, including accepting or rejecting, in whole or in part, any recommended exemption from the Design Standards. In the case of any action other than approval, the City Council shall state the reasons for its action.

J. PUBLIC NOTICE.

1. After the Zoning Officer 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 five (5) days prior to the hearing before the Site Plan Review Committee. The subject property shall remain posted until a final decision has been made concerning the application; provided the notice

shall be appropriately amended in the case of an appeal.

Upon approval of the Site Plan, building permits may be issued in accordance with the provisions of the approved Site Plan. An appeal shall stay the applicability of the building permit until the City Council's decision.

K. AMENDMENTS. Minor changes to the Site Plan may be accomplished administratively through the Zoning Officer so long as substantial compliance is maintained with the approved Site Plan. Proposed changes which could represent a significant departure from the Site Plan, 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 five percent (5%), and increase in residential density, or an increase in total ground area covered by buildings by more than five percent (5%).

L. OCCUPANCY PERMIT. Prior to the issuance of any Certificate of Occupancy, the applicant shall complete in a manner satisfactory to the Zoning Officer, all improvements required by these regulations and as required by the City Council.

M. EXCEPTIONS: The foregoing Site Plan Procedure shall not apply to:

1. New occupancies of existing structures in the "C-3" Central Business District.

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.

Section 12-287 BUILDING PERMIT AND CERTIFICATE OF OCCUPANCY.

A. BUILDING PERMIT. The provisions respecting buildings permits are provided in Section 5-106 of this Code.

B. Certificate of Occupancy.

1. No vacant land shall be occupied or used except for agricultural uses, and no building erected or structurally altered shall be occupied or used until a Certificate of Occupancy shall have been issued by the Building Official.

2. Certificate of Occupancy for the use of vacant land or to change any use thereof shall be applied for before any such land shall be occupied or used and a Certificate of Occupancy shall be issued within three (3) days after application has been made provided that the use is in conformity with the provisions of the ordinances of the City.

3. The Certificate of Occupancy for the use of the building shall be as provided by the Building Code of the City.

4. No fee shall be charged for the original Certificate of Occupancy issued in connection with construction of a building. For all other certificates or copies of any original there shall be a charge of five dollars (\$5.00) each.

5. No permit for excavation for any building shall be issued before application has been made, therefore.

C. 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.

D. 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. At least twenty (20) days prior to the public 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 or the Noble County Assessor, together with a copy of any restrictive covenants that are applicable to the tract which is the subject of the use by review. In addition, the notice shall be published in a newspaper of general circulation in the City at least fifteen (15) days prior to the public hearing. The mailed and published notice shall contain the following information:

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.

E. 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.

F. 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(Chapter 18, Section 12-311).

G. RESTRICTION FOR HOME OCCUPATION. The approval of a Use by Review for a home occupation is intended to be for the existing landowner only. Any transfer of ownership after the home occupation is approved nullifies the particular approved use.

Section 12-287 BUILDING PERMIT AND CERTIFICATE OF OCCUPANCY.

A. BUILDING PERMIT. The provisions respecting buildings permits are provided in Section 5-106 of this Code.

B. Certificate of Occupancy.

1. No vacant land shall be occupied or used except for agricultural uses, and no building erected or structurally altered shall be occupied or used until a Certificate of Occupancy shall have been issued by the Building Official.

2. Certificate of Occupancy for the use of vacant land or to change any use thereof shall be applied for before any such land shall be occupied or used and a Certificate of Occupancy shall be issued within three (3) days after application has been made provided that the use is in conformity with the provisions of the ordinances of the City.

3. The Certificate of Occupancy for the use of the building shall be as provided by the Building Code of the City.

4. No fee shall be charged for the original Certificate of Occupancy issued in connection with construction of a building. For all other certificates or copies of any original there shall be a charge of five dollars (\$5.00) each.

3. No permit for excavation for any building shall be issued before application has been made therefore.

C. 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.

D. 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.

E. 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.

F. 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 (Chapter 18, Section 12-311).

G. RESTRICTION FOR HOME OCCUPATION. The approval of a Use by Review for a home occupation is intended to be for the existing landowner only. Any transfer of ownership after the home occupation is approved nullifies the particular approved use.

Section 12-288 C-5 PLANNED COMMERCIAL PARK

1. GENERAL DESCRIPTION:

The purpose of the C-5 Planned Commercial Park District is to accommodate a limited group of professional, administrative, wholesale, retail, service, distribution warehouses, and research and manufacturing uses which may have unusual requirements for space, light, and air and the operations of which are quiet and clean to insure the creation and maintenance of an environment which will serve the mutual interest of the community as a whole, as well as the adjacent areas and uses and the occupants of the commercial park area in particular.

2. WHERE ESTABLISHED:

A C-5 Planned Commercial Park District may be established upon any tract of land held by a single owner or under unified control; provided a development plan is submitted in compliance with the provisions of this section and from the plan submitted, the planning commission finds that the proposed C-5 Planned Commercial Park District is in keeping with the master plan of the area and will not adversely affect surrounding properties. Further, great care and discretion should be given to the proper size and spacing of the C-5 Planned Commercial Park Districts to keep from over-capacitating utility lines and streets.

3. SIZE OF DISTRICT:

The minimum area of a C-5 Planned Commercial Park District shall be ten (10) acres.

4. SUBMISSION OF DEVELOPMENT PLAN:

The proponents of a C-5 Planned Commercial Park District shall submit a plan of development to the Planning Commission for its inspection and recommendations.

The development plan shall include the following information:

- a. Location and size of area involved.
- b. All improvements of surrounding properties lying within 500 feet of the proposed a C-5 Planned Commercial Park District.
- c. All known or planned building locations for the proposed a C-5 Planned Commercial Park District.
- d. All known or planned parking and loading locations of the proposed a C-5 Planned Commercial Park District.

Prior to the issuance of any building permit(s) there must be an approved development plan with any revisions requested by the Planning Commission and approved by the governing body and on file in the City Planning Offices. All development plans must be considered at a regular meeting of the Planning Commission.

5. PERMITTED USES:

Uses permitted in the C-5 Planned Commercial Park District may include the following:

A. Any use, except dwellings, permitted in the C-2 General Commercial District. No dwelling use, except sleeping facilities required by caretakers or night watchmen employed on the premises, shall be permitted in this district.

B. Administrative and professional offices.

C. Any use charged with the principal function of basic research, design and pilot or experimental product development.

D. Warehouse and storage facilities, provided that the storage of materials and supplies are contained within an enclosed building totally screened from public view.

E. Wholesale operations, provided that the storage of materials and supplies are contained within an enclosed building totally screened from public view.

F. Automobile and truck sales operations, provided that the storage of vehicles kept for servicing and repair must be totally screened from public view.

G. The retailing of agricultural machinery, equipment and supplies normally required for farming operations, but excluding heavy equipment commonly used in dirt or paving construction.

H. Apparel (clothing) and other products manufactured from textile.

I. Banks and financial institutions.

J. Cameras and other photographic equipment and supplies.

K. Dentures and drugs.

L. Jewelry.

M. Laboratories - medical, dental, research, testing.

N. Manufacture and assembly of electrical and electronic products.

O. Musical instruments.

P. Medical appliances.

Q. Plastic products.

R. Precision instruments.

S. Printing, newspaper publishing and binding.

T. Sporting and athletic equipment.

U. Toys.

V. Any other manufacturing or service establishments that in the opinion of the Planning Commission are similar in use to the type listed above.

6. AREA REGULATIONS:

A. Minimum lot size - 1/2 acre.

B. Minimum yard setbacks:

Front Yard - fifty feet

Side Yard - ten feet

Rear Yard - twenty-five feet

C. Maximum height of buildings - forty-five feet.

7. SIGNS AND BILLBOARDS

All signs and billboards in the C-5 Planned Commercial Park District shall conform to the requirements in Chapter 12. Article 5 of the Perry Municipal Code, 2002, entitled "Sign Regulations".

Section 12-289 I-1 INDUSTRIAL (LIGHT).

1. GENERAL DESCRIPTION

This Industrial District is intended primarily for the activity of light manufacturing, assembling, and fabrication and for some warehousing, wholesale and service uses. These do not depend primarily on frequent personal visits of customers or clients, but may require good accessibility to major rail, air, or street transportation routes.

2. PERMITTED USES

A. Any use except dwellings, permitted in the Commercial Districts. No dwelling use, except sleeping facilities required by caretakers or night watchmen employed on the premises, shall be permitted in this district.

B. 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.

C. Contractor's equipment storage yard or plant, or rental of equipment commonly used by contractors.

- D. Freighting or trucking yard or terminal.
- E. Oilfield equipment storage yard.
- F. Public Utility service yard or electrical receiving or transforming station.
- G. Sale barn.
- H. Distribution and/or warehousing centers.
- I. Other uses which are in keeping with the general description of this District and are substantially similar to the above uses but not specifically listed.

No article or material permitted in this District shall be kept stored or displayed outside the confines of a building when abutting a residential zone or residential development, unless it be so screened by fences, walls or planting that it cannot be seen from adjoining public streets or adjacent lots when viewed by a person standing on ground level.

The following uses when conducted within a completely enclosed building:

K. 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.

L. The manufacture, compounding, assembly or treatment of articles of merchandise from the following previously prepared materials: Bone, cellophane, canvas, cloth, cork, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastic, precious or semi-precious metals or stone, shell textiles, tobacco, wood, yard, and paint not employing a boiling process.

M. The manufacture of pottery and figurines or other similar ceramic products, using only previously pulverized clay and kilns fired only by electricity or gas.

N. The manufacture and maintenance of electric and neon signs, commercial advertising structures, light sheet metal

products, including heating and ventilation ducts, and equipment, cornices, eaves, and the like.

O. Manufacture of musical instruments, toys, novelties, and rubber and metal stamps.

P. Truck repair and overhauling, tire retreading or recapping and battery manufacturing.

Q. Blacksmith shop and machine shop, excluding punch presses over twenty (20) tons rated capacity, drop hammers, and automatic screw machines.

R. Foundry casting lightweight nonferrous metal not causing noxious fumes or odors.

S. Assembly of electrical appliances, electronic instruments and devices, radios, and phonographs, including the manufacture of small parts only, such as coils, condensers, transformers, and the like.

The use permitted under this Section shall be conducted in such a manner that any noxious odor, fumes or dust generated beyond the property line of the lot on which the use is located will do so only with compliance with all City, State and Federal pollution regulations.

3. USES BY REVIEW:

A. Salvage yards provided the property can be used in compliance with ordinances licensing salvage yards and meet the three (3) standards as described in Section 12-287 B, C, D, E, F & G (Use by Review), after notice and public hearing.

B. Medical Marijuana Grower Facility in accordance with Section 12-287B, C, D, E, F and G (Use by Review) and after approval of a site plan review hearing as provided by Section 12-286, if required, and in strict accordance with the applicable provisions of Article 5 of Chapter 9 of the Perry Municipal Code 2022, as amended.

4. AREA REGULATIONS:

A. Front Yard Set-Back
Adjacent to State or Federal Highway - forty feet.

Adjacent to a principal arterial - thirty feet.

Adjacent to a minor arterial or a section line road - twenty-five feet.

Adjacent to any public road or street other than a Federal, State or County Highway and principal arterial - twenty-five feet.

B. Side Yard Set-Back - None.

C. Rear Yard Set-Back - None unless abutting a Federal, State, a County Highway, or arterial street, or residential zone or development in which case the setback shall be forty (40) feet.

5. HEIGHT REGULATIONS:

No building shall exceed three and one-half (3 ½) stories or forty-five (45) feet in height.

6. SIGNS AND BILLBOARDS

All signs and billboards in the I-1 district shall conform to the requirements in Chapter 12, Article 5 of the Perry Municipal Code, 2022, or as amended, entitled "Sign Regulations".

Section 12-290 I-2 INDUSTRIAL (HEAVY)

1. GENERAL DESCRIPTION

This Industrial District is generally intended to provide for heavy industrial uses as well as other uses not otherwise provided for in the districts established by these regulations. The intensity of uses permitted in this district makes it desirable that they be located in an area separated from residential and commercial uses.

2. PERMITTED USES:

Property and buildings in an I-2 Heavy Industrial District may be used for any use except the following:

A. All residential uses except sleeping facilities required by night watchmen and caretakers employed upon the premises.

B. All uses not complying with these regulations or any other City, County, State or Federal Regulation or law.

Property and buildings in an I-2 Heavy Industrial District may be used for Medical Marijuana Grower Facilities shall be permitted in strict accordance with the applicable provisions of Article 5 of Chapter 9 of the Perry Municipal Code 2018 Supplement and after approval of a site plan review hearing as provided by Section 12-286, if required.

Property and buildings in an I-2 Heavy Industrial District may be used for Medical Marijuana Processor Facility shall be permitted in strict accordance with the applicable provisions of Article 5 of Chapter 9 of the Perry Municipal Code 2018 Supplement and after approval of a site plan review hearing as provided by Section 12-286, if required.

C. All of the following uses until they have been studied by the Planning Commission and have received the express approval of the City Council. The Planning Commission may require approval of the County Health Department, the State Fire Marshal and other State and County regulating agencies and may attach to the approval specific restrictions designed to protect the Public Welfare.

1. Acid Manufacture.
2. Cement, lime, gypsum, or plaster of paris manufacture.
3. Explosives, manufacture, or wholesale (liquid explosive) storage.
4. Gas manufacture.
5. Grain elevator and storage.
6. Petroleum or its products, refining of wholesale or bulk storage of gasoline, propane, butane, or other petroleum.
7. Salvage yards, unless authorized by review under Section 12-287 B, C, D, E, F & G (Use by Review), herein as to property which can comply with the requirements of licensing ordinances for salvage yards.

D. AREA REGULATIONS:

1. Front Yard Set-Back - same as I-2
2. Side Yard Set-Back - none.
3. Rear Yard Set-Back - none.

E. HEIGHT REGULATIONS:

None

F. SIGNS AND BILLBOARDS

All signs and billboards in the I-2 district shall conform to the requirements Chapter 12. Article 5 of the Perry Municipal Code, entitled "Sign Regulations".

Section 12-291 STANDARDS.

A. Any use, constructed, established, altered, or enlarged in the I-2 industrial district after the effective date of this chapter shall be so operated as to comply with the following standards:

1. No building shall be used for residential purposes, except that a watchman may reside on the premises;

2. No retail sales or services shall be permitted except as incidental to or accessory to a permitted use.

3. No noise either continuous or intermittent from any operation conducted on the premises, other than that emanating from vehicular traffic, shall be detectable at any boundary line of the I-2 district;

4. No toxic matter, noxious matter, smoke, gas, or odorous or particulate matter shall be emitted that is detectable beyond the lot lines of the lot on which the use is located;

5. No vibrations shall be detectable beyond the lot lines of the lot on which the use is located;

6. Exterior lighting fixtures shall be shaded wheresoever necessary to avoid casting direct light upon property located in any residential district;

7. The manufacture of flammable materials which produce explosive vapors or gases is prohibited;

8. No outside storage of equipment or material, except equipment for daily use, shall be permitted in such a location where it can be viewed from any public street; or

9. Any operation that produces intense glare or heat shall be performed within a completely enclosed building and exposed sources of light shall be screened so as not to be detectable beyond the lot lines.

Section 12-292 USES PERMITTED.

A. Within the I-2 industrial district, the following uses are permitted:

1. Building material sales;
2. Commercial radio and television transmitting antenna towers and other electronic equipment requiring outdoor towers, including antenna towers for the dispatching of private messages;
3. Compounding, processing, and blending of chemical products, but not including any materials which decompose by detonation;
4. General and administrative offices;
5. Machine shops and metal products manufacture and tool and die shops;
6. Mail-order houses;
7. Manufacturing and assembling (or any combination of such processes) of products from wood, cork, glass, leather, iron, steel, fur, plastic, felt, and other textiles;
8. Manufacturing and assembling of electrical and electronic products and equipment.

9. Printing and binding plants;
10. Research laboratories;
11. Warehouse and storage facilities;
12. Water filtration plants, pumping stations, reservoirs, and lift stations;
13. Any other manufacturing process or establishment;
14. Accessory uses incidental to and on the same zoning lot as a principal use;
15. Any of the following uses:
 - a. Blacksmiths, tinsmiths, and sheet metal shops;
 - b. Bottling works;
 - c. Canning or preserving factories;
 - d. Cold storage plants;
 - e. Ice cream production and distribution;
 - f. Laundry and dry-cleaning plants;
 - g. Machinery rental, sales, and service;
 - h. Machine shops;
 - i. Manufacturing, fabricating, assembling, repairing, storing, and cleaning, servicing, or testing of any of the following materials, goods, or merchandise:
 - (1) Apparel;
 - (2) Automobile wrecking and junk yards, provided they are enclosed throughout the entire perimeter by a solid fence not less than eight (8) feet in height;
 - (3) Beverages (nonalcoholic), processing and bottling;

- (4) Building materials specialties;
- (5) Bulk fuel sales and storage;
- (6) Clothing;
- (7) Compounding and packaging of chemicals;
- (8) Cosmetics and toiletries;
- (9) Dairy products;
- (10) Drugs and pharmaceutical products;
- (11) Electrical and acoustical products and components;
- (12) Food products (except fish, sauerkraut, vinegar, and yeast);
- (13) Furniture;
- (14) Glass products;
- (15) Ice, dry and natural;
- (16) Jewelry;
- (17) Medical laboratory supplies, equipment, and specialties;
- (18) Metal products and utensils;
- (19) Milk, bottling and distribution;
- (20) Monumental stone cutting;
- (21) Motor freight terminals;
- (22) Musical instruments;
- (23) Optical goods;
- (24) Paper products, including boxes and containers;
- (25) Pattern shops;

(26) Processing of meat and vegetable products, including the slaughter of animals;

(27) Radios, phonographs, recorders, and television sets and parts;

(28) Railroad yards and switching areas, including lodging and sleeping facilities for transient railroad labor;

(29) Sign painting;

(30) Soldering and welding shops;

(31) Spray painting and mixing;

(32) Textiles;

(33) Toys and children's vehicles;

(34) Trailers and carts; and

(35) Wood products, including wooden boxes and containers.

Section 12-293 AREA AND HEIGHT REGULATIONS.

Minimum Lot Area	Minimum Lot Frontage	Maximum % Coverage	Maximum Height	Minimum Front Yard Setback	Minimum Side Yard Setback	Minimum Rear Yard Setback
None	None	90%	None	25'	25'	25'

A. There are no area requirements in an I-2 district.

B. There are no lot frontage requirements in an I-2 district.

C. Not more than ninety percent (90%) of the lot area shall be covered with improvements. Paved areas are not considered as improvements within the meaning of this provision.

D. There are no height requirements in an I-2 district.

E. No structure shall be erected, commenced, or maintained which has a front yard of less than twenty-five (25) feet.

F. No structure shall be erected, commenced, or maintained which has a front yard of less than twenty-five (25) feet.

G. No structure shall be erected, commenced, or maintained which has a rear yard of less than twenty-five (25) feet.

Section 12-294 SIGNS AND BILLBOARDS.

All signs and billboards in the I-2 district shall conform to the requirements in the sign ordinance.

SECTION 12-295 SU SPECIAL USE

A. GENERAL DESCRIPTION. This District is intended for those uses not otherwise specifically covered by the other districts. The primary purpose is for public and quasi-public uses.

B. DISTRICT USE REGULATIONS.

1. Uses Permitted:

Property and buildings in the SU Special Use District shall be used only for the following purposes:

a. Public and private schools and colleges not to include day-care centers.

b. Any uses accessory to schools and colleges that are owned and/or controlled by said schools or colleges, including one, two-family, and multi-family dwellings.

c. County clubs.

d. Golf course (public or private)

e. Hospitals, clinics, and medical or dental offices surrounding and in direct relationship to the hospital or clinic.

f. Libraries, archives, and museums publicly or privately owned.

g. Federal, State and City owned property.

2. Uses Permitting by Review:

The following uses may be permitted after review in accordance with Section 12-287 C, D, E and F (Uses by Review).

Other uses which, in the opinion of the Perry Planning Commission, are similar to the above uses and are in keeping with the general description of the zoning district and meet the conditions for authorization as specified in Section 12-287 C, D, E and F (Uses by Review).

3. Site Design Requirements.

The following regulations shall apply to any site proposed for development after November 18, 2002. For purpose of this subsection, "proposed development" shall mean the formal submission of a Site Development Plan in compliance with Section 12-286 (Site Plan Review).

a. Area. No minimum lot area and width.

b. Height. No building or structure shall exceed Forty-five (45) feet in height, measured from the mean elevation of the lot.

c. Front Yard Setback. The minimum front yard setback shall be twenty-five (25) feet.

d. Side yard Setback. The minimum side yard setback shall be as follows:

Zero (0) feet, unless the lot abuts a residential district or development, in which case the setback shall be ten (10) feet, measured from the side property line abutting the residential district or development.

e. Rear yard. The minimum depth of the rear yard shall be as follows:

Zero (0) feet, unless the lot abuts a residential district or development, in which case the setback shall be ten (10) feet, measured from the rear property line abutting the residential district or development.

f. Screening and Landscaping. Property shall be landscaped and screened in accordance with Section 12-286 (Site Plan Review).

g. Off-Street Parking. Access. All permitted uses shall contain adequate space to provide for parking, loading, and maneuvering of vehicles in accordance with Section 12-228 (Parking Space Requirements).

h. Signs. All advertising signs relating to the permitted uses shall be designed in such a manner as to be harmonious with the other design features of the site and shall conform with Section 12-285 (Sign Regulations.)

i. Site Plan. Prior to the issuance of a Building Permit for any permitted use, a Site Plan shall be submitted and approved in accordance with Section 12-286 (Site Plan Review).

Section 12-296A PUD: SCOPE OF REGULATIONS.

The planned unit development, herein referred to as PUD, is a special zoning district category that provides an alternate approach to conventional land use controls. As a type of development and as a regulatory process, the planned unit development is subject to special review procedures, and once approved it becomes a zoning classification for the property it represents. The PUD designation may be applied to any one or more conventional districts, except the A-G Agricultural District and the SU Special Use District.

Section 12-296B PUD: GENERAL PROVISIONS.

A. Purpose: The regulations for the planned unit development zoning district are designed to:

1. Provide the developer with reasonable assurance of ultimate approval before the expenditure of complete design monies, while providing the city with assurances that the project will retain the character envisioned at the time of concurrence;

2. Encourage diversified living environments, and accommodate a mixture of land uses that otherwise would not be allowed together on the same site;

3. Permit flexibility within the development with respect to area and bulk standards to best utilize the physical features of a particular tract of land;

4. Provide and preserve meaningful open space, particularly where it is necessary or desirable for such common areas to be shared by more than one owner;

5. Encourage a more efficient use of land, public services, and natural resources than is generally achieved through conventional development;

6. Provide a smooth transition from surrounding densities, intensities, and uses with those proposed in the PUD; and

7. Encourage the provision of amenities beyond the minimum requirements of conventional development.

B. Goals: In conjunction with the purposes stated in subsection A of this section, the following goals are established to help achieve high quality PUDs which are compatible with abutting developments.

1. Open Space: A PUD should provide meaningful open space to serve as a buffer between a PUD and the surrounding neighborhood when needed for a smooth transition.

2. Energy Conservation: A PUD should be designed in such a way as to provide an energy efficient development.

3. Home Ownership: PUDs that contemplate individual dwelling unit ownership should provide a copy of proposed restrictive covenants and, where necessary, the creation of a property owner's association for the maintenance of common space.

C. Applicability: The provisions of Section 12-296A through Section 12-296E shall remain applicable, except as specifically modified pursuant to the provisions of this chapter for the purpose of development of land for planned unit developments. No modifications of use, area, bulk, or subdivision requirements of the conventional zoning districts shall be permitted, except through applicable variance

procedures, unless a planned unit development application is submitted and approved in accordance with the provisions of any specific use permitting process hereinafter adopted.

Section 12-296C PUD: DEVELOPMENT GUIDELINES.

A. Authority: Because the PUD provides the opportunity for varying densities, greater design flexibility, mixed land uses, and improved marketability, the applicant should be prepared to provide amenities that might not be required or possible in conventional development. Review and approval of a PUD is, therefore, a process to achieve the intents and purposes of these regulations and the master plan. In all cases, proposed PUDs are to be reviewed as to the types and locations of proposed uses and whether the overall design of the tract presents a development that is compatible with its surroundings. Standards and criteria established herein shall be used in the determination of the approval or disapproval of proposals for planned unit developments. Other factors not listed may also be considered in the review process to respond to specific design and land use proposals. A PUD application which is judged to comply with this section shall be qualified for preliminary approval.

B. Mandatory Standards: Strict interpretation of the following criteria shall be required as a minimum level of compliance in the review of all PUD applications.

1. Permitted Uses: A PUD may be considered for any use or combination of uses allowed in an applicable conventional commercial or industrial district as a use permitted by right, special use, or accessory use. A PUD consisting of one or more underlying conventional residential districts may be considered for any use or combination of uses included in any residential use category, in addition to accessory uses authorized by this code, and for one or more of the following listed membership sports and recreation clubs or physical fitness facilities: country club, golf club, boating club, bridge club, bathing beach, swimming club, racquetball or handball club, tennis club, horse riding club with stables, physical fitness center, gymnasium, and health club. The amount, type, and location of all land uses shall be established in the PUD application documents and reviewed with respect to compliance with the master plan and compatibility with adjacent development.

2. Density: Residential density in the PUD is subject to the following guidelines:

a. In calculating the permitted number of dwelling units for a given land area of the PUD, any fractional remainder shall be rounded down to the nearest whole number.

b. In determining the equivalent number of dwelling units represented by group quarters and residential care facilities, each five (5) persons of capacity shall be counted as one family and therefore represent one dwelling unit.

c. Land area that is counted in determining the permitted number of dwelling units shall be used only for dwelling sites, uses accessory to dwellings including vehicular and pedestrian ways, yards, and other open space or common areas reserved for use by residents of the dwellings.

d. When a portion of a PUD district is within an area of special flood hazard, that portion within the SFHA may be used to calculate the intensity of units per acre subject to the following conditions:

(1) The property must be contiguous, under the same ownership and cannot be used for these calculations more than once;

(2) None of the floodway shall be developed, and a drainage easement for the floodway shall be dedicated to the city as shown on the latest flood hazard boundary map for maintenance purposes. An access easement may also be required if the floodway is inaccessible to the city for maintenance purposes; and

(3) The use of the allowable density does not eliminate standard requirements of this title and Chapter 12, Article 4 of this code (Flood Damage Prevention Article).

3. Area And Bulk Standards: The design of the PUD may provide for modification of conventional zoning ordinance requirements for such elements as lot sizes, yards, lot coverage, and building height on individual lots in accordance with the PUD application. In all cases, however, the following provisions concerning exceptions and modifications shall prevail with respect to these standards for areas along the perimeter of

the PUD adjacent to bordering zoning districts, and with respect to corner visibility.

a. Lot Area And Width: No open space or lot area required for a structure shall, during its life, be occupied by, or counted as, open space for any other structure. Where no specific minimum lot sizes and open spaces are prescribed for a use or district, it is the intent of this title that lots be of sufficient size to provide adequate parking and loading space in accordance with the provisions of Section 12-229 of this code.

b. Yards And Setbacks: A yard provided for a building or lot shall not be considered the yard for any other building or lot. Except as otherwise provided in this title, required yards shall be open and unobstructed from the ground to the sky. The following exceptions qualify and/or supplement these regulations:

(1) Zoning District Boundaries: Where a lot in any zoning district adjoins, along an interior lot line, another zoning district whose yard requirements are more restrictive than those of the district in which such lot is located, structures on such lot shall observe the more restrictive requirements.

(2) Obstructions In Required Yards: The following shall not be considered obstructions if constructed or placed in accordance with these regulations:

(a) Arbors, trellises, statuary, flag poles, and signs permitted by under this code are exempt from all yard requirements except as may be applicable to signs in accordance with the provisions of Chapter 12, Article 5 of this code (Sign Regulations).

(b) Children's play equipment and outdoor laundry drying apparatus are exempt from the minimum interior side and rear yard requirements.

(c) Detached emergency shelters are permitted within a required front or side yard, provided that no part of such shelter shall exceed eighteen inches (18") in height above ground level.

(3) Projections Into Yards: The following exceptions modify the standard minimum yard requirements with respect to

principal structures:

(a) Cornices, eaves, shade control devices, and awnings or canopies over doors and windows may project a distance not exceeding two feet (2') into the required yard.

(b) Bay windows, balconies, and chimneys may project a distance not exceeding two feet (2'), provided that such features do not occupy, in total, more than one-third ($\frac{1}{3}$) of the length of the building wall on which they are located.

(c) Fire escapes, and other uncovered stairs and landings may project a distance not exceeding three feet (3') into required yards.

(d) Open terraces, decks, and porches not over thirty inches (30") above the average level of the adjoining ground may project a distance not exceeding five feet (5') into required yards; provided, that such projection extends no closer than five feet (5') to any interior side property line.

c. Earth Integrated Buildings: Entirely below grade portions of a building may extend to within five feet (5') of any property line where the normal minimum yard requirement is greater, provided that such construction does not encroach upon any dedicated easement; and provided, that such portions of the building can be constructed and maintained with no nuisance to adjacent properties. Earth berms may extend to within five feet (5') of any interior side property line, provided that the exterior wall of the building being bermed shall be set back from the property line a minimum of five feet (5'), plus one foot (1') for each one foot (1') of berm height above normal grade.

d. Sight Triangle: On any corner lot on which a front yard and exterior side yard are required, no wall, fence, sign, other structure, vehicle, or plant growth having a height in excess of three feet (3') above the elevation of the lowest point of the crown of the adjacent roadway shall be maintained in a triangle formed by measuring a distance of thirty feet (30') along both property lines from their point of intersection and connecting the points so established to form a triangle; except, however, that a single pole eighteen inches (18") or less in diameter supporting a permitted sign, or a single tree trunk may be placed in a sight triangle; provided, that the

bottom of the sign or lowest tree branch when mature is at least twelve feet (12') above the elevation of the lowest point of the crown of the adjacent roadway.

e. Easements: Where a utility, drainage, private drive, or other recorded easement is wider than a minimum required building setback in the same location, the building setback from the property line shall be increased to include all of such easement.

f. Lot Coverage: Entirely below grade portions of a building extending beyond the exterior perimeter of above grade portions of the building shall not be counted in the lot coverage of the building.

g. Height: The following provisions qualify and/or supplement the specific district regulations:

(1) Zoning District Boundaries: Where a lot in any zoning district adjoins, along an interior lot line, another zoning district whose height limitations are more restrictive than those of the district in which such lot is located, structures on such lot shall observe the more restrictive height requirements within one hundred feet (100') of such other district, whereby such maximum height limitation is to be measured as an elevation based upon the actual ground level at the zoning district boundary.

(2) Non-habitable Structures: Chimneys, elevators, poles, spires, tanks, towers, antennas, solar collectors, and other projections not used for human occupancy may extend up to fifteen feet (15') above the maximum permitted height prescribed for buildings in the applicable zoning district where such projections are attached to, or a part of, a building.

h. Location In Floodplain: The establishment, construction, or alteration of all uses, structures, and buildings on any property located within a flood hazard area shall be subject to the provisions of Chapter 12, Article 4, Flood Damage Prevention Article of this code.

i. Residential Driveways And Parking:

(1) Circle driveways requiring two (2) points of access from the same public right of way are prohibited on lots that

are less than seventy-five feet (75') in width at the front building line.

(2) A minimum of fifty percent (50%) of the required front yard must remain an unpaved, pervious surface.

4. Screening: The PUD application should show graphically the transitional treatment, if any, that will be employed to separate the PUD from abutting properties, including commitments to fencing, vegetation, earth berms, landscape screening, or similar techniques. Whenever a PUD is adjacent to residentially zoned property, a six-foot (6') sight proof fence shall be installed unless property is separated by a public or approved private street.

5. Access And Circulation: The traffic circulation system within the PUD should provide for the safe, convenient, and efficient movement of goods and people with a minimum of conflict between various modes of movement. Sidewalks shall be provided for pedestrian movement within the development and shall connect with existing pedestrian systems or allow for future extensions to activity centers such as schools and shopping areas outside the development. Shared parking facilities in commercial or industrial developments shall be authorized only where a commitment is provided in the PUD application for common access driveways within the development and abutting arterial streets. Favorable consideration should be given to design of short local streets serving limited areas, such as the residential cul-de-sac, and reduction of conventional minor street design widths should be considered appropriate on such streets when they are designed with limited length and only one access point. Development of a private street system may be appropriate under certain conditions where there is no through traffic. All private streets and drives must be approved and inspected by the city engineer.

6. Open Space: Open space may be provided for the common use of the residents or users of the PUD and is required where densities are to be increased to promote economy of development, or where other methods of land use intensification are proposed. Such open space and other common use facilities shall be consistent with the planned function and located within the PUD to be convenient and visually attractive to all the intended users, as well as to protect flood hazard areas and natural wildlife habitats. Open space areas shall be left in

their natural state or landscape and maintained in accordance with the approved plans for environmental amenity, recreational, or park use.

7. Off Street Parking And Loading: Off street parking spaces may be provided on the lot containing the use for which they are intended to serve, or in a common area, in which case they shall be so located as to be accessible to the uses they are intended to serve. The minimum off street parking and loading requirements for all uses shall be as set forth in Section 12-228 of this code except, however, that parking requirements may be reduced where it can be demonstrated that a collective parking facility located in a common area can adequately serve two (2) or more uses while having fewer parking spaces than the total of the separate requirements for each use. Lighting for parking areas shall be designed and installed so that illumination will not fall on residentially zoned property.

8. Signs: Signs shall be regulated for all uses as set forth in Chapter 12, Article 5 of this code (Sign Regulations) for the applicable zoning district.

9. Accessory structures And Uses: Accessory structures and uses shall be regulated for all uses as provided in this section.

10. Common Facilities: Privately owned common areas may be established where certain facilities are shared by several adjacent property owners within the PUD or are available to the general public for use in connection with visiting individual properties in the PUD. Such common facilities may include private streets, off street parking and access drives, service areas, recreational facilities, plazas and other open space; provided, however, that at least fifteen percent (15%) of the area of any common open space shall be used for landscaping and/or pedestrian amenities. Common areas are to be shown on the subdivision plat, and the applicant shall clearly demonstrate the existence and capabilities of the owner(s) of the common area to provide for their permanent retention and continued maintenance.

11. Improvements: All structures and subdivision improvements in a PUD shall conform to the applicable codes and regulations of the city. The standards and requirements of the subdivision regulations for paving public streets shall be

observed for all publicly dedicated streets within or adjacent to a PUD, regardless of whether it is being subdivided. A paved pedestrian system which may, but not necessarily, be conventional curb line or property line sidewalks shall be provided connecting all building areas, parking areas, and common facilities on the site, and that of the city, as existing or planned. If it is not to be located in the public right of way, such pedestrian system shall be designated on the final development plan and the final plat as a pedestrian easement.

Section 12-296D PUD: ADMINISTRATION.

A. Initiation: Any person owning or possessing a property right or interest in or to a tract of land may make application for establishment of a supplemental planned unit development district. Review, approval, and enforcement of the PUD application shall be conducted in accordance with the provisions of this section.

B. Preapplication Conference: Prior to submission of a PUD application, the applicant must discuss with city staff the procedure for adopting a planned unit development, and the requirements for the general layout of major roadways and utilities, general design considerations, the availability of existing community services, and similar matters. The applicant may also be advised, when appropriate, to discuss the development with those officials, the technical review committee appointed by the City Manager (TRC), who must eventually approve the various aspects of the proposal within their jurisdiction, generally when the preliminary development plan is complete. The intent of this pre-application conference is to expedite the process and to explain the procedures for approval of the PUD application.

C. Required Documents For Preliminary Approval: A PUD application shall consist of the following documents which, if approved, shall be evidence of conformance with the requirements described in these regulations, as well as serve as the basis for review and approval of the final development plan, all subsequent subdivision plats, and building permits within the PUD.

1. Procedural Checklist: This form will be supplied to the applicant at the preapplication conference and is used to aid in facilitating orderly development of a PUD proposal.

2. Application For Rezoning: The standard application form for a zoning map amendment shall be filed in accordance with the regular procedures set forth in Chapter 12, Article 3, Division 2 of this code.

3. Preliminary Development Plan: The preliminary development plan is a graphic representation of the proposed development. The following items are required to be included on the preliminary development plan, which may be shown on one or more sheets depending on the size and complexity of the proposal, or depending on the desire of the applicant to present the landscaping items separate from the primary site plan elements, if items C3a, C3b and C3c of this section are shown on each sheet:

- a. Title of the planned unit development;
- b. Name and address of property owner of record and developer, if different;
- c. Graphic scale, north point, date, and legend;
- d. Length of boundaries of the tract measured to the nearest foot;
- e. Location and identification of abutting subdivisions, and relationship with flood hazard area, or city limits if applicable;
- f. Existing physiographical characteristics including contour lines at two-foot (2') intervals and identification of natural watercourses, floodplains, and wooded areas;
- g. Location and size of existing and proposed easements, utilities, and public rights of way/streets;
- h. Approximate location of all private streets;
- i. Location, orientation, area, and height of existing buildings and other structures;

- j. Approximate location, orientation, area, and height of proposed buildings and other structures to include typical elevations;
 - k. Approximate location and dimensions of proposed lot lines;
 - l. Approximate intensity of residential uses, if any, expressed by number of dwelling units allocated to each identifiable segment of the PUD;
 - m. General location and identification of land use types, including common areas and facilities that are to be owned and maintained by an association of individual property owners in the PUD;
 - n. Approximate location and proposed number of off-street parking and loading spaces, and access drives;
 - o. Approximate location of fences and pedestrian walkways;
 - p. A conceptual landscape plan as required pursuant to Section 12-286 (Site Plan Review).
 - q. A separate written request, as applicable, for any of the foregoing items to be waived or amended, with necessary explanations to justify the request.
4. Statement Of Intent: The statement of intent is a written report which shall always accompany the application for rezoning, and which shall contain the following elements:
- a. Proposed title of the planned unit development;
 - b. Name, address, and telephone number of the property owner(s) of record, and developer, if different;
 - c. Statement of the general concept of the proposed PUD, the special considerations which require the PUD zoning classification rather than a conventional district designation, and why, in the applicant's opinion, the proposed district would be in the public interest and would be consistent with the stated objectives of the city regarding the planned unit development district classification;

d. Statement of the proposed development's intended compliance with each of the applicable guidelines addressed in Section 12-296C;

e. A statement of the substance of existing or proposed covenants; future ownership within the development; property owner's association contract, or other restrictions imposed upon the use of the land, buildings, and structures; and any other provisions which set forth mechanisms for ownership and maintenance of property within the PUD;

f. A statement as to the form of agency proposed to own and maintain the common use areas and facilities shown as a part of the preliminary development plan;

g. The anticipated development time schedule for completion of proposed phases or stages of construction; and

h. A statement regarding the compatibility of the proposed development with the surrounding neighborhood to include such things as use of buffer or transition zones, projected range of value of structures, type of materials to be used, square footage of structures, etc.

D. Review: Review of a PUD application shall consist of the following steps:

1. The developer shall supply evidence at or before the required public hearing that he has met with, or attempted to meet with, the property owners within three hundred feet (300') of the subject property and has shown them the PUD proposal. Such meeting shall be held at a reasonable time and in a location convenient to the neighborhood at least ten (10) days prior to the public hearing. Going door to door in the neighborhood shall be considered to meet this requirement;

2. Within thirty (30) days after receipt by city staff of all required PUD application documents for preliminary approval, a public hearing date shall be established and proper notice given, in accordance with the provisions set forth in Section 12-312 of this code. Review and approval of the PUD application shall be based on the following considerations:

a. Whether or not the proposed PUD is consistent with the

master plan;

b. Whether or not the proposed PUD is compatible with the existing and expected development of surrounding areas; and

c. Whether or not the proposed PUD is consistent with the stated purposes and standards of Section 12-296A through 12-296E.

E. Approval: The PUD application for rezoning shall be processed as prescribed in Chapter 12, Article 3, Division 2 of this code for the establishment of any zoning district. Upon approval of the application for rezoning, the property shall receive the planned unit development zoning designation. The ordinance rezoning the subject tract to planned unit development district shall specifically incorporate into the ordinance by reference the statement of intent which will become a part of the official records of the city. Upon the effective date of such ordinance, the designation "PUD" shall be recorded for each identifiable segment of the subject tract on the official zoning map.

F. Final Development Plan: The final development plan is a graphic representation of the proposed development which shall also serve as the preliminary plat if the subject tract is to be subdivided.

1. The final development plan shall be submitted in accordance with the procedures set forth in Section 12-296E (Site Plan for PUD Districts), which is hereby made applicable to PUD Districts in all respects, which site plan review must occur and must be approved prior to the issuance of any building permits. Review and approval of the final development plan shall be based on the following considerations:

a. If including a preliminary plat, whether the proposed plat is consistent with all requirements of the subdivision regulations; and

b. Whether or not the final development plan is substantially consistent with the preliminary development plan and statement of intent.

G. Enforcement: No building permit shall be issued for property within the PUD except in accordance with the approved

final development plan and statement of intent as adopted with the ordinance of rezoning. In the case of PUDs which are to be subdivided, the issuance of a building permit for any property located therein shall also be contingent upon prior approval and recording of a final plat that is consistent with the approved final development plan, and upon prior receipt of a copy of any covenants or other required restrictions along with proof that said documents have been filed with the county clerk. Certificates of occupancy may be contingent upon the completion of streets, drives, walks, minimum parking and loading facilities, landscaping, and common use facilities coincident with the completion of structures adjacent to, or being served by, such facilities.

H. Minor Amendments: Minor modifications to an approved final development plan may be authorized by the planning commission, when submitted by the community development director to the planning commission for its consideration and approval, provided that such modification is a minor amendment in accordance with the provisions of Section 12-296E of this code and does not violate the approved statement of intent for the PUD. Substantial amendments shall require compliance with the notice and procedural requirements set forth in this section for new PUD applications.

I. Abandonment And Reversion: An approved planned unit development may be abandoned upon the request of the property owner(s) of record of the subject tract, and subject to the application for, and approval of, an ordinance rezoning the property to its original designation or to a new designation in accordance with the following procedure: Consideration of a request by a property owner, owners, or authorized representative for an amendment to the official zoning map is initiated by submittal of the appropriate completed application form and supporting documentation required for public hearings as provided by Section 12-312 of this code. The filing fee for map amendment applications shall be \$200.00, no part of which shall be refundable. Requests initiated by the planning commission or City Council are exempt from the filing fee requirement. Any planned unit development for which an application for approval of a final development plan is not submitted within five (5) years from the effective date of approval of the supplemental PUD designation or any planned unit development in which construction has not substantially commenced within five (5) years from the effective date of

approval of the final development plan, will automatically revert to the zoning classification in effect on the property prior to the rezoning to planned unit development district. The owner thereof may reapply subject to the notice and procedural requirements set forth in this section for new PUD applications.

Section 12-296E PUD: SITE PLAN FOR PUD DISTRICTS.

A. Requirement: Site plans required for special use permits and preliminary development plans submitted concurrently with the application for approval of a planned unit development (PUD) zoning district on the same property, are always considered concurrent with the respective special use permit, or zoning map amendment actions and, therefore, do not require separate compliance with the application and review procedures of this section. For other site plans not requiring a public hearing, no permit shall be issued for a new structure or an extension or exterior improvement of an existing structure until such site plan has been submitted, reviewed, and approved in accordance with this section.

B. Exemptions: The community development director may waive the requirements of this section for "minor structures" and "minor improvements", as defined in Section 12-296D.H of this code.

C. Application: Site plans must, at the time of submittal, be accompanied by the appropriate completed application form and supporting documentation required for public hearings. The filing fee for all site plans and PUD final development plan applications shall be \$200.00 plus the cost of all mailings and publications. The filing fee is not refundable.

D. Required Documents For Submittal: A site plan application shall consist of the following documents which, if approved, shall be evidence of conformance with the requirements described in these regulations, as well as serve as the basis for review and approval of the development plan by the TRC (technical review committee), the planning commission and City Council:

1. Procedural Checklist: This form will be supplied to the applicant at the preapplication conference and is used to aid in facilitating orderly development of a site plan proposal.

2. Site Development Plan: The site plan is a graphic representation of the proposed development, and the following items are required to be included. The site plan may be shown on one or more sheets depending on the size and complexity of the proposal or depending on the desire of the applicant to present the landscaping items separate from the primary site plan elements.

- a. Name and address of property owner of record and developer, if different;
- b. Graphic scale, north point, date, and legend;
- c. Statement and/or signature by registered architect, landscape architect, engineer, or surveyor certifying that the plan has to the best of his/her knowledge, been designed in accordance with the master plan and applicable city ordinances and regulations;
- d. Written legal description of the site, including the size of the property in acres;
- e. Length of boundaries of the tract measured to the nearest foot;
- f. Location and identification of abutting subdivisions, and relationship with airport approach zone, flood hazard area, or city limits, if applicable;
- g. Existing physiographic characteristics including contour lines at two-foot (2') intervals and identification of natural watercourses, floodplains, and wooded areas;
- h. Proposed grading, where different from existing contours;
- i. Location and size of existing and proposed easements, utilities, and public rights of way;
- j. Location and typical cross sections of all proposed public and private streets;
- k. Location, orientation, area, and height of existing and proposed buildings and other structures;

- l. Location and dimensions of proposed lot lines;
- m. Approximate intensity of residential uses, if any, expressed by number of dwelling units per acre;
- n. Location and identification of land use types, including common areas and facilities that are to be owned and maintained privately;
- o. Location, arrangement, and dimensions of off-street parking and loading spaces, and access drives;
- p. Location of fences and pedestrian walkways;
- q. Location, area, height, and orientation of any signs not attached to buildings;
- r. Location and type of solid waste disposal equipment, with screening materials shown or noted;
- s. A storm water study, including location of all drainage channels, subsurface drainage structures, and detention plan;
- t. A landscape plan demonstrating compliance with Section 12-286 of this code;
- u. A site plan proposing one acre or more in (disturbed) area shall be accompanied by a general permit OKR10 (erosion control plan) approved by the ODEQ (Oklahoma department of environmental quality);
- v. A separate written request, as applicable, for any of the foregoing items to be waived or amended, with necessary explanations to justify the request;
- w. Site plans prepared by CAD drawings shall be submitted in digital format, along with ten (10) paper copies.

E. Public Improvements: All public improvements proposed on the site plan shall conform to the applicable engineering standards, codes and regulations of the City of Perry, Oklahoma. The standards and requirements contained in Chapter 12 of this code shall be applicable for all publicly dedicated improvements within or adjacent to the site, regardless of whether it is

being subdivided.

F. Review: Upon compliance with all application requirements, site plans and PUD final development plans shall be reviewed by the technical review committee and the planning commission for compliance with this title, other relevant provisions of this code, the master plan, and potential beneficial and adverse effects of the proposed development to the neighborhood and general welfare of the city. The findings and recommendations of the planning commission shall then be reported to the City Council. Upon required notice being given, the City Council shall hold a public hearing in accordance with the provisions set forth in Section 12-312 of this code to review the proposed site plan or PUD final development plan, receive comments from interested parties, and receive the recommendation of the planning commission.

G. Approval: The City Council shall approve, approve conditionally, return to the planning commission for further study, or disapprove the site plan or PUD final development 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 make additional requirements or restrictions as it deems appropriate including, but not limited to, requirements relating to building setbacks, drainage, buffers, light pollution, noise pollution, architectural compatibility, or signage to minimize the adverse effects of the development on the neighborhood and general welfare of the city. As a condition of approval, the City Council may require improvements to be installed or bonded in accordance with the provisions of this code. Approval of a site plan or PUD final development plan shall be documented by signatures of the chairman of the planning commission and the mayor.

H. Amendment: Any change, erasure, modification, revision, or deviation from an approved site plan or PUD final development plan shall be considered invalid and a violation of the provision of this section unless said change, erasure, modification, revision, or deviation shall have first been reviewed and approved according to the notice and procedural requirements set forth in this section for new site plan applications.

DIVISION 6

SPECIFIC USE PERMITS

SECTION 12-296.1 PURPOSES.

1. General

The City Council may, after a public hearing and recommendation by the Planning Commission and after conducting a public hearing as is required in accordance with the provisions of this section, authorize for specific parcels of land, and the issuance of a Specific Use Permit.

The uses listed in the Specific Use list are so clarified because of the size of the land they require or the specialized nature of the use, or they may more intensely dominate the area in which they are located or their effects on the general public are broader in scope than other types of uses permitted in the district.

The designation of a Specific Use Permit as possible on the Specific Use List does not constitute authorization or an assurance that such use will be permitted. Rather, each Specific Use Permit application shall be valued as to its probable effect on the adjacent property and community welfare and may be approved or denied as the findings indicate appropriate.

SECTION 12-297 CONDITIONS FOR APPROVAL.

1. Plans and Data to be Submitted

Prior to submission of a request for a Specific Use Permit, the Community Development Director may require one or more pre-application conferences with the potential applicant. In considering and determining its recommendation to the City Council relative to any application for a Specific Use Permit, the Planning Commission may require that the applicant furnish preliminary site plans and data concerning the operation, location, function and characteristics of any use of land or building proposed. For uses in which the land use has possible environmental impact, the Planning Commission may require those engineering and/or environmental impact studies necessary for evaluation of the proposed use.

2. Planning Commission Requirements

The Planning Commission may recommend to the City Council that certain safeguards and conditions concerning setbacks, ingress and egress, off-street parking and loading arrangements and location or construction of buildings and uses and operation be required. If the Planning Commission fails to review and make a recommendation within forty-five (45) days from the date the application is accepted for processing, the City Council may take action on the application.

3. City Council Requirements

The City Council may, in the interest of the public welfare and to assure compliance with the intent of this Division and the City of Perry's Comprehensive Plan, require such development standards and operational conditions and safeguards as are indicated to be important to the welfare and protection of adjacent property and the community as a whole and be compatible with the natural environment and the planned capacities of public services and facilities affected by the land use. This may include the requirement of having the property platted and/or the requirement of the dedication of sufficient right-of-way or easements as necessary to further the public good. The City Council may impose conditions including, but not limited to, permitted uses, lot sizes, setbacks, height limits, required facilities, buffers, open space areas, lighting, noise levels, signage, landscaping, parking and loading, compatibility, and land use density as may be indicated depending upon the proposed use and its potential effect on adjacent areas or the community, which conditions may be less or more restrictive than as provided by existing ordinances or may be waived, if appropriate.

4. Site Plans

A Site Plan (plot plan) setting forth the conditions specified may be required of the applicant and such plan when accepted shall be made a part of the permit issued for the specific use.

5. Designation of Zoning Map

A Specific Use Permit approved under the provisions of this Division shall not be considered as an amendment to the zoning ordinance; however, the Specific Use Permit shall be noted on

the zoning map as follows: SUP - (the number of the request for a Specific Use Permit). Any of the conditions contained in a Specific Use Permit approval shall be considered as conditions precedent to the granting of a building permit for such specific use.

6. Time Limits for Implementation

If for any reason the approved specific use ceases operation for a period of two (2) years, then the approval of said specific use shall be considered void and will require another notice and public hearing review by the Planning Commission and City Council. This shall also apply to any approved specific use that does not begin operation within two (2) years of approval. This voiding of approval shall not apply if orderly progress toward completion of construction is taking place. Uses existing before the adoption of this Division, including non-conforming uses and their incidental and accessory uses, must receive a Specific Use Permit before any expansion of the use is permitted.

SECTION 12-298 SPECIFIC USE LIST.

1. Uses Allowed

The following uses shall be permitted after notice, public hearing, Planning Commission recommendation, and approval of the Specific Use Permit by the City Council, in the zoning districts as shown beside each specific use:

"Tiny homes" (ADUs) means a dwelling that is 400 square feet (37 m²) or less in floor area excluding lofts, and as specifically provided for in Appendix Q of the International Residential Code, 2018 Edition, which Appendix Q is attached as Exhibit A and incorporated herein by reference. Tiny Homes if approved by specific use process shall be permitted only in the R-G Residential District or an A-G Agricultural District.

"Manufactured homes" means a structure transportable in one or more sections that, in the traveling mode, is 8 body feet (2438 body mm) or more in width or 40 body feet (12 192 body mm) or more in length or, where erected on site, is 320 or more square feet (30 m²), and is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems

contained therein; except that such term shall include any structure that meets all of the requirements of this paragraph, except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the U.S. Department of Housing and Urban Development (HUD) and complies with the standards established under this title, and as specifically provided for in Appendix E of the International Residential Code, 2018 Edition, which Appendix E is attached as Exhibit B and incorporated herein by reference. Manufactured homes if approved by specific use process shall be permitted only in the R-G Residential District or an A-G Agricultural District.

"Container homes/Intermodal Shipping Containers" means a six-sided steel unit originally constructed as a general cargo container used for the transport of goods and materials and designed in accordance with Section 3115 of the International Building Code, 2021 Edition, which Section 3115 is attached as Exhibit C and incorporated herein by reference. Container homes/Intermodal Shipping Containers if approved by specific use process shall be permitted only in the R-G Residential District or an A-G Agricultural District.

"Commercial Accessory Unit" (ACU) means a commercial use that is attached to a residential structure or contained within a legally conforming accessory structure which allows employees, customers, clients or patrons to visit and is permitted as a live/work unit. A Commercial Accessory Unit if approved by specific use process shall be permitted only in the R-G Residential District or an A-G Agricultural District.

"Accessory Dwellings" means an accessory dwelling unit, separate from the primary structure. Room dimension requirements are subject to the room requirements adopted by the Oklahoma Uniform Building Code Commission, which room dimension requirements are adopted by reference as if set out in full. Accessory Dwellings if approved by specific use process shall be permitted in the R-1 Single-Family Residential District, R-G Residential District or an A-G Agricultural District.

SECTION 12-299 USE CONDITIONS.

1. Compliance with District and Parking, Area and Height Requirements

Specific uses permitted shall comply with the most restrictive yard and height requirements of the district in which located and in addition shall comply with the requirements, especially for parking, area and height, as required by the Zoning Ordinance, except as may be modified by City Council as provided in Section 12-297.3.

SECTION 12-300 ADMINISTRATION.

1. Filing of a Petition for Specific Use Permit

A petition for a Specific Use Permit may be filed with the Planning Commission by the owner(s) of the property concerned, by the duly authorized representative thereof, by the holder of an option to purchase the affected real estate or by the purchaser in a contract to purchase realty. Such petition shall be on a standard form furnished by the Community Development Director of the City. All petitions for a Specific Use Permit shall be accompanied by a site plan of the proposed area showing the location of buildings, parking, and other pertinent data concerning the operation of the proposed use.

2. Fee for Petition

A one-hundred-dollar (\$100.00) fee shall be required with the Specific Use Permit application, together with the cost of mailing required, and such other fee as the City Council may from time to time specify by resolution.

3. Notice of Hearing

Notice of the public hearing to consider a Specific Use Permit shall be mailed at least twenty (20) days before the public hearing held by the Planning Commission by mailing written notice by the City Clerk to all owners of property within a three hundred (300') radius of the exterior boundary of the subject property. In addition, 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 municipality. 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.

The notice shall contain:

- A. The date, time and place of the public hearing.
- B. The present zoning classification of the property and the nature of the Specific Use Permit.
- C. The legal description of the property and street address or approximate location in the municipality.

If an amendment of a zoning ordinance is required by the specific use permit regulations of a municipal zoning ordinance, the requirements for amendment of a zoning ordinance shall be followed.

- 4. Recommendation of the Planning Commission to the City Council; City Council to approve all Specific Use Permits.

The recommendation, together with any recommended conditions, shall be presented to the City Council after the public hearing. The City Council shall consider the recommendation and shall approve with condition, deny or make further recommendations and/or give direction on such application for Specific Use Permit. In addition to the other criteria provided in this Division, if reasonable conditions are made part of the approval, the conditions imposed shall meet the following requirements:

- a. Be designed to take into consideration natural environment, the health, safety, and welfare of the residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole;
- b. Be related to the valid exercise of the police power, and to the proposed use or activity;
- c. Be necessary to meet the intent and purpose of the zoning requirements;
- d. Be related to the standards established in the ordinance for the land use or activity under consideration; and
- e. Be necessary to ensure compliance with those standards.

- 5. The conditions imposed with respect to the approval of a specific use permit shall be stated in the record of the City Council and shall not be changed or amended except as authorized

by the zoning ordinance with notice as specified thereby. The City Council shall maintain a record of conditions which are changed.

ARTICLE 3

DIVISION 1

ENFORCEMENT AND ADMINISTRATION

Section 12-301 DUTY OF ZONING ADMINISTRATOR.

It shall be the duty of the zoning administrator to enforce this chapter. If the zoning administrator shall find that any of the provisions of this chapter are being violated, he shall notify in writing the persons responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it, and shall take such other action as is authorized by law to ensure compliance with or to prevent violation of its provisions.

Section 12-302 ZONING CLEARANCE PERMIT PURPOSE.

The zoning clearance permit is a permit issued by the zoning administrator which states that a particular development meets all of the requirements of the zoning chapter. It is not a building permit and does not authorize construction; it certifies that the land or structure is in conformance with the terms of this zoning chapter.

Section 12-303 NEW CONSTRUCTION.

No building or other structure shall be erected, moved, constructed, enlarged or altered in such manner as to prolong the life of the building nor shall the use of any land or building or other structure be changed without a zoning clearance permit being issued authorizing such construction, alteration, erection, moving, or enlargement, or use changes as being in compliance with the provisions of this chapter. No building permit shall be issued for any new construction not conforming to a valid zoning clearance permit.

Section 12-304 CHANGE IN USE OF LAND OR BUILDING.

No change shall be made in the use of any land or building or structure after the passage of this chapter until a zoning clearance permit has been obtained, certifying that all the provisions of this chapter have been complied with.

Section 12-305 APPLICATION.

An application for a zoning clearance permit shall be made to the zoning administrator by the owner or proposed occupant of the building or land to be occupied or used, and the application shall state the location and legal description of the property and set out in detail the character and nature of the use to be conducted thereon. Within three (3) days, the zoning administrator shall grant or deny the zoning clearance permit in accordance with the terms of this Section.

Section 12-306 ACCOMPANYING MATERIAL.

All applications for zoning clearance permits shall be accompanied by a drawing drawn to reasonably describe the addition or improvement on suitable paper, showing the actual dimensions of the lot to be built upon, the size and location of the building to be erected, and such other information as may be necessary to satisfy the requirements of these regulations. If there is to be an alteration in topography a plat plan is required to be furnished.

Section 12-307 FEES.

Zoning clearance permits shall be issued without charge.

Section 12-308 BUILDING PERMIT REQUIRED.

A. The building permit is issued by the building inspector appointed by the City Council of the city.

B. Whenever any structure or building is to be built, erected, enlarged, or have such building or structure's roofline extended, a building permit shall be obtained from the building inspector. The applicant shall furnish the following information:

1. A drawing drawn to reasonably describe the addition or improvement showing the exact size, shape, and dimensions of the lot to be built on, the exact size and location on the lot of all existing buildings and structures, and the exact size and location on the lot of the structure or building proposed to be altered, erected or moved, and the ways of ingress and egress. If there is to be an alteration in topography, a plat plan is required to be furnished;

2. A copy of the zoning clearance permit issued by the zoning administrator if the building inspector so requires; and

3. Additional information relating to the proposed improvement needed to determine compliance with this Section, including a survey, prepared by an engineer registered in the State of Oklahoma, of the boundaries of the lot on which the improvement is proposed to be located may be required by the building inspector where the boundaries of the lot are not clearly defined by survey pins and monuments.

Section 12-309 VIOLATIONS AND PENALTIES.

A violation of this chapter shall be deemed a violation of the code of the city and shall be punishable by fine. Any person, firm or corporation who violates or refuses to comply with any of the provisions of this chapter shall be punished as provided in Section 1-108 of this code for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

DIVISION 2

AMENDMENTS

Section 12-310 PLANNING COMMISSION RECOMMENDATION REQUIRED.

The regulations, restrictions, prohibitions and limitations imposed and the districts created may from time to time be amended, supplemented, changed, modified or repealed by ordinance, but no change shall be made until the planning commission, after notice and public hearing, files with the City Council a report and recommendation on the proposed change.

Section 12-311 APPLICATION FOR AMENDMENT.

An owner or his duly authorized agent or representative may make application for the amendment of the zoning restrictions applicable to his property by filing with the planning commission a written application in such form and content as the planning commission may by resolution establish. The applicant shall pay the fee as set out in this Code and shall further pay any and all costs of publication.

Section 12-312 NOTICE AND PUBLIC HEARING.

A. 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.

B. Except as authorized in subsection C 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 applicant shall also pay the Re-zoning Application Fee in the amount as provided by Chapter 18, Section 12-311. 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 shall 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.

C. 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 A 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.

D. In addition to the notices required by Subsection B & C 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.

Section 12-313 PLANNING COMMISSION ACTION.

A. 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.

B. 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.

C. An application recommended for denial 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.

Section 12-314 CITY ACTION.

The City Council shall hold a hearing on each application regularly transmitted, and on each application which has been transmitted pursuant to an appeal as provided for in Section 12-313. 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.

Section 12-315 PROTEST TO AMENDMENT.

A. 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-fourths (3/4) of all the members of the City Council.

Section 12-316 REFILING LAND USE APPLICATIONS AFTER DENIAL; EXCEPTIONS

No application for rezoning, or use by review or site plan review which is denied by action of the City Council shall be subject to a re-review or a subsequent application for at least one year (1) after its denial, unless:

1. Specially approved by the City Manager and the City Council;

2. Such action is brought by a subsequent property owner or agent of such subsequent owner; or

3. The application requests a different zoning reclassification.

DIVISION 3

SUBDIVISION REGULATIONS

Section 12-320 SUBDIVISION REGULATIONS ADOPTED, PENALTY.

The subdivision regulations of the city, as adopted by Ordinance Number 2786, February 4, 1980, and as amended from time to time, are hereby adopted and incorporated herein by reference, applicable in the city as fully as if set out at length herein. A copy of the subdivision regulations is on file in the office of the city clerk. Any violation of the

subdivision regulations of the city is punishable as provided in Section 1-108 of this code.

Section 12-321 CLOSING OF PUBLIC WAYS OR EASEMENTS BY ORDINANCE

A. Definitions. For purpose of this Section, the following words shall have the following meanings:

1. "Close" shall mean the legislative act of the City Council discontinuing the public use of a public way or easement without affecting title to real property.

2. "Vacate" shall mean the termination, by written instrument, as provided by 11 O.S. §42-106, or judicial act of the Noble County District Court, of private and/or public rights in a public way, easement, or plat and vesting title in real estate in private ownership.

3. "Public way" shall mean a street, avenue, boulevard, alley, lane, or thoroughfare open for public use.

4. "Easement" shall mean rights in real property as set forth in 60 O.S. §49.

B. Application and Fee. Any person, firm or corporation owning any real property in the City who desires to close a public way or easement abutting such real property shall file an application with the City Clerk and pay an application fee of One Hundred Dollars (\$100.00). The application shall include a metes and bounds description of the public way or easement sought to be closed, the reason for such request for closing and whether the applicant intends to seek to vacate the real property.

C. Procedure. Upon receipt of such application and fee, the City Clerk shall send a copy of the application to the City Manager or designee, Electric Superintendent, Police Chief, Fire Chief, Water and Sewer Superintendent. If the department heads approve the application, they shall acknowledge their approval with their signature; if any such department head has any specific concerns about the request, the department head shall forward the written concerns to the City Manager. Upon receipt of any such written concerns, the applicant shall be advised and, if possible, the concerns should be resolved by negotiation. In any event, the City Clerk shall thereafter

prepare and mail a notice of closing of the public way or easement which provides for the date, time and location for a public hearing before the City Council on the application. The hearing before the City Council shall be set at least thirty (30) days after the date of mailing the notice. The notice shall contain the date of the hearings, information from the application and the ordinance proposing to close the public way or easement. The notice with the proposed enclosed ordinance shall be mailed by the City Clerk to the telephone, cable, electric, water, sewer, natural gas, solid waste companies, INTERNET companies any other holder of a city franchise. The City Council hereby legislatively determines that in addition to the above persons and entities required to receive notice, any person, firm, or corporation owning real property which is adjacent or abutting to the public way or easement sought to be closed shall receive a copy of the notice and ordinance.

D. Hearing. After conducting the hearings set out in subsection C, the City Council by ordinance may close to the public use any public way or easement within the City whenever necessary or expedient. The ordinance shall provide that the City retains the absolute right to reopen the public way or easement without expense to the City until and unless the public way or easement is vacated by the Noble County District Court. The public way or easement may be reopened by ordinance whenever:

1. The City Council deems it necessary; or
2. An application of property owners owning more than one-half in area of the property abutting on the public way or easement previously closed is filed with the City Council.

E. Closing the public way or easement shall not affect the right to maintain, repair, reconstruct, operate or remove utility, public service corporation, or transmission company facilities of service therein, nor shall a closing affect private ways existing by operation of law unless released in writing executed by the owners thereof.

ARTICLE 4

FLOOD DAMAGE PREVENTION

DIVISION 1

STATUTORY AUTHORIZATION FINDINGS OF FACT STATEMENT OF PURPOSE
AND METHODS

SECTION 12-401 STATUTORY AUTHORIZATION.

The Legislature of the State of Oklahoma has in Oklahoma Floodplain Management Act, Sections 1601 through 1620.1 of Title 82 of the Oklahoma Statutes, delegated the responsibility to local governmental units to adopt regulations designed to minimize flood losses. Therefore, the City Council of Perry, Oklahoma does hereby ordain that these Flood Damage Prevention Ordinances, as set forth herein, including Sections 1.1 through 5.8, and any lawfully enacted amendments thereto, be hereby enacted and effective on July 19, 2018.

SECTION 12-402 FINDINGS OF FACT.

1. The flood hazard areas of the City of Perry, 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 12-403 STATEMENT OF PURPOSE.

It is the purpose of this Article to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

1. Protect human life and health;

2. Minimize expenditure of public money for costly flood control projects;

3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

4. Minimize prolonged business interruptions;

5. Minimize damage to public facilities and utilities such as water, and gas mains, electric, telephone, and sewer lines, streets and bridges located in floodplains;

6. Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and

7. Ensure that potential buyers are notified that property is in a flood area.

SECTION 12-404 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 12-405 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.

"Area of Future Conditions Flood Hazard means the land use that would be inundated by the 1-percent-annual chance (100 year) flood based on future conditions hydrology.

"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, AH, AR/AO, AR/AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a 1 percent or greater annual chance of flooding to an average depth of 1 to 3 feet. 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, AR/A, VO, V1-30, VE or V.

"Base Flood" means the flood having a one percent chance of being equaled or exceeded in any given year.

"Base Flood Elevation" means the elevation shown on the Flood Insurance Rate Map (FIRM) and found in the accompanying Flood Insurance Study (FIS) for zones A, AE, AH, A1-30 and AR that indicates the water surface elevation resulting from the flood that has a 1% chance of equaling or exceeding in any given year - also called the base flood.

"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.

"Breakaway Wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

"Critical feature" 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 lowest elevated floor, raised above ground level by foundation walls, shear walls, 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 Damage Prevention Ordinances" means this Article.

"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 (FIS)" - 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".

"Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"Mean sea level" means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations are 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 minimum, the

installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of 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 for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

"Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

"Substantial improvement" means any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either, 1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary conditions, or 2) Any alteration of a "historic structure" provided that the alteration will not preclude the structure's continued designation as a "historic structure".

"Variance" is a grant of relief to a person from the requirements of this Article when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction, or development in a manner otherwise prohibited by this ordinance. (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 the North

American Vertical Datum (NAVD) of 1988, of floods of various magnitudes and frequencies in floodplains.

DIVISION 3

GENERAL PROVISIONS

SECTION 12-406 LANDS TO WHICH THIS ORDINANCE APPLIES.

The Article shall apply to all areas of special flood hazard with the jurisdiction of the City of Perry.

SECTION 12-407 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD.

The areas of special flood hazard identified by Federal Emergency Management Agency in the current scientific and engineering report entitled, "The Flood Insurance Study (FIS) for Noble County dated February 19, 2016, with accompanying Flood Insurance Rate Maps and/or Flood Boundary-Floodway Maps (FIRM) and/or FBFM) dated February 19, 2016 hereby adopted by reference and declared to be a part of this Article.

SECTION 12-408 ESTABLISHMENT OF DEVELOPMENT PERMIT.

A development permit shall be required to ensure conformance with the provisions of this Article.

SECTION 12-409 COMPLIANCE.

No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this ordinance and other applicable regulations.

SECTION 12-410 ABROGATION AND GREATER RESTRICTIONS.

This Article is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where these regulations and another set of regulations or ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

SECTION 12-411 INTERPRETATION.

In the interpretation and application of this section, all provisions shall be: 1) considered as minimum requirements; 2) liberally construed in favor of the governing body; and 3) deemed neither to limit nor repeal any other powers granted under state statutes.

SECTION 12-412 WARNING AND DISCLAIMER OF LIABILITY.

The degree of flood protection required by this section 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 cause. These regulations do not apply to that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. These regulations shall not create liability on the part of the community, or any official or employee thereof for any flood damages that result from reliance on this section or any administrative decision lawfully made thereunder.

DIVISION 4

ADMINISTRATION

SECTION 12-413 DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR.

The City Manager or his designee is hereby appointed by the Perry City Council to be the floodplain administrator to administer and implement the provisions of this article and other appropriate sections of 44 C.F.R. (National Flood Insurance Program Regulations) pertaining to floodplain management.

SECTION 12-414 DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR.

Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:

1) Maintain and hold open for public inspection all records pertaining to the provisions of this Article.

2) Review permit application 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 Article;

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) When interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the floodplain administrator shall make the necessary interpretation.

6) Notify, in riverine situations, adjacent communities and the 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 12-407, the floodplain administrator shall obtain, review, and reasonably utilize any base flood elevation data and floodway data available from a federal, state, or other source, in order to administer the provisions of flood hazard reduction.

9) When a regulatory floodway has not been designated the floodplain administrator must require that no new constructions, substantial improvements, or other developments (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 one foot, provided that the community first completes all the provisions required under Section 65.12.

11) Become accredited by the Board in accordance with Title 82 O.S. §§1601-1620, as amended.

120 After a disaster or other type of damage occurrence to structures in the City of Perry determines if the residential & non-residential structures & manufactured homes have been substantially damaged and enforce the substantial improvement requirement.

13) Maintain a record of all action involving an appeal from a decision of the Board of Trustees.

SECTION 12-415 PERMIT PROCEDURES.

1. Application for a development permit shall be presented to the Floodplain Administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location dimensions, and elevation of proposed landscape alterations, existing, and proposed structures, 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 floodproofed;

C. A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of Division 5, Section 12-418(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 12-414.1.

1. Approval or denial of a development permit by the Floodplain Administrator shall be based on all of the provisions of this ordinance and the following relevant factors:

A. The danger of life and property due to flooding or erosion damage;

B. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

C. The danger that materials may be swept onto other lands to the injury of others;

D. The compatibility of the proposed use with existing and anticipated development;

E. The safety of access to the property in times of flood for ordinary and emergency vehicles;

F. The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical, and water systems;

G. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;

H. The necessity to the facility of a waterfront location, where applicable;

I. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

J. The relationship of the proposed use to the comprehensive plan for that area.

SECTION 12-416 VARIANCE PROCEDURE.

1. The appeal board as established by the community shall hear and render judgment on requests for variances from the requirements of these regulations.

2. The appeal board shall hear and render judgment on an appeal only when it is alleged is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of these regulations.

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 Historical Places, without regard to the procedures set forth in the remainder of these regulations and ordinances.

6. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in Section 12-415.2 of this article have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

7. Upon consideration of the factors noted above and the intent of this section, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this article.

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, or conflict with existing local laws or ordinances.

C. A written notice will be provided to any person granted a variance to build a structure 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 conduction of a functionally dependent use provided that (i) the criteria outlined in Division 4, Section 12-416 (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 fifteen (15) days of issuance.

DIVISION 5

PROVISIONS FOR FLOOD HAZARDS REDUCTION

SECTION 12-417 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 and discharge from the systems into flood waters into the system; and,

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 12-418 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 12-407, (ii) Division 4, Section 12-414(8), or (iii) Division 5, Section 12-419 (4), the following provisions are required:

1. Residential construction--new construction and substantial improvements of any residential structure shall have the lowest floor (including basement), elevated to or above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the floodplain administrator that the standard of this subsection as proposed in Article of the Subsection as proposed in Division 4, Section 12-415(1)A., is satisfied.

2. Nonresidential construction--new construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to or above the 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 seal level) to which such structures are floodproofed shall be maintained by the floodplain administrator.

3. Enclosures--new construction and substantial improvements, with fully enclosed areas below the lowest floor that are used solely for parking of vehicles, building access or storage in an area other than a basement and which is subject to flooding shall be designed to automatically equalize hydrostatic flood force on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria;

A. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

B. The bottom of all openings shall be no higher than one foot above grade.

C. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

4. Manufactured homes.

A. Require that all manufactured homes to be placed within Zone A on a community's FHB or FIRM, shall be installed using methods and practices which minimize flood danger. For the purpose 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 are placed or substantially improved with 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 placed on a permanent foundation so that the bottom of the I-beam of the manufactured home is elevated to or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces. The home shall be installed by a licensed installer according to Oklahoma state law and compliance herewith shall be certified in writing to the Floodplain Administrator by said installer prior to habitation of the manufactured home.

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 have the bottom of the structural I-Beam elevated at or above the base flood elevation elevated on reinforced piers or other foundation elements of at least equivalent strength that are securely anchored 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:

- A. Be on the site for fewer than 180 consecutive days,
- B. Be fully licensed and ready for highway use, or

C. Meet the permit requirements of Division 4, Section 12-415 (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.

6. Accessory Structures Accessory structures to be placed on sites within Zones A and AE on the Noble County, Oklahoma FIRM shall comply with the following:

A. The structure shall be used only for parking and limited storage;

B. The structure shall not be used for human habitation. Prohibited activities or uses include but are not limited to working, sleeping, living, cooking, or restroom use;

C. The structure shall be unfinished on the interior.

D. Structures shall be small in size, not exceed 600 square feet in size.

E. Structures exceeding 600 square feet in size will be required to meet all applicable standards of Division 3 Section 12-408, Division 4, Section 12-416, Division 5, Sections 12-417 and 12-418, including relevant subsections.

F. Service facilities such as electrical and heating equipment must be elevated to or above the BFE Freeboard;

G. The structure shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;

H. The structure shall be considered low in value, designed to have low flood damage potential, and constructed with flood resistance materials;

I. The structure shall be 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; and be placed on opposing walls with the net area of not less than 1 square inch for every square foot of the size of the footprint of the structure (Flood Vents);

L. The Openings (Flood Vents) shall be located no higher than 1 foot above grade;

M. The openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

SECTION 12-419 STANDARDS FOR SUBDIVISION PROPOSALS.

1. All subdivision proposals including manufactured home parks and subdivisions shall be consistent with this ~~Article~~ Division 1, 12-402, 12-403 and 12-404 of these regulations.

2. All proposals for the development of subdivisions including manufactured home parks and subdivision shall meet development permit requirements of Division 3, Section 12-408; Division 4, Section 12-415; and the provisions of Division 5.

3. Base Flood elevation data shall be generated for subdivision proposals and other proposed development including 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 12-407 or Division 4, Section 12-414(8) of this Article.

4. All subdivision proposals including manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.

5. All subdivision proposals including 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 12-420 STANDARDS FOR AREAS OF SHALLOW FLOODING (AO/AH ZONES).

Located within the areas of special flood hazard established in Division 3, Section 12-407, are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of 1 to 3 feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity 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 above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified);

2. All new construction and substantial improvements of nonresidential structures;

(a) Have the lowest floor (including basements) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or;

(b) 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 of effects of buoyancy.

3. Registered professional engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Division 4, as proposed in Section 12-415, 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.

SECTION 12-421 FLOODWAYS

Floodways - located within areas of special flood hazard established in Division 3, Section 12-407, are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

(1) Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

(2) If Division, Section 12-421(1) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Division 5.

(3) Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community first completes all of the provisions required by Section 65.12.

SECTION 12-422 SEVERABILITY

If any section, clause, sentence, or phrase of these Flood Damage Prevention Ordinances are held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of these Flood Damage Prevention Ordinances.

SECTION 12-423 OKLAHOMA FLOODPLAIN MANAGEMENT FEE SCHEDULE

The Perry City Council establishes the following fee schedule not to exceed \$500.00 for any one service:

Notice of Intent Fee- \$25.00 maximum
Floodplain Development Permit Application Review-\$100.00
Floodplain Development Permit Fee-\$25.00
Inspection Fee-per inspection-\$25.00
Variance Request Filing Fee-\$100.00

DIVISION 6

PENALTY

SECTION 12-424 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 \$500.00 or imprisoned for not more than one (1) year, 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 Council or the Floodplain Administrator from taking such other lawful action as is necessary to prevent or remedy any violation.

It is hereby found and declared by the City Council of the City of Perry that severe flooding has occurred in the past within its jurisdiction and will certainly occur within the future; that flooding is likely to result in infliction of

serious personal injury or death, and is likely to result in substantial injury or destruction of property within its jurisdiction; in order to effectively comply with minimum standards for coverage under the National Flood Insurance Program, and in order to effectively remedy the situation described herein, an emergency is hereby declared to exist, and this ordinance, being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect and after its passage and approval.

SECTION 12-425 CERTIFICATION OF ADOPTION

The Perry City Council, by and through its Mayor, hereby certify that the amendments contained in this Article were adopted at the regular meeting of the City Council held on June 18, 2018 and that the Perry City Council hereby reaffirms its commitment to enforce the provisions of the entire Article.

Note: This article was amended by Ordinance No. 2018-10 approved on June 18, 2018.

ARTICLE 5

SIGN REGULATIONS

SECTION 12-501 PURPOSE.

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 12-502 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 non-rigid 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-premises 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 12-503.

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 12-509.2 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 12-503.

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 Perry, 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 TESPASSING" 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 12-503.

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 12-503.

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 12-503.

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 12-503.

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.

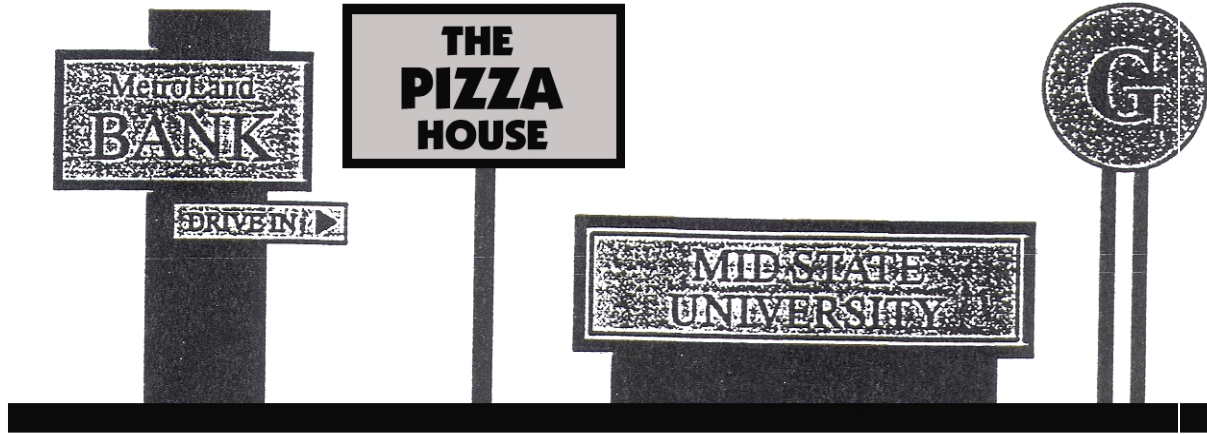
WALL OR FASCIA SIGN. A sign that is in any manner affixed to any exterior wall of a building or structure and that

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 12-503).

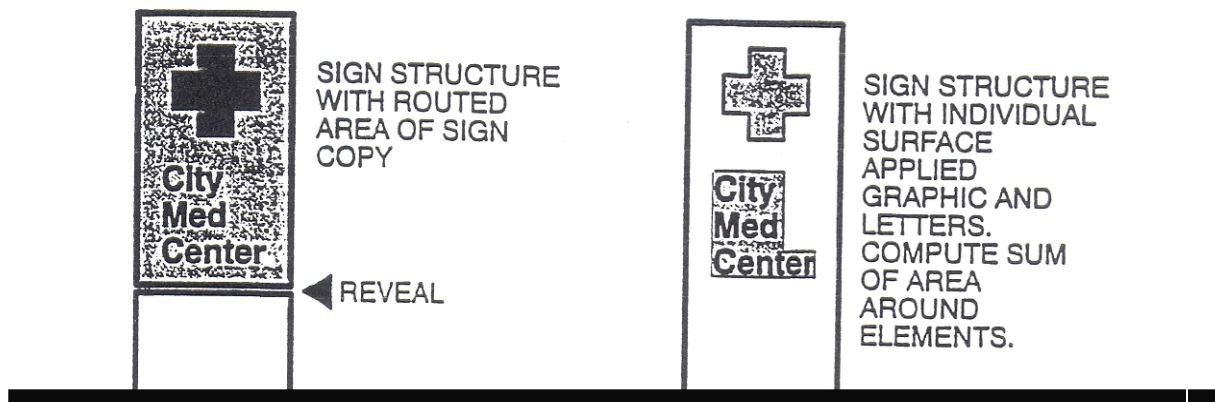
WINDOW SIGN. A sign affixed to the surface of a window with its message intended to be visible to and readable from the public way or from adjacent property.

<u>SECTION 12-503</u>	<u>GENERAL</u>	<u>SIGN</u>	<u>TYPES</u>
-----------------------	----------------	-------------	--------------

1. General. Sign types and the computation of sign area of sign area shall be depicted in Figures (1) through (4).

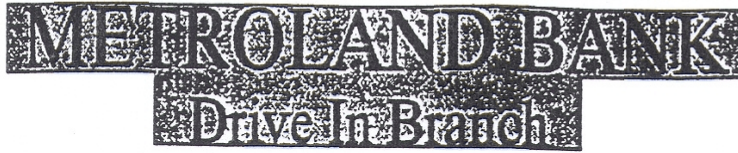


SIGN STRUCTURES



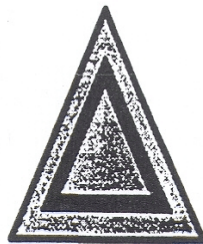
NOTES:
Sum of shaded areas only, represent sign area.
Signs constructed with panels or cabinets.

SIGN AREA COMPUTATION METHODOLOGY
FIGURE 3



COMPUTE AREA AROUND
COPY ELEMENTS ONLY.

COMPUTE AREA
INSIDE DEFINED
BORDER OR
INSIDE
CONTRASTING
COLOR AREA.



COMPUTE SUM OF
AREAS OF INDIVIDUAL
ELEMENTS ON WALL
OR STRUCTURE



SECTION 12-504 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 rights-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 do so only 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 vehicular 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 traffic sign, signal or device.

5. Computation of frontage. If a premises contains walls facing more than one property frontage bounded by more than one street or other property usages, the sign area(s) for each building 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 12-506, 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 not 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 12-505 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 12-504.4.

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 12-506 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 12-507 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 Five Dollars (\$5.00) by resolution or ordinance duly enacted.

SECTION 12-508 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 12-508.1.1

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 12-508.1.2 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 Non-conforming commercial or industrial use or building located in a residential or agricultural zone	2	10'	100'	300'
Commercial & Industrial	unlimited	See Figs. 5 - 7	See Figs. 5 - 7	100'

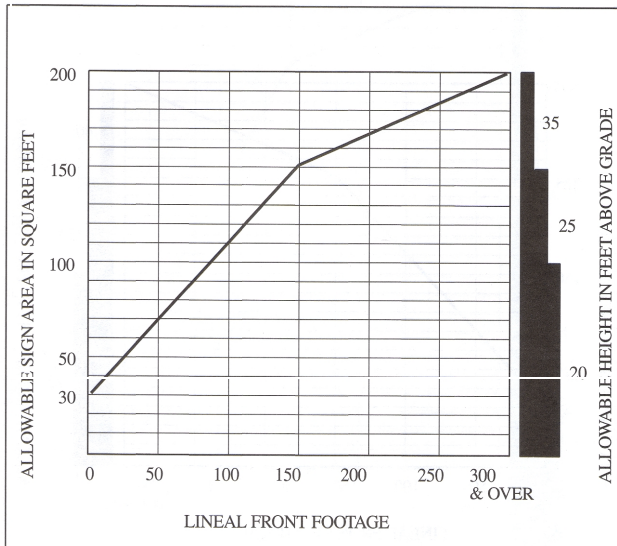
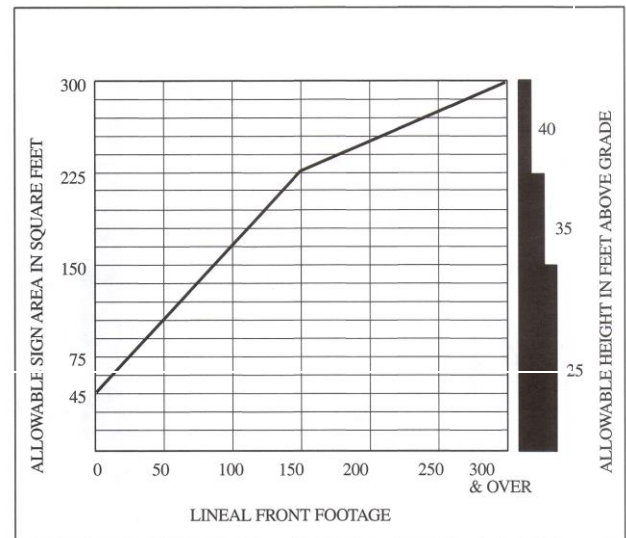


FIGURE 5

ON-PREMISES FREE-STANDING SIGNS
COMMERCIAL AND INDUSTRIAL ZONES
VEHICULAR SPEED SUBJECT TO POSTED
LIMITS UNDER 35 MILES PER HOUR

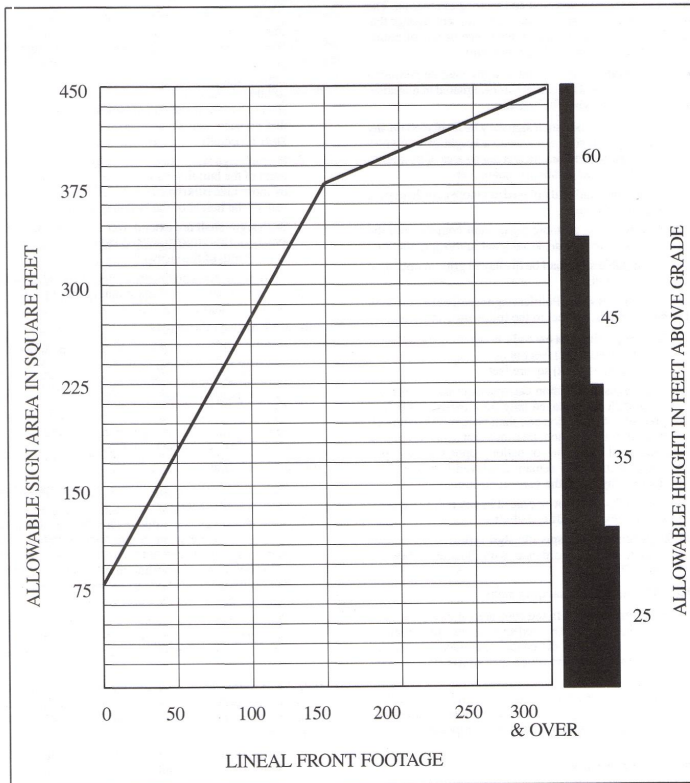


FIGURE 6

ON-PREMISES FREE-STANDING SIGNS
COMMERCIAL AND INDUSTRIAL ZONES
VEHICULAR SPEEDS SUBJECT TO POSTED
LIMITS BETWEEN 35 AND 55 MILES PER HOUR

FIGURE 7

ON-PREMISES FREE-STANDING SIGNS
COMMERCIAL AND INDUSTRIAL ZONES
VEHICULAR SPEED SUBJECT TO POSTED
LIMITS ABOVE 55 MILES PER HOUR

1. 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, whether primary, run-off or general, and shall be removed within 10 days after the election, whether primary, run-off or general.

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 12-509 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 before such amendment will become effective.

Section 12-510 SIGN REGULATION AS A PART OF THE SITE PLAN REVIEW PROCESS.

In addition to the sign regulations provided for in Chapter 12, Article 5 of this municipal code, in the event the application seeking the sign approval is a part of a Site Plan

Review Process, Section 12-286.E.11 shall be applicable and govern such sign approval

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. Encourage 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.

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 12-6076.2.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 12-6087 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 carrier 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 material.

(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 percent height Of tower, whichever is greater	200 feet or 300
-----	-----
-	
Vacant single-family or duplex percent height residentially zoned land, which is either whichever is greater platted or has preliminary subdivision plan approval which is not expired	200 feet or 300 of tower ² ,
-----	-----
-	
Vacant unplatted residentially zoned percent height lands ³ is greater	100 feet or 100 of tower, whichever
-----	-----
-	
Existing multi-family residential units percent height greater than duplex units is greater	100 feet of 100 of tower, whichever
-----	-----
Non-residentially zoned lands or apply nonresidential uses	None; only setbacks

¹Includes modular homes and mobile homes used for living purposes.

²Separation measured from 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 Feet Lattice	75 in Height Guyed	Monopole less than or Greater	75 feet		
Lattice	5,000	NA	1,500		750
Guyed	NA	NA	NA		NA
Monopole feet in height or greater	75	1,500	NA	1,500	750
Monopoles less than 75 feet in height	750	NA	750		750

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 landforms 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.

ARTICLE 7

HISTORIC PRESERVATION

DIVISION 1

GENERALLY

Section 12-701 PURPOSE.

The city hereby declares that the historical, architectural, cultural, and aesthetic features of the city represents some of the finest and most valuable resources of the city, and such resources are the embodiment of the heritage of the people of Perry. Therefore, it is hereby declared that the purposes of this article, to be known as the Historical Preservation Ordinance, shall be as follows:

(1) To designate, preserve, protect, enhance, and perpetuate those structures and districts which reflect outstanding elements of the city's cultural, artistic, social,

economic, political, architectural, historic, or other heritage.

(2) To foster civic pride in the beauty and accomplishments of the past.

(3) To stabilize or improve the aesthetic value of such structures and the economic values of such districts.

(4) To promote the use of outstanding historical and architectural structures and districts for the education, stimulation, and welfare of the people of the city.

Section 12-702 DEFINITIONS.

For the purposes of this article, the following terms shall have the meanings indicated:

Architectural resources shall mean districts, structures, buildings, monuments, sites, and landscaping that possess local interest or artistic merit, or which are particularly representative of their class or period, or represent achievements in architecture, engineering technology, design, or scientific research and development.

Certificate of appropriateness shall mean the official document issued by the historical preservation commission approving any application for permission to construct, erect, demolish, move, reconstruct, rehabilitate, restore, stabilize, or alter any structure within a historical district.

Commission shall mean historical preservation commission of the city.

Good repair shall mean a condition which not only meets minimum standards of health and safety, but which also guarantees continued attractiveness, continued structural soundness, and continued usefulness.

Historical district shall mean a geographically definable area as designated by ordinance of the City Council which may contain one or more significant landmarks and which may have within its boundaries other properties or structures, while not of such historic and/or architectural significance to be designated as landmarks, nevertheless contribute to the overall visual

characteristics of the district. There may be more than one historical district within the city's boundaries.

Historical resources shall mean sites, districts, structures, buildings, or monuments that represent facets of history in the locality, state or nation; places where significant historical or unusual events occurred; places associated with a personality or group important to the past.

Landmark shall mean an individual structure, building, site, or monument which contributes to the historical, architectural, or archeological heritage of the city and is worthy of rehabilitation, restoration, and/or preservation.

Ordinary maintenance and repair shall mean any work for which a building permit or any other city permit or certificate is not required, and where the purpose of such work is stabilization, and further, where such work will not noticeably change the exterior appearance of the resource. Any work not satisfying all of the above requirements shall not be considered ordinary maintenance and repair. The following examples shall not be considered ordinary maintenance and repair. The application of paint to previously unpainted brick, or masonry, the construction or enlargement of a driveway or parking area, the replacement of exterior doors or windows, except for repair of broken glass or screens by use of like glass or screens, and further, there are other types of construction or other work that shall not be considered ordinary maintenance and repair.

Preservation shall mean the adaptive use, conservation, protection, reconstruction, restoration, rehabilitation, or stabilization of sites, buildings, districts, structures, monuments, or other resources significant to the heritage of the people of the City of Perry, and further;

(1) Adaptive use shall mean the restrained alteration of a historic or architectural resource to accommodate uses for which the resource was not originally constructed, but in such a way so as to maintain the general historical and architectural character.

(2) Conservation shall mean the sustained use and appearance of a resource essentially in its existing state.

(3) Protection shall mean maintaining the security and integrity as it exists through the establishment of the mechanisms of this article.

(4) Reconstruction shall mean the process of recreating or reproducing by new construction all or part of the form and detail of a vanished resource as it appeared at a specified period in time.

(5) Rehabilitation shall mean the process of returning a historical or architectural resource to the state of efficiency or soundness by repair or alteration designed to encourage its continued use but without noticeably changing the exterior appearance of the resource.

(6) Restoration shall mean the process of accurately recovering all or a part of the form and detail of a resource and its setting as it appeared at a particular period of time by means of the removal of a later work and the replacement or duplication of missing earlier work, utilizing current or new methods or materials.

(7) Stabilization shall mean the process of applying measures designed to halt deterioration and to establish the structural stability of an unsafe or deteriorated resource while maintaining the essential form as it presently exists without noticeably changing the exterior appearance of the resource.

Significant characteristics of historical or architectural resources shall mean those characteristics which are important to or expressive of the historical, architectural, or cultural quality and integrity of the resource and its setting, and which include, but are not limited to, building materials, detail, height, mass, proportion, rhythm, scale, setback, setting, shape, street accessories and workmanship.

(1) Building materials shall mean the physical components and the manner of their utilization which create the aesthetic and structural appearance of the resource, including but not limited to a consideration of the texture, nature and style of the components and their combinations, such as brick, stone, shingle, wood, concrete or stucco.

(2) Detail shall mean the architectural aspects which, due

to particular treatment, draw attention to certain parts or features of a structure.

(3) Height shall mean the vertical dimension of a given structure, building or monument.

(4) Proportion shall mean the relative physical sizes within and between buildings and building components.

(5) Rhythm shall mean a regular pattern of shapes including, but not limited to, windows, doors, projections, and heights, within a building, structure, or monument, or a group of the same.

(6) Scale shall mean the harmonious proportion of parts of a building, structure or monument to one another and to the human figure.

(7) Setting shall mean the surrounding buildings, structure or monuments or landscaping with provides visual aesthetic, or auditory quality to the historical or architectural resources.

(8) Shape shall mean the physical configuration of structures or buildings or monuments and their component parts including, but not limited to, roofs, doors, windows, and facades.

(9) Street accessories shall mean those sidewalks or street fixtures which provide cleanliness, comfort, direction, or safety, and are compatible in design to their surroundings, and include, but are not limited to, trash receptacles, benches, advertising displays, signs, lights, hydrants, and landscaping including but not limited to trees, shrubbery and planters.

Structure shall mean anything constructed or erected, the use of which requires permanent location on the ground or which is attached to something having a permanent location on the ground. This includes, but is not limited to, buildings, fences, walls, driveways, sidewalks, parking areas, and signs.

Section 12-703 JURISDICTION OF HISTORIC PRESERVATION ZONING ORDINANCE.

This ordinance shall apply to all areas within the jurisdiction of the City of Perry hereinafter designated by the Perry City Council as a Historic Preservation District.

DIVISION 2

PRESERVATION COMMISSION

Section 12-720 GENERALLY.

There is hereby created the historical preservation commission of the city. Its members shall be appointed by the mayor with the approval of the City Council. In making the appointments to the commission, the mayor shall attempt to maintain a balance of interests and skills on the commission, by assessing the individual qualifications of the candidates, including but not limited to their knowledge or interest in any one or more of the following: Architecture, history, landscape architecture, structural engineering, lending, finance and commerce. All members shall have knowledge of and interest in historical preservation and will have demonstrated their civic interest and knowledge of the history of the community. Such commission shall be composed of the following persons, all of whom shall be residents of the city, except as otherwise provided.

(1) One member shall be a registered architect, engineer, building contractor or licensed tradesman;

(2) One member shall be an owner of any building located within a designated district, whether a resident of the City of Perry or not;

(3) One member shall be a member of the Board of Directors or an employee of the Perry Main Street;

(4) One member shall be a licensed real estate broker/agent or auctioneer;

(5) One member shall be a member of the planning commission or member of the City Council.

Section 12-721 TERMS OF MEMBERS.

The term of each commission member shall be for three (3) years or until his or her successor takes office. Members may be appointed to fill the remainder of the vacant terms. All members of the commission shall serve without compensation. Initially, two (2) members shall be appointed for one year, two (2) for two (2) years, and one for three (3) years. Any member of the commission may be removed as a member of the commission for any reason by a vote of a majority of all the members of the City Council.

Section 12-722 MEETINGS AND RULES.

The commission shall be empowered to adopt rules for the conduct of its business. The commission shall elect a chairman who shall serve for one year and who shall be eligible for re-election. All meetings of the commission shall be subject to the provisions of the Oklahoma Open Meeting Act. Any person, or his duly appointed representative, shall be entitled to appear and be heard on any matter before the commission. The commission shall keep a record of its proceedings, a copy of which shall be filed for public view in the office of the city clerk. No business of the commission may be conducted unless a quorum of not less than three (3) members is present. The concurring vote of three (3) members is sufficient to approve or disapprove any act of action of the commission. The City Clerk or designee shall act as secretary of the commission and shall attend and keep the minutes of all meetings. He or she shall act in an advisory capacity only and may participate in the commission's discussions but shall have no vote.

Section 12-723 DUTIES.

Unless otherwise specified in this article, the duties of the historical preservation commission include but may not be limited to the duty to:

(1) Prepare or cause to be prepared a comprehensive inventory of historical, architectural, and archeological resources within the city.

(2) Prepare or cause to be prepared a general historical preservation plan to be incorporated within the comprehensive

plan of the city.

(3) Prepare findings of fact relating to the recommendation for designation of historical, architectural, and archeological resources.

(4) Prepare findings of fact pursuant to action taken by the commission relating to certificates of appropriateness.

(5) Make recommendations to the City Council concerning the acquisition of development rights, facade easements, and the development of historical preservation plans.

(6) Make recommendations to the City Council concerning grants from federal and state agencies, private groups and individuals and the utilization of budgetary appropriations to promote the preservation of historic, architectural, or archeological resources; and, when so directed by, the City Council may oversee historical projects or programs.

(7) Increase public awareness of the value of historic architectural or archeological resources by developing and participating in public information programs and by recommending the update of the preservation program and by the giving of advice to owners or residents of such resources as to the problems and techniques of preservation work; and further, by placing monuments and markers at historical sites as chosen by the commission.

(8) Comment and make recommendations concerning actions undertaken by other city agencies or actions of other governmental units with respect to the effect of such actions upon historical, architectural, and archeological resources.

(9) Conduct a periodic review of the status of designated landmarks and historic districts and provide periodic reports on the findings of said review, along with any resolutions for action, as considered appropriate, to the City Council.

DIVISION 3

"HP" HISTORICAL PRESERVATION ZONING DISTRICT

Section 12-730 CREATION.

There is hereby created the "HP" Historical Preservation Zoning District.

Section 12-731 GENERAL PROVISIONS AND DESCRIPTION.

The "HP" Historical Preservation District and its regulations may be applied to property located in any other zoning district, whether residential, commercial, industrial or agricultural, in accordance with the provisions of the Historical Preservation Ordinance. The "HP" Historical Preservation District is intended to be an overlay zoning district and the regulations imposed by such district shall be in addition to the regulations of the underlying zoning district applicable to the subject parcel or area. All provisions of this article, including the definitions contained therein, shall be applicable to this district.

Section 12-732 DISTRICT IDENTIFICATION.

Tracts, buildings, sites, or areas designated by the City Council as being within the "HP" Historical Preservation District shall be identified on the official zoning map of the city and in other official writings by the suffix "HP".

Section 12-733 DISTRICT REGULATIONS.

The designating ordinance shall prescribe the significant exterior architectural features; the types of construction, alteration, demolition, and removal, other than those requiring a building or demolition permit that should be review for appropriateness; the design guidelines for applying the criteria for review of appropriateness; permitted uses; special uses; height and area regulations; sign regulation; and parking regulations.

Section 12-734 ORDINARY MAINTENANCE OR REPAIR.

Nothing in this division shall be construed to prevent ordinary maintenance or repair of any structure except exterior change.

Section 12-735 USES ADJACENT TO HISTORICAL PRESERVATION DISTRICT.

Any use permitted in a residential, commercial, business, or industrial district while lying adjacent to or across the street from structures or areas falling within the "HP" Historical Preservation District shall be screened or designated, as appropriate so as to minimize its effect upon such structures or area. This required screening or design is specifically made applicable to all properties and uses whether coming into existence prior to the enactment date of this code or subsequently coming into existence.

DIVISION 4

HISTORICAL DISTRICT ZONING DESIGNATION PROCESS

Section 12-740 PROCEDURE.

(a) The city may designate landmarks for inclusion within a Historical Landmark District and/or may designate areas as a Historical Preservation District in the same manner prescribed for the designation of other zoning districts and subject to compliance with this article; however, all designations of tracts and sites for inclusion within the preservation district shall be reviewed and considered by the historical preservation commission. Such commission shall forward its recommendation regarding a proposed designation to the planning commission and City Council.

(b) The initiation of a proposal of designation may be made by the commission, the City Council, the planning commission or on the application of any owner or owners of the parcels to be designated or their authorized agents. Any such application shall be made upon forms or pursuant to standards set by the commission for this purpose.

(c) Notice of consideration of a district designation by the historical preservation commission shall be the same as is required for consideration of the adoption or amendment of zoning district boundaries by the planning commission and in this Code. As a part of such notice, the City Clerk or designee shall notify the owner or owners of record of affected

properties by First Class United States mail. At the time of mailing of notice, 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, including a copy of the proposed designation ordinance, a letter outlining the basis for the designation, and the obligations and restrictions which result from such designation.

(d) The commission may solicit and present expert testimony or documentary evidence regarding the historical, architectural, archeological, or cultural importance of the property or district proposed for designation.

(e) It shall be the duty of the City Manager or designee, to report to the commission as to the existence of such plans, programs, or authorizations which might have application to the property proposed for designation, and further to offer a professional opinion as to whether or not the proposed designation is in accordance with such plans, programs, or authorizations.

(f) As part of every such proposed designation, or proposed amendment of a designation, the commission shall state in written form to the planning commission and City Council the attributes of the area or property proposed for designation or the degree to which such attributes relate to and comply with the review criteria set forth in this division. In addition, the commission shall state in writing:

(1) Whether or not, in its review, designation would be in compliance with prior actions of the City Council proving plans, programs or authorizations for public trusts, agencies or authorities of the city;

(2) The proposed design guidelines for applying the criteria for review of certificates of appropriateness to the district proposed for designation;

(3) The recommendation as to appropriate permitted uses, uses permitted on review, height and area regulations, sign regulations, and parking regulations necessary or appropriate to the preservation of the district proposed for designation.

(g) The City Manager or designee shall officially notify the

commission of all approvals or disapprovals of designation ordinances at the next regular meeting of the commission following City Council action.

(h) The commission shall have the authority to effect the amendment or repeal of any designation of a site, structure, building, district, or monument in the same manner and according to the same procedure as provided herein for the original designation.

Section 12-741 INTERIM CONTROL.

No building permit shall be issued by the city for alteration, construction, demolition, or removal of any property or structure within a nominated historical district from the date of the meeting of the commission at which an application form is first presented until its final disposition by the City Council unless such alteration, removal, or demolition is authorized by formal resolution of the City Council as necessary for public health, welfare, or safety. In no event shall the delay be for more than one hundred eighty (180) days, except as provided in section 12-751.

Section 12-742 DISTRICT DESIGNATION; CRITERIA.

A site, structure, building, district, or monument may be designated for preservation as a landmark or historical district and thus may be included within the Historical Preservation District if such possesses the following attributes within the categories below:

(1) Historical, Cultural Category:

a. Such has significant character, interest, or value as part of the development, heritage, or cultural characteristics of the locality, state, or nation; or is associated with the life of a personality significant to the past; or

b. Such is the site of a historical event with a significant effect upon the development, heritage, or cultural characteristics of the locality, state, or nation; or

c. Such exemplifies a facet of the cultural,

political, economic, social, or historical heritage of the community.

(2) Architectural, Engineering Category:

a. Such portrays the environment in an era of history characterized by a distinctive architectural style; or

b. Such embodies those distinguishing characteristics of an architectural type or engineering specimen; or

c. Such is the work of a designer or architect or contractor whose individual work has influenced the development of the community or of this nation; or

d. Such contains elements of design, detail, materials, or craftsmanship which represents a style unique to the past; or

e. Such is a part of or related to a square, park or other distinctive area and thus should be developed and preserved according to a plan based on a historical, cultural, or architectural motif; or

f. Such represents an established and familiar visual feature of the neighborhood, community, or skyline owing to its unique location or singular physical characteristics.

(3) Archeological Category:

a. Such has yielded, based upon physical evidence, information important to history or pre-history; or

b. Such is part of or related to a distinctive geographical area which should be developed or preserved according to a plan based on cultural, historic, or architectural motif.

Section 12-743 CERTIFICATE OF APPROPRIATENESS.

(a) A certificate of appropriateness shall be required in the following instances before the commencement of work upon any structure or site located within the "HP" Historical

Preservation District.

(1) Whenever such work requires a building permit issued by the city.

(2) Whenever such work includes the application of paint to a previously unpainted brick or masonry exterior surface or the construction or enlargement of a driveway or parking area.

(3) Whenever such work includes the construction, erection, moving, demolition, reconstruction, rehabilitation, restoration, stabilization, or alteration of the exterior of any structure or site, except when such work satisfies all the requirements for ordinary maintenance and repair as defined in this article.

(b) No building permit shall be issued by the building official for any structure or site located within the "HP" Historical Preservation District until the application for such permit has been reviewed by the commission and a certificate of appropriateness approved by the commission.

(c) When applying for such a permit, the applicant shall furnish two (2) copies of all detailed plans, elevations, perspectives and specifications and the City Manager or designee shall forward to the commission such application for a building permit within five (5) days of receipt thereof. Any applicant may request a meeting with the commission before submitting an application and may consult with the commission during the review of the permit application.

(d) Upon review of the application, the commission shall determine whether the proposed work is of a nature which will adversely affect any historical or architectural resource and whether such work is appropriate and consistent with the spirit and intent of this article and the designating ordinance. The commission shall apply the criteria established by this article and based thereon shall approve or disapprove such certificate of appropriateness. If the commission disapproves such a certificate of appropriateness, no permit shall be issued and the applicant shall not proceed with the proposed work.

(e) The commission shall develop such guidelines as it may find necessary to supplement the provisions of this article and to inform owners, residents, and general public of those techniques which are considered most proper for undertaking work relating to historical and architectural resources. The commission shall have the opportunity to advise the City Council concerning provisions in the building, electrical, plumbing, heat and air and housing codes and other codes which affect preservation work.

(f) It is not the intent of this article to limit new construction to any one period or architectural style, but to preserve the integrity of historic and architectural resources and to insure the compatibility of new work constructed in the vicinity. In the case of the disapproval of plans by the commission, the commission shall state in writing the reasons for such disapproval and may include suggestions of the commission in regard to actions the applicant might take to secure the approval of the commission as to the issuance of a certificate of appropriateness.

(g) With regard to the development of a property containing a designated archeological resource, a certificate of appropriateness shall be required prior to the issuance of the permit for which the applicant has applied; and further, the following requirements shall be satisfied:

(1) Archeological resources shall be protected from inappropriate or improper digging by demonstration by the applicant that the appropriate permits and standards are met for study as set by the state historical society.

(2) Any discovered materials shall be properly recorded, reported, stored, or exhibited according to the standards set by the state historical society.

(3) All development affecting the designated archeological resource shall provide for the permanent preservation of the resource or provide for the completion of the necessary work as recommended by the qualified archeologist.

(4) Prior to the hearing by the commission for issuance of the certificate of appropriateness, the applicant or the commission shall cause to have presented the comments and

recommendations of a qualified archeologist with respect to the resource under consideration and the application which would affect it.

(h) The commission may approve a certificate of appropriateness subject to certain conditions. Work performed pursuant to the issuance of a certificate of appropriateness shall conform to the requirements of such certificate, if any. It shall be the duty of the City Manager or designee and the code enforcement department to inspect from time to time any work performed pursuant to a certificate of appropriateness to assure such compliance. In the event that such work is not in compliance, the City Manager or designee shall issue a stop work order. The commission may request by resolution that the City Manager or designee inspect the work and issue a stop work order.

(i) The commission shall be guided by the following certificate review criteria:

(1) The purpose and intent of this article.

(2) The degree to which the proposed work may destroy or alter all or part of a resource.

(3) The degree to which the proposed work would serve to isolate the resource from its historical or architectural surroundings, or would introduce visual, audible, vibratory, or polluting elements that are out of character with the resource and its setting, or that adversely affect the physical integrity of the resource.

(4) The compatibility of the building materials with the aesthetic and structural appearance of the resource, including but not limited to, the consideration of texture, style, color, or the components and their combinations of elements such as brick, stone, concrete, shingle, wood, or stucco.

(5) The compatibility of the proposed design to the significant characteristics of the resource, including but not limited to, a consideration of a harmony of materials, details, height, mass, proportion, rhythm, scale, setback, shape, street accessories, and workmanship.

Section 12-744 CERTIFICATE OF ECONOMIC HARDSHIP.

(1) Application. Application on forms prescribed by the commission for certificate of economic hardship may be made by an owner or his agent who has been denied a certificate of appropriateness for any work specified in section 12-743.

(2) General provisions and procedures. The commission may require that the applicant for a certificate of economic hardship make submissions concerning any or all of the following information before it makes a determination on the application:

(a) An estimate of the cost of the proposed construction, alteration, demolition, or removal and an estimate of any additional cost that would be incurred to comply with the recommendations of the preservation commission for changes necessary for the issuance of a certificate of appropriateness.

(b) A report from a licensed engineer or architect with experience in rehabilitation as to the structural soundness of any structures on the property and their suitability for rehabilitation.

(c) The estimated market value of the property in its current condition; after completion of the proposed construction, alteration, demolition, or removal; after any changes recommended by the preservation commission and, in the case of a proposed demolition, after renovation of the existing property for continued use.

(d) In the case of a proposed demolition, an estimate from an architect, developer, real estate consultant, appraiser, or other real estate professional experienced in rehabilitation as to the economic feasibility or rehabilitation or reuse of the existing structure on the property.

(e) Amount paid for the property, the date of purchase, and the party from whom purchased, including a description of the relationship, if any, between the owner of record or applicant and the person from whom the property was purchased, and any terms of financing between the seller and buyer.

(f) If the property is income-producing, the annual gross income from the property for the previous two (2) years;

itemized operating and maintenance expenses for the previous two (2) years; and depreciation deduction and annual cash flow before and after debt service, if any, during the same period.

(g) Remaining balance on any mortgage or other financing secured by the property and annual debt service, if any, for the previous two (2) years.

(h) All appraisals obtained within the previous two (2) years by the owner or applicant in connection with the purchase, financing, or ownership of the property.

(i) Any listing of the property for sale or rent, price asked and offers received, if any, within the previous two (2) years.

(j) Assessed values of the property according to the two (2) most recent assessments.

(3) Public hearing required. After the application for certificate of economic hardship has been submitted, the commission shall hold a public hearing at which any person may testify concerning economic hardship.

(4) Determination of economic hardship. The commission shall review all the evidence and information required of any applicant for a certificate of economic hardship and make a determination within forty-five (45) days of receipt of the application whether the denial of a certificate of appropriateness has deprived, or will deprive, the owner of the property of reasonable use of, or economic return on, the property. If the commission disapproves such a certificate of economic hardship, the applicant shall proceed with work only when issued a certificate of appropriateness as provided in section 12-743.

DIVISION 5

DEMOLITION

Section 12-750 GENERAL PROVISIONS.

No structure or site within any "HP" Historical Preservation District shall be demolished or removed unless such demolition

shall be approved by the commission and a certificate of appropriateness for such demolition shall be granted.

Section 12-751 PROCEDURE AND POSTPONEMENT ORDER.

(a) The commission shall hold a public hearing for the purpose of considering a certificate of appropriateness for demolition or removal. After such hearing the commission may approve the certificate of appropriateness thereby authorizing the demolition or the commission may deny the certificate of appropriateness and postpone the demolition or removal for a period not to exceed one hundred eighty (180) days.

(b) At the conclusion of such period of postponement as specified, the commission within forty-five (45) days thereafter shall hold a second public hearing for the purpose of considering whether or not the commission should recommend to the City Council that additional postponement of demolition be ordered.

(c) In the event the commission should make such recommendation of additional postponement to the City Council, the City Council shall hold a public hearing for the purpose of considering such additional postponement of demolition.

(d) At such public hearing the City Council may enter an order approving the demolition or may enter an order postponing demolition for an additional period not to exceed one hundred twenty (120) days from the date of such order. At the conclusion of this final period of postponement, the City Manager or designee shall issue a permit approving the demolition.

Section 12-752 CRITERIA FOR REVIEW OF DEMOLITION.

The commission and City Council shall be guided by the following criteria in considering certificates of appropriateness and authorizations for demolition of structures or sites within the "HP" Historical Preservation District:

(1) The purposes and intent of this article.

(2) The degree to which the proposed removal of the historical resources would serve to destroy the integrity and continuity of the Historical Preservation District of which it

is a part.

(3) The nature of the resource as a representative type of style of architecture, socioeconomic development, historical association or other element of the original designation criteria applicable to such structure or site.

(4) The condition of the resource from the standpoint of a structural integrity and the extent of work necessary to stabilize the structure.

(5) The alternatives available to the demolition applicant, including:

a. Donation of the subject structure or site to a public or benevolent agency.

b. Donation of a part of the value of the subject structure or site to a public or benevolent agency, including the conveyance of development rights and facade easements.

c. The possibility of sale of the structure or site, or any part thereof, to a prospective purchaser capable of preserving such structure or site.

d. The potential of such structure or site for renovation and its potential for continuing use.

e. The potential of the subject structure or site for rezoning in an effort to render such property more compatible with the physical potential of the structure.

f. The ability of the subject structure or site to produce a reasonable economic return on investment of its owner; provided however, that it is specifically intended that this factor shall not have exclusive control and effect but shall be considered along with all other criteria contained in this section.

DIVISION 6

MISCELLANEOUS PROVISIONS

Section 12-760 MINIMUM MAINTENANCE.

Designated landmarks, structures, buildings, or monuments within Historical Preservation Districts shall be maintained to meet the minimum requirements of codes and ordinances governing the public health, safety and welfare. The commission, on its own initiative, may file a resolution with the appropriate officers requesting said officers to proceed under the appropriate codes to require correction of defects or initiation of repairs. All persons in charge of a landmark, or a structure, building, or monument within a historical district shall keep in good repair all the exterior portions of such resources, including appropriate landscaping.

Section 12-761 HISTORICAL PRESERVATION COMMISSION REVIEW.

All matters regarding property or sites situated within the Historical Preservation District shall be reviewed and considered by the historical preservation commission prior to final action by the planning commission, the board of adjustment, or the City Council.

Section 12-762 APPEALS.

Any person aggrieved by a decision of the commission may appeal such decision to the City Council. Such an appeal shall be made in writing and filed in the Office of the City Clerk within ten (10) days of the date of the aggrieved decision. The City Council may affirm, overrule, or modify the decision of the commission. The City Council shall be guided by the review criteria specified in Section 12-743(i) of this article. Any person aggrieved by a decision of the City Council shall have such right of appeal as may be otherwise provided by law.

Section 12-763 TAXES.

Nothing in this article shall be construed as reason for an increased valuation of property for purposes of ad valorem taxation because of historical designation.

Section 12-764 PROPERTY OWNED BY PUBLIC AGENCIES.

The requirements, provisions, and purposes of this article shall apply to all property owned by the city or any other public agency; provided, however, designation pursuant to this article shall not affect the validity of prior actions of the City Council approving plans, programs, or authorizations for public trusts, agencies or authorities of the city without an express amendment of such plan, program or authority.

Section 12-765 BY-LAWS.

The commission may approve by-laws establishing rules and regulations necessary to further define and interpret the Definitions as provided by Section 12-702 and other provisions contained in this article, which by-laws must be approved by the City Council.

DIVISION 7

HISTORIC PRESERVATION DISTRICTS CREATED

Section 12-770 HP HISTORICAL PRESERVATION ZONING DISTRICT CREATED.

The specific overlay district proposed to be the HP Historical Preservation Zoning District is described as all property lying within the following boundary line:

Beginning at the Northeast corner of the Intersection of 8th Street and Flynn Street ("point of beginning"), thence East along the northern boundary line of Flynn Street to the Eastern boundary line of the North 6th Street, thence South along North 6th Street to the Southern Boundary line of Birch Street, thence East to the Eastern Boundary line of the Burlington Northern Sante Fe Railroad right-of-way, thence Northeast along the east boundary line of the Burlington Northern Sante Fe Railroad right-of-way, to a point which is in alignment with the northern boundary line of the alleyway located between Delaware Street and Elm Street, thence West along the said northern boundary line of the alleyway located between Delaware Street and Elm Street, to a point on the East boundary line of North 6th Street, thence North along North 6th Street to the Southeast corner of the intersection of North 6th Street and

Elm Street, thence West running along the southern boundary line of Elm Street to a point on the Western Boundary line of the alley running between 7th Street and 8th Street, thence South along the Western boundary line of the alley running between 7th Street and 8th Street to a point on the northern boundary line of the alley running between Delaware Street and Elm Street, thence West to the eastern boundary line of North 8th Street, thence south along North 8th Street to the point of beginning, as further shown by the map on file in the Office of the City Clerk.

Note: The map shall also be attached to this Ordinance, which Map is incorporated herein by reference as if full set out.

ARTICLE 8

FENCE AND WALL REGULATIONS

Section 12-801 DEFINITIONS.

FRONT YARD FENCES, WALLS AND/OR HEDGES OR OTHER VEGETATION USED AS A BARRIER: A fence, wall and/or hedge or other vegetation used as a barrier, located within the front yard for all zoning districts, or continuous with or in front of the front wall of the principal building on the site, shall be considered as a structure and subject to these regulations, except as otherwise herein provided.

SIDE OR REAR YARD FENCES AND WALLS: A fence, wall and/or hedge or other vegetation used as a barrier, located behind the front wall of the principal building on the site, shall be considered as a structure and subject to these regulations, except as otherwise herein provided.

SIGHT TRIANGLE: The area of the sight triangle shall be determined by the characteristics of the street, drive, alley or railroad intersections by which the triangle is formed as related to the restriction such barriers may cause to the vision of drivers, persons on bicycles or pedestrians using the rights-of-way and as otherwise provided by Section 12-802C.

Section 12-802 PRELIMINARY REQUIREMENTS

A. No wall or fence shall exceed eight (8) feet in height.

B. Fencing shall not cause any obstruction to or block any public right-of-way or easement, including but not limited to utility easements (where fencing shall be placed on either the easement line or the property line, depending on the remaining fence placements in the adjacent lots); provided however, the City and all persons, firms and corporation having a right to access and use of any right-of-way or easement, whether created by franchise, ordinance, contract or otherwise issued by the City, may remove any fence blocking access in order to construct, maintain, repair their particular system and will not be liable to the owner for damages or to reconstruct the fence. Walls shall not be placed on any right-of-way or public easement.

C. No fencing or walls and/or hedge or other vegetation used as a barrier shall be allowed to obstruct the sight triangle at intersections or corners. On any corner lot on which a front and side yard is required, no wall, fence, sign, structure and/or hedge or other vegetation used as a barrier, which obstructs sight view 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 placed or maintained within 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 sight view triangle on the area of the lot adjacent to the street intersection.

D. Only picket, vinyl, split rail, chain link, decorative wrought iron (or galvanized steel, aluminum or similar material having the appearance of), ribbed or corrugated metal panels, stone, brick, stucco or specialty concrete block shall be permitted as material for fences and walls. Metal pieces, garage or other door panels, plywood sheets or other material not commonly used for fencing shall not be permitted. Barbed, hot wire or electric strand(s) fences shall not be allowed in any zoning district. Collar activated, radio, wireless or other electronic pet containment systems are not regulated by this Article and are permitted.

E. The architectural design and materials used for the construction of fences and walls shall harmonize with the main building to which the fence or wall is accessory and shall be

identified in the application for fence or wall permit and shall only be erected as approved by the City.

F. Retaining walls may be allowed to solve drainage or topographical problems and are subject to the terms of this Article.

G. Metal fences shall be capped on the top edge and level with or below the ground on the bottom.

H. Fences and walls shall be always kept in good repair and in a safe condition by the property owner and/or tenant and hedges or other vegetation used as a barrier shall be kept trimmed to keep their height within the restrictions of this Article.

Section 12-803 SETBACKS AND VIEW RESTRICTIONS

A. Setbacks: Except as otherwise provided herein, the following setbacks shall apply to fences, walls, or hedges and other vegetation used as a barrier:

1. Minimum distances to front lot line: In non-residential districts, an eight-foot (8') setback is required if the fence or wall is constructed with opaque or solid material exceeding four feet (4') in height. No setback shall be required for other fences. In Residential Districts, no front yard fences, walls, or hedges and other vegetation used as a barrier, shall be permitted with a height greater than four feet (4').

2. Minimum distance to side lot line: None.

3. Minimum distance to rear lot line: None.

B. View Restrictions:

1. Fences, walls, or hedges and other vegetation used as a barrier shall not cause view obstruction.

Section 12-804 VACANT LOTS

Except for areas zoned agricultural, fencing shall not be allowed on vacant lots.

Section 12-805 GENERAL STANDARDS AND REGULATIONS

A. No person shall erect, place or construct a fence or wall, in whole or in part, without first obtaining a building permit. An application for a permit shall be made by the owner or lessee, or by an agent or either, or by a licensed contractor employed in connection with the proposed work. No person, corporation or other entity shall commence or continue any work for which a building permit is required, without having received such permit and paid the fees required, therefore. A person desiring a fence or wall permit shall apply therefore to the Building Official containing the following information:

1. A plot plan legibly drawn to scale, showing the exact size, shape, and dimensions of the fence or wall to be constructed, the exact size, location and composition of the fence or wall to be constructed.

2. Additional information relating to the proposed fence or wall improvement may be required to determine compliance with this Article. In the event of an issue from an adjoining neighbor about the location of the fence or wall, a survey, prepared by a licensed surveyor or engineer registered in the State of Oklahoma, of the boundaries of the lot on which the fence or wall is to be constructed, where the boundaries of the lot are not clearly defined by survey pins and monuments, may be required.

3. Any additional information relating to the proposed improvement needed to determine compliance with these regulations.

B. If the application is made in accordance with the requirements of this Article, the clerk shall issue the permit upon the payment of \$25.00, and the fence or wall shall be constructed exactly as set out in said Application and attachments.

Section 12-806 PRE-EXISTING FENCES AND WALLS

A. Preexisting fences, walls and/or hedges or other vegetation used as a barrier, legally constructed or existing prior to March 21, 2022, shall be allowed to remain unless such fence, wall and/or hedge or other vegetation used as a barrier,

constitutes a traffic hazard, blocks or restricts the visibility of motorists or pedestrians, or constitutes a hazard to the general health, safety and welfare of the public. The City and all persons, firms and corporation having a right to access) and use any right-of-way or easement, whether created by franchise, ordinance, contract or otherwise issued by the City may remove any fence, wall and/or hedge or other vegetation used as a barrier, blocking access to a public right-of-way or easement and will not be liable to the owner for damages or to reconstruct or reconstitute the fence, wall, hedge or other vegetation.

B. All pre-existing fences or walls shall be maintained in good condition.

Section 12-807 EXEMPTIONS

This Article shall neither apply to fences, walls and/or hedges or other vegetation used as a barrier, located in Agricultural Districts being used for agricultural purposes, nor temporary fencing, to include fencing used for construction projects.

Section 12-808 VIOLATIONS

The violation of any section of this Article shall be punishable by a fine of up to one hundred dollars (\$100.00) plus costs and fees.

PAGE LEFT INTEIONALLY BLANK

CHAPTER 13

PUBLIC SAFETY

ARTICLE 1

FIRE PREVENTION

- Section 13-101 INTERNATIONAL FIRE CODE ADOPTED
- Section 13-102 ENFORCEMENT
- Section 13-103 DEFINITION
- Section 13-104 LIMITS FOR STORAGE OF FLAMMABLE LIQUIDS, BULK STORAGE OF LIQUEFIED PETROLEUM GASES, EXPLOSIVES AND BLASTING AGENTS; OUTSIDE STORAGE OF CYLINDERS CONTAINING LIQUIFIED PETROLEUM GASES; SUITABLE BARRIERS OR ENCLOSURES REQUIRED; EXCEPTIONS.
- Section 13-105 MODIFICATIONS
- Section 13-106 NEW MATERIALS, PROCESSES, OR OCCUPANCIES WHICH MAY REQUIRE PERMITS
- Section 13-107 APPEALS

ARTICLE 2

FIRE DEPARTMENT AND SERVICE

DIVISION 1

FIRE SERVICES

- Section 13-201 FIRE DEPARTMENT
- section 13-202 DUTIES OF THE FIRE CHIEF
- Section 13-203 DUTIES OF ASSISTANT CHIEF
- Section 13-204 REPEALED
- Section 13-205 REPEALED
- Section 13-206 NEW MEMBERS
- Section 13-207 REPEALED
- Section 13-208 RULES AND REGULATIONS
- Section 13-209 USE OF FIRE EQUIPMENT; INVENTORY AND REPAIR
- Section 13-210 CONTRACTS AUTHORIZED OUTSIDE CITY LIMITS
- Section 13-211 CONTRACT TERMS, FEES FOR SERVICE
- Section 13-212 AUTHORITY TO ANSWER CALLS
- Section 13-213 FIREFIGHTERS SERVING IN REGULAR LINE OF DUTY
- Section 13-214 DEPARTMENT CONSIDERED AGENT OF STATE

ARTICLE 3

POLICE DEPARTMENT

Section 13-301 POLICE DEPARTMENT CREATED; CHIEF
Section 13-302 DUTIES
Section 13-303 POLICE OFFICERS
Section 13-304 EMERGENCY DUTIES IN OTHER CITIES
Section 13-305 COMPOSITION OF THE POLICE DEPARTMENT

ARTICLE 4

AMBULANCE SERVICE

Section 13-401 CITY TO PROVIDE AMBULANCE SERVICE
Section 13-401A DEFINITIONS
Section 13-401B SERVICES TO BE RENDERED
Section 13-401C CHARGES FOR SERVICES
Section 13-401D SUBSCRIPTIONS
Section 13-401E COLLECTION AND USE OF AMBULANCE FEE
Section 13-401F SUBSCRIBER FEE
Section 13-401G ASSIGNMENT
Section 13-402 RATES
Section 13-403 INSPECTION OF EQUIPMENT, MONTHLY REPORTS

ARTICLE 5

CIVIL DEFENSE

Section 13-501 PURPOSE OF CIVIL DEFENSE ORGANIZATIONS,
DEFINITIONS
Section 13-502 OFFICE OF CIVIL DEFENSE CREATED
Section 13-503 DIRECTOR OF CIVIL DEFENSE, POWERS AND DUTIES
Section 13-504 FURTHER POWERS AND DUTIES
Section 13-505 DIRECTOR'S USUAL POWERS
Section 13-506 POWERS IN ENEMY CAUSED EMERGENCY
Section 13-507 POWERS IN NATURAL CAUSED EMERGENCY
Section 13-508 NOT LIABLE FOR PERSONAL INJURY OR
PROPERTY DAMAGE
Section 13-509 LOANS, GIFTS, GRANTS TO CIVIL DEFENSE

ARTICLE 6

UNCLAIMED PROPERTY

Section 13-601	DELIVERY TO CHIEF OF POLICE REQUIRED; RECORDS
Section 13-602	DISPOSITION OF PERSONAL PROPERTY, GENERAL PROCEDURES
Section 13-603	SEIZED PROPERTY RELATED TO GAMBLING, REPORT AND DISPOSITION
Section 13-604	SEIZED PROPERTY RELATED TO ALCOHOLIC BEVERAGES, DISPOSITION
Section 13-605	PROPERTY OF DECEASED PERSONS
Section 13-606	NOTICE OF SALE
Section 13-607	LIBRARY BOOK DISPOSITION
Section 13-608	EXCHANGE OF UNCLAIMED OR CONFISCATED WEAPONS

CHAPTER 13

PUBLIC SAFETY

ARTICLE 1

FIRE PREVENTION

Section 13-101 INTERNATIONAL FIRE CODE ADOPTED.

A. That a certain document is on file in the Office of the City Clerk of the City of Perry, Oklahoma, being marked and designated as the International Fire Code, 2018 Edition, without the adoption of any appendices or amendments to such Code unless such appendices or amendments have been specifically adopted and made law by the State of Oklahoma, as published by the International Code Council, be and is hereby adopted as the Fire Code for the City of Perry, 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 therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said Fire Code on file in the office of the City Clerk of the City of Perry, 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.

B. The following section of the International Fire Code, 2018 Edition are hereby revised:

All references to jurisdiction shall be amended to mean the City of Perry, Oklahoma.

All amendments made by the Oklahoma Uniform Building Code

Commission to this Code are hereby incorporated by reference as herein set out.

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

Section 13-102 ENFORCEMENT.

The code hereby adopted is enforced by the chief of the fire department.

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 LIQUIFIED 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, including but not limited to the following:

- a. Requiring that any property upon which bulk storage is permitted under this subsection must be at least four (4) acres in size;
- b. Requiring that the tank must be located at least one hundred feet (100') from any boundary line of any adjoining neighboring property; and
- c. What type of fuel is proposed to be stored in the tanks.

Section 13-105 MODIFICATIONS.

The mayor, 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 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 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. The fire department shall be organized as a combination fire department as provided by Title 11 O.S. Section 29-301, with both full-time salaried firefighters and not more than twenty-five volunteer firefighters.

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 call firefighter ("volunteer firefighter") means a person who is enrolled as a volunteer member of a combination fire department of the city and who serves in that capacity without receiving a regular salary. A salaried employee of a municipality shall not serve as a volunteer firefighter as a condition of employment with the municipality. No public safety employee of the City shall serve as a volunteer firefighter unless the person is off duty and such service is not a condition of employment. Volunteer firefighters shall:

1. Be required, when notified, to respond to alarms of fire and other emergencies.
2. Be required to be present at all regular meetings, call meetings and schools presented for the benefit of the firefighters.

3. Be dropped from a fire department's rolls if such volunteer firefighter has two unexcused absences in succession or three unexcused absences in a period of three (3) months.
4. Notify the chief if such volunteer firefighter is leaving the municipality for an extended period of time.
5. Be expelled from the rolls if such volunteer firefighter refuses to attend training classes provided for him or her.
6. Be expelled from the rolls for the following offenses:
 - a. conduct unbecoming of a firefighter
 - b. any act of insubordination
 - c. neglect of duty
 - d. any violation of rules and regulations governing the fire department, or
 - e. conviction of a felony; and
7. Reside in Noble County or a county which borders Noble County.

D. The Fire Department of the City may consist of the following personnel:

<u>TITLE</u>	<u>AUTHORIZED # OF POSITIONS</u>
Fire Chief	1
Assistant Fire Chief	1
Captains	3
Lieutenants	3
Firefighters	3
Volunteer Call Firefighters	12
Administrative Assistant	1

These positions, including the authorized number of each position, can be changed at any time by amendment to this section. The enactment of this section grants no contract or other right of continuing employment to any employee, it being the purpose of this section merely to name and number the positions within the Fire Department. Each position depends upon annual budget authorization and appropriation of sufficient funds. The City reserves the right to determine and/or amend the composition of the Fire Department, including the right to organize and reorganize the Fire Department, to determine job classifications and ranks based upon duties assigned and employees in each rank and to determine the number of employees to be employed by the Fire Department.

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, subject to the laws of the state, ordinances of the city, and the rules and regulations adopted in this chapter. 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;

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;

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.

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.

Section 13-204 REPEALED

Section 13-205 REPEALED

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 other members of the fire department, the chief, and the City Manager.

Section 13-207 REPEALED

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.

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 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.

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. All moneys received from the calls shall go into the general fund.

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, who may also be the city marshal, elected as provided in Section 2-102 of this code. The chief of police is an officer of the city and has supervision and control of the police department. The police chief is subject to direction of the City Manager. All police officers are officers of the city.

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.

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 COMPOSITION OF THE POLICE DEPARTMENT

The Police Department of the City shall consist of the following personnel:

<u>TITLE</u>	<u>AUTHORIZED # OF POSITIONS</u>
Chief of Police	1

Assistant Chief of Police	1
Patrol Captain	1
Patrol Lieutenant	1
Patrol Sergeants	3
Detective Sergeant	1
Detective	1
Patrol Officers	9
Animal Control Officers	2
Administrative Assistant	1
Communication Specialists (Dispatchers)	5

These positions, including the authorized number of each position, can be changed at any time by amendment to this section. The enactment of this section grants no contract or other right of continued employment to any employee, it being the purpose of this section merely to name and number the positions within the Police Department. Each position depends upon budget appropriation in order to fund each position. The City reserves the right to determine and/or amend the composition of the Police Department, including the right to organize and reorganize the Police Department, to determine job classifications and ranks based upon the duties assigned and employees in each rank and to determine the number of employees to be employed by the Police Department.

ARTICLE 4

AMBULANCE SERVICE

Section 13-401 CITY TO PROVIDE AMBULANCE SERVICE.

The city is authorized to furnish ambulance service for the area in and around the city. The city ambulance service is made a part of the city fire department and included in the regular duties and functions of the fire department and under the direction and supervision of the fire chief. The ambulance service shall meet accepted federal Department of Transportation requirements for vehicle design (Federal Specification KKK-A-1822) and equipment (American College of Surgeon's Recommendations). The ambulance service shall provide a minimum level of training for ambulance attendants to be the Department of Transportation approved EMTA course in emergency care and transportation of the sick and injured. The ambulance service shall maintain two-way mobile communications compatible with the Oklahoma WACS Systems Specifications. The City is authorized to enter into the Agreement with Noble County Ambulance District and Noble County dated December 17, 2012.

SECTION 13-401A DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply:

1. "Emergency" means a life-threatening situation which requires that a patient be transported to a medical facility for immediate care by the Service;

2. "Medical facility" means an Oklahoma-licensed physician's office or an accredited hospital;

3. "Medically Necessary" means a non-life-threatening situation which requires that a patient be transported to or from a medical facility by the Service.

4. "No-Charge" means all ambulance services shall be billed to the patient's insurance and the City will accept what payment is received from that insurance and waive any remaining balance on emergency and medically necessary ambulance services.

5. "Non-subscriber" means a person who is not charged and/or does not timely pay for a subscription for emergency ambulance service for those persons residing in the dwelling unit;

6. "Service" means the City of Perry Emergency Medical Service.

7. "Subscriber" means a person who is charged and timely pays for a subscription to receive no-charge emergency and medically necessary ambulance service for those persons residing in the dwelling unit;

8. "Transfer" means a non-life-threatening situation whereby a patient is transported to a medical facility for medical tests or examination, or when a patient is transported from a medical facility to the patient's place of residence.

SECTION 13-401B SERVICES TO BE RENDERED.

A. Emergency ambulance service will be the primary service provided by the Service.

B. "Medically Necessary Service": Medically necessary ambulance service will be the secondary service provided by the Service. Medically necessary ambulance services will be provided when doing so will not compromise the Service's ability to provide emergency.

C. Transfer ambulance service will be the third service provided by the Service. Transfer ambulance service will be provided when doing so will not compromise the Service's ability to provide emergency ambulance services.

D. In the event any other Emergency Medical Service other than the Service provides emergency medical services for any Subscriber, the City will make no reimbursement for such other service, or payment for such other service, on behalf of the Subscriber.

SECTION 13-401C CHARGES FOR SERVICES.

A. Subscribers may receive no-charge emergency and medically necessary ambulance service performed by the Service during the period of their subscription. Ambulance service will be billed

at the rates as provided in this Article.

B. Non-subscribers will be billed for ambulance services at the rates as provided in this Article.

C. The ambulance service is to be as financially self-supporting as possible. To that end:

1. Each person who receives ambulance service is considered the primary person responsible for the payment of all services rendered. Such person shall agree to provide all insurance information and sign all necessary documents. Failure to comply will void the subscription and the patient shall be billed 100% of the current charges.

2. Payment in full for service is expected in a timely manner after services are rendered. The city is dedicated to taking all necessary steps to collect all outstanding accounts. The failure to pay an outstanding account for ambulance services shall be considered reasonable grounds to refuse non-emergency transfer ambulance service;

3. Subscribers may receive no-charge emergency and medically necessary ambulance services as provided in paragraph A hereinabove provided that the subscriber is not delinquent in the payment of city utility and/or ambulance services. In the event the city disconnects electrical service for non-payment for a period of time in excess of forty-eight (48) hours, then the subscriber shall be considered a non-subscriber and shall be responsible for the full payment of any ambulance services provided while the subscriber is delinquent in the payment for electrical services.

SECTION 13-401D SUBSCRIPTIONS.

A. Those persons who are year-round electric customers of the city at single and/or multi-family service locations (to include but not be limited to duplexes, triplexes, apartments and other residential uses) within and without the corporate limits of the city will be assessed a subscriber fee as provided in Section 13-401F as a monthly fee for no-charge emergency and medically necessary ambulance service; provided however, such electric utility customer may choose to opt out of receiving such subscription service by filling out and executing an OPT OUT FORM at City Hall with the City Clerk during the month of

February and for each successive year thereafter (hereinafter referred to as "opt out month"). Any electric utility customer failing to opt out during any successive opt out month shall continue to pay the monthly ambulance subscription fee and receive such monthly ambulance subscription service, until and unless such OPT OUT FORM is timely completed and filed with the City Clerk at City Hall during any successive opt out month.

B. Any landlord who pays the electric bill for a single and/or multi-family service locations (to include but not be limited to duplexes, triplexes, apartments and other residential uses) within and without the corporate limits of the city will be assessed a subscriber fee as provided in Section 13-401F as a monthly fee per residential dwelling unit for no-charge emergency and medically necessary ambulance service; provided however, such landlord may choose to opt out of receiving such subscription service by filling out and executing an OPT OUT FORM at City Hall with the City Clerk during the month of January for each successive year thereafter (hereinafter referred to as "opt out month"). Any landlord failing to opt out during any successive opt out month shall continue to pay the monthly ambulance subscription fee per residential dwelling unit, until and unless such OPT OUT FORM is timely completed and filed with the City Clerk at City Hall during any successive opt out month.

C. Those persons who reside in nursing homes within the corporate limits of the city and do not receive a monthly electric bill for their individual place of residence may subscribe for no-charge emergency and medically necessary ambulance services by paying the annual subscription fee.

D. Those persons who reside outside the corporate limits of the city but within the ambulance service response area and are not year-round electric customers of the City may subscribe for no-charge emergency and medically necessary ambulance services by paying the annual subscription.

SECTION 13-401E COLLECTION AND USE OF AMBULANCE FEE.

A. All ambulance services will be billed to the patient's insurance carrier(s). For subscription customers, the City will accept what the insurance pays for emergency and medically necessary ambulance service and waive the remaining balance. Charges for transfer service will not be waived and are not

subject to the subscription program. Payments received from subscribers shall first be applied to any delinquent or current monthly ambulance service fees. All receipts thereafter shall be applied toward the payment of electrical service charges of the subscriber.

B. The proceeds of the ambulance subscription fee shall be placed in an account and may only be used for the purpose of providing ambulance services, including but not limited to ambulance capital expenditures and operations.

SECTION 13-401F SUBSCRIBER FEE

Subscriber fees shall be as follows:

Electric customers at single and/or multi-family service locations (to include but not be limited to duplexes, triplexes, apartments, and other residential uses) shall pay the following monthly subscriber fee for emergency and medically necessary services:

Located within or without the corporate limits/per utility customer or dwelling unit \$5.00 per month

Non-utility customer/located within city \$64.00 per year (which may be prorated)

Non-utility customer/located outside city but within 6 miles of corporate limits \$68.00 per year (which may be prorated)

Non-utility customer/located outside city and outside 6-mile limit \$73.00 per year (which may be prorated)

SECTION 13-401G ASSIGNMENT.

That assignment will be accepted on deceased patients but will not be accepted on any other claims covered by insurance. The patient shall be responsible for all billable charges not paid by said insurance unless such patient is in the subscriber program.

Section 13-402 RATES

A. Effective June 1, 2026, the rates to be charged for ambulance services shall be as follows:

Advanced Life Support Non-Emergency (ALS)	\$1100.00
Advanced Life Support Emergency (ALS 1)	\$1700.00
Advanced Life Support Emergency (ALS 2)	\$2500.00
Basic Life Support Non-Emergency (BLS)	\$900.00
Basic Life Support Emergency (BLS)	\$1400.00
Mileage (per patient loaded mile)	\$52.00
Patient Standby (first 30 minutes)	\$30.00
Patient Standby (Each additional 30 minutes)	\$50.00
Event Standby (inside city limits)	\$100.00*
Event Standby (outside city limits-per hour)	\$75.00
Treatment without transport	\$200.00**
Fire Rescue (tools come off the truck)	\$500.00
Lift Assistance	\$150.00

B. * No fee will be charged for high school football games and up to an aggregate of two (2) CSRC Rodeo or other CSRC events.

C. **Treatment with no Transport. If a patient receives treatment from the attendee, in addition to an initial patient assessment (such as taking vital signs or primary assessment), the following charges shall be made for treatments such as administering oxygen for a respiratory problem or a breathing treatment (such as the use of Albuterol), the provision of Glucose D-30 to a diabetic, or Epinephrine to a patient suffering an allergic reaction, bandaging and splinting of wounds and breaks and other similar treatments not constituting an initial patient assessment.

Section 13-403 INSPECTION OF EQUIPMENT, MONTHLY REPORTS.

The chief or some member of the fire department authorized by him shall once in each month examine the condition of the ambulance and all ambulance equipment and make a report of the condition of the same to the City Manager on or before the first meeting in each month of the city council of the city. This report shall also include a record which shall be made and kept by the fire chief in his office of all runs made by the ambulance, the name of the patients, the point where the patient was received, and the point to which the patient was delivered.

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 Perry, 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 Perry, Oklahoma.

Section 13-502 Emergency Management Department.

1. There is hereby established an Emergency Management Department under the executive branch of government, which shall consist of an 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 Perry, 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 Perry, 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 Perry, 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 Perry, 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 13-504 Liability.

1. Neither the City of Perry, 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 emergency management activity prior to, or during, either an enemy-caused or a natural emergency.

Section 13-505 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 Perry, 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.

B. 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. 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.

CHAPTER 14. STREETS, SIDEWALKS AND PUBLIC WORKS

ARTICLE 1

USE AND CONSTRUCTION OF STREETS

- Section 14-101 TREES AND SHRUBBERY TO BE TRIMMED.
- Section 14-102 UNLAWFUL TO INJURE TREES AND SHRUBBERY
- Section 14-103 UNLAWFUL TO OBSTRUCT SIDEWALKS PARKWAYS,
STREETS, AND ALLEYS WITH MERCHANDISE
- Section 14-104 UNLAWFUL TO OBSTRUCT UNDULY SIDEWALKS & STREETS
- Section 14-105 UNLAWFUL TO PLAY ON STREETS
- Section 14-106 WATER FROM FILLING STATIONS AND OTHER BUSINESSES
- Section 14-107 OWNER OR OCCUPANT NOT TO PERMIT SIDEWALK OR
SIDEWALK AREA TO BECOME A HAZARD
- Section 14-108 NOTICE; PENALTY
- Section 14-109 NO OBSTRUCTIONS TO INTERFERE WITH DRAINAGE
- Section 14-110 INJURY; DRIVING OVER CURBING AND CROSSINGS
- Section 14-111 OWNER OF VEHICLE RESPONSIBLE FOR DAMAGE TO STREET
- Section 14-112 WHEN SIDEWALKS MAY BE OBSTRUCTED
- Section 14-113 INSECTS AND WORMS
- Section 14-114 PERMIT TO STRING WIRES
- Section 14-115 ENCLOSING SIDEWALKS, STREETS, ALLEYS OR PUBLIC
WAY WITH A FENCE, BUILDING OR STRUCTURE
PROHIBITED; FENCING OR ENCLOSING PUBLIC EASEMENTS
- Section 14-116 MOWING AND/OR SWEEPING GRASS CLIPPINGS,
VEGETATIVE MATERIAL OR OTHER LITTER IN THE
STREETS OR OTHER PUBLIC PLACE PROHIBITED
- Section 14-117 SIDEWALKS REQUIRED FOR NEW DEVELOPMENT;
DEFINITIONS;; REQUIREMENTS; SIDEWALK
SPECIFICATIONS; EXCEPTIONS.

ARTICLE 2

EXCAVATING OR CUTTING STREETS AND ALLEYS

- Section 14-201 NOTIFICATION TO CITY
- Section 14-202 FEE TO BE PAID TO CITY
- Section 14-203 SECURITY BOND
- Section 14-204 TO FILL EXCAVATION, APPROVAL & SPECIFICATIONS
- Section 14-205 PERMIT REQUIRED FOR CURB CUT AND/OR DRIVEWAY
OPENINGS TO A STREET

ARTICLE 3

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 14-301 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

ARTICLE 4

RIGHT-OF-WAY OCCUPANCY MANAGEMENT

Section 14-400 INTENT, PURPOSE AND SCOPE
Section 14-401 DEFINITIONS
Section 14-402 ADMINISTRATION
Section 14-403 AUTHORITY TO OCCUPY RIGHTS-OF-WAY
Section 14-404 RIGHTS-OF-WAY CONSTRUCTION PERMITS
Section 14-405 OCCUPANCY PERMIT FEES
Section 14-406 ENGINEERING STANDARDS
Section 14-407 INSURANCE
Section 14-408 INDEMNIFICATION
Section 14-409 NO LIMITS ON LIABILITY
Section 14-410 RELOCATING OF EQUIPMENT AND FACILITIES
Section 14-411 PRE-EXCAVATION LOCATION OF EQUIPMENT
Section 14-412 DAMAGE TO OTHER FACILITIES
Section 14-413 ABANDONED AND UNUSABLE FACILITIES
Section 14-414 RESERVATION OF REGULATIONS AND POLICE POWER
Section 14-415 APPEALS
Section 14-416 REVOCATION
Section 14-417 TRANSFERS
Section 14-418 EXEMPTIONS
Section 14-419 ENFORCEMENT
Section 14-420 PENALTIES

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 in the parking, between the sidewalks and the roadway, of any such street, and all trees and shrubbery growing on any part of the premises adjacent to the sidewalks 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 head of the department in charge of streets to do so, shall be guilty of an offense against the city. 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 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 of a space 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 parking 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 or some competent person designated by him.

Section 14-115. ENCLOSING SIDEWALKS, STREETS, ALLEYS OR PUBLIC WAY WITH A FENCE, BUILDING OR STRUCTURE PROHIBITED; FENCING OR ENCLOSING PUBLIC EASEMENTS.

A. It is unlawful for any person to fence or enclose any sidewalk, street, alley, or public way within the city, or to erect or maintain a fence, building, structure, or other obstruction on or across the same. This section shall not prohibit the closing of a sidewalk and/or part of a street with the approval of City Manager to protect the public from injury from a building or other thing under construction, alteration, or repair.

B. Fencing which encroaches a public easement shall not interfere with the purpose of the public easement or ingress or egress thereto, including access by the City or utility or public service company or easement holder to the public easement. The city or utility or public service company or easement holder may remove any improvement, including fencing, interfering with the use of the public easement, and the property owner shall be responsible for replacing any improvement, including fencing, at his own expense and may be required to reimburse the city or utility or public service company or easement holder for removal costs. The city or utility or public service company or easement holder shall give the property owner at least three (3) days' notice of its intent to utilize the public easement by placing a door hanger on the real property stating the time and date that the use will commence; no such notice shall be required in the event of an emergency.

C. No person, firm or other entity shall violate the terms of this section by act or omission.

Section 14-116 MOWING AND/OR SWEEPING GRASS CLIPPINGS,
VEGETATIVE MATERIAL OR OTHER LITTER IN THE STREETS OR OTHER
PUBLIC PLACE PROHIBITED.

No person shall operate mowing equipment adjacent to a public street or other public place in such a manner as to cause the discharge of grass clippings, vegetative material or other litter, to be discharged or remain in the public street or other public place. No person shall sweep into or deposit any grass clippings, vegetative material or other litter onto any sidewalk, street, alley, gutter, or other public place. Persons owning or occupying property shall keep the sidewalk, street, or other public place free of grass clippings, vegetative material, or other litter.

Section 14-117 SIDEWALKS REQUIRED FOR NEW DEVELOPMENT;
DEFINITIONS; REQUIREMENTS; SIDEWALK SPECIFICATIONS; EXCEPTIONS.

A. Definitions: For the purposes of this section, the following definition shall apply:

NEW DEVELOPMENT shall mean any new subdivision of land in the City requiring a platting process which occurs after the enactment of this section, resulting in the development of three (3) or more lots or tracts.

B. Requirement: Developers, owners or persons in custody and control of any real property desiring to construct new development in a residential, commercial or special/public use zoning district in the City of Perry shall construct sidewalks that parallel abutting streets in the public right-of-way pursuant to the specifications as provided by Subsection C, unless excepted as provided in Subsection D. The purpose of this section is to encourage sidewalks that promote active living in the City. The requirements of this section are applicable to site plan review and may be considered and required as a part of site plan review process.

C. Sidewalk Specifications.

1. Sidewalks, including curbs, ramps and other associated facilities and appurtenances ("sidewalks") shall comply with the most current design, construction and accessibility guidelines provided in the Americans with Disabilities Act (hereinafter the "ADA").

2. Plans for sidewalks shall be submitted in the form of an application for permit and approved by the City Building Official with respect to location and the requirements of this section prior to construction. A permit will be issued for the construction of such sidewalk at no cost to the applicant.

D. Exceptions:

1. New development located adjacent to unimproved roads.
2. New development located on agricultural or industrial zoned land unless such property is subject to rezoning for the new residential, commercial or special/public use zoning district development.
3. Placement or construction of an accessory building in a residential, commercial or special/public use zoning district.
4. In the case of a new subdivision of land, the sidewalk need only be constructed on one (1) side of the public right-of-way.

ARTICLE 2

EXCAVATING OR CUTTING STREETS AND ALLEYS

Section 14-201 APPLICATION FOR A CITY PERMIT.

Prior to commencement of any boring, cutting or excavation under, across or through any street or alley, the party about to perform the same ("permittee") shall apply for a permit on the appropriate city form stating the type, nature and manner that the proposed boring, cutting or excavation is intended to be done, the location thereof, and the necessity of such boring, cutting or excavation. The appropriate permit fee as provided in Chapter 18 shall accompany the application. The application shall also state the type of fill materials being used. The application must be approved, and a permit issued by the City Manager or designee prior to any such boring, cutting or excavation.

Section 14-202 RESERVED.

Section 14-203 MAINTENANCE AND INDEMNITY 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 of at least \$5,000.00, to protect the City against defective workmanship and material for a period of one (1) year from the date of the closing of the bore, cut or excavation, and otherwise 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 & SPECIFICATIONS

A. After the installation, replacement or repair of any utility line or other line accomplished, the permittee shall fill the bore, cut or excavation in the following manner:

1. Cover the main line and connection with approximately one (1) foot of compacted sand; and

2. Cover the one (1) foot of compacted sand with one (1) of the following permitted fill materials:

a. Fill the hole with one and a half (1 ½) inches crusher run rock within six (6) inches of the surface. Material to be compacted every twelve (12) inches. The permittee shall haul the rubble from the work site, finish filling the hole to surface grade with compacted one and a half (1 ½) crusher run rock, asphalt or other surface material as is appropriate and consistent with the material that was removed. Permit holder shall be legally responsible, both under the bond or otherwise, for any required re-surfacing needed to the existing roadway surface for one (1) year from the date of the closing of the bore, cut, excavation or other repair.

b. Fill the hole with dry earthen material within six (6) inches of the surface. Material shall be compacted every twelve (12) inches. The permit holder shall haul the rubble from the work site, finish filling the hole to surface grade rock, asphalt or other surface material as is appropriate and consistent with the material that was removed. Permit holder shall be legally responsible, both under the bond or otherwise, for any required re-surfacing needed to the existing roadway surface for a one (1) year from the date of the closing of the bore, cut or excavation and be legally responsible, both under the bond or otherwise, for any required re-surfacing needed to the existing roadway surface for an one (1) year from the date of the closing of the bore, cut, excavation or other repair. Upon completion of all restoration work the City Manager or designee shall examine the location to determine if such filling, tamping, or paving complies with this Article. If such restoration does not comply with this, the City may cause proper and necessary repairs at the sole cost of the permittee.

B. It is the City Manager or designee's discretion as to the repair and replacement of streets and alleys, either being trenched or bored.

C. Any permittee who violates the terms and provisions of this Article, either by an act or omission, shall be guilty of an offense.

Section 14-205 PERMIT REQUIRED FOR CURB CUT AND/OR DRIVEWAY
OPENINGS TO A STREET

No person, firm or entity shall cut the curb of any street and/or otherwise provide for a driveway opening to any street (the "work") without filing an application, paying the relevant fee, and obtaining a permit authorizing such work, from the City Clerk. All such work shall be made in accordance with the relevant Section of the Perry Sub-division Regulations of the City of Perry, 1980 (the "regulations"), or as such subsequently amended, and as filed in the office of the City Clerk; provided however, the City Manager or designee shall have the right and authority to waive and/or alter such regulations and provide for amended or different requirements with respect to any specific work, in the event same is necessary for better traffic control or other engineering purposes in order to promote the public's health, safety and welfare. No person, firm or entity shall fail to install such work in accordance with such regulations or as otherwise required and directed by the City Manager or designee.

ARTICLE 3

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 14-301 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 June 3, 2002, 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

ARTICLE 4

RIGHTS-OF-WAY OCCUPANCY MANAGEMENT

Section 14-400 INTENT, PURPOSE AND SCOPE

A. In order to provide for the public health, safety and welfare of the citizens of the City of Perry, 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 Perry 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 systemwide 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.

Section 14-401 DEFINITIONS

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 Perry.

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.

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 14-402 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. Electric Superintendent. All installations placed on poles in the right of way shall be coordinated by the City Manager with the Electric Superintendent and the Electric Superintendent shall have the final authority with respect to such installations.

Section 14-403 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 14-404. 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 Perry, or the U.S. Government.

Section 14-404 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 14-407 of this Article; and
6. A traffic control plan in compliance with Section 14-406 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 14-406 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 14-406 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 14-420 of this Article.

Section 14-405 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. The calculation shall be set out on the permit and shall not be changed unless the nature of the occupancy is amended.

Section 14-406 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 stormwater or creek channel design flowline; and,
- e. Cross under all water and natural gas lines at a depth of Twenty-four inches (24"). After review and approval by the city engineer, the above stated construction standards may be amended by the City Manager. The burial depth of the installed Facilities shall be stated on the permit, and thereby deemed consistent with these construction standards.

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 stormwater 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 stormwater 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 (24) 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 (4) 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 14-407 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 Perry 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 Perry 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 14-408 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 14-409 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 14-410 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, stormwater, 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 14-411 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 Perry 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 14-412 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 14-413 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 14-417 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 14-414 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 or under the Charter of the City of Perry. 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 14-415 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 14-416 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 14-417 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 14-413, 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 14-418 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 14-419 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 14-420;

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;

4. 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 14-419A, 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 14-420 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;

2. For any other violations of the Perry 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.

CHAPTER 15 TRAFFIC AND VEHICLES

ARTICLE 1

GENERAL PROVISIONS

Section 15-101 CITATION OF CHAPTER
Section 15-102 TRAFFIC CODE CONTROLLING
Section 15-103 DEFINITIONS
Section 15-104 ADOPTION OF STATE TRAFFIC CODE

ARTICLE 2

ENFORCEMENT AND GENERAL PROVISIONS

Section 15-201 ENFORCEMENT OF TRAFFIC LAWS; ESTABLISHMENT OF TRAFFIC CONTROL DIVISIONS
Section 15-202 DIRECTION OF TRAFFIC BY HAND OR VOICE
Section 15-203 DIRECTION OF TRAFFIC BY UNAUTHORIZED PERSONS
Section 15-204 OBEDIENCE TO POLICE AND FIRE OFFICIALS
Section 15-205 EMERGENCY AND EXPERIMENTAL REGULATIONS
Section 15-206 PUSH CARTS, RIDING ANIMALS, OR DRIVING ANIMAL DRAWN VEHICLES TO COMPLY WITH CODE
Section 15-207 USE OF COASTERS, ROLLER SKATES, AND SIMILAR DEVICES RESTRICTED
Section 15-208 PUBLIC OFFICERS AND EMPLOYEES TO OBEY TRAFFIC REGULATIONS
Section 15-209 PERSONS WORKING ON STREETS, EXCEPTIONS
Section 15-210 MAINTENANCE AND CONSTRUCTION ZONES
Section 15-211 AUTHORIZED EMERGENCY VEHICLES
Section 15-212 OPERATION OF VEHICLES ON APPROACH OF AUTHORIZED EMERGENCY VEHICLES
Section 15-212.1 ELUDING POLICE OFFICERS
Section 15-213 FOLLOWING EMERGENCY VEHICLES PROHIBITED
Section 15-214 CROSSING FIRE HOSE
Section 15-215 POSSESSION OF VALID DRIVER'S LICENSE REQUIRED
Section 15-216 OPERATION OF VEHICLE ON INVALID LICENSE PROHIBITED; UNLAWFUL TO COMMIT OTHER UNLAWFUL ACTS WITH DRIVERS LICENSE OR IDENTIFICATION CARD.
Section 15-217 UNLAWFUL TO OPERATE VEHICLE WITHOUT STATE VEHICLE LICENSE
Section 15-218 PERMITTING UNAUTHORIZED PERSON TO DRIVE PROHIBITED
Section 15-219 ACCIDENTS, DUTY TO STOP, LEAVING SCENE OF ACCIDENT

Section 15-220 DUTY OF STRIKING UNATTENDED VEHICLES, FIXTURES
Section 15-221 REPORTING ACCIDENTS
Section 15-222 ISSUANCE OF CITATION TAGS
Section 15-223 WHEN COPIES OF CITATIONS SHALL BE DEEMED A LAWFUL COMPLAINT
Section 15-224 FAILURE TO COMPLY WITH TRAFFIC CITATIONS ATTACHED TO PARKED VEHICLE
Section 15-225 PRESUMPTION IN REFERENCE TO ILLEGAL PARKING
Section 15-226 ILLEGAL CANCELLATION OF TRAFFIC CITATIONS
Section 15-227 COURT RECORDS; ABSTRACT TO BE SENT TO STATE DEPARTMENT OF PUBLIC SAFETY
Section 15-228 INSURANCE OR CERTIFICATE REQUIRED
Section 15-229 TEXTING WHILE DRIVING PROHIBITED; EXCEPTIONS; PENALTY.

ARTICLE 3

VEHICLE EQUIPMENT, INSPECTION

Section 15-301 CERTAIN VEHICLES PROHIBITED; VEHICLES INJURIOUS TO STREETS
Section 15-302 OBSTRUCTIVE AND DANGEROUS VEHICLES
Section 15-303 EQUIPMENT
Section 15-304 MUFFLERS, CUT-OUTS
Section 15-305 WIDTH, HEIGHT, LENGTH AND LOAD
Section 15-306 INSPECTION OF VEHICLES
Section 15-307 MUNICIPALLY OWNED ALL-TERRAIN VEHICLES AND MUNICIPALLY OWNED GOLF CARTS
Section 15-308 GOLF CART REGULATIONS
Section 15-309 PROHIBITION AGAINST ALL-TERRAIN VEHICLES, GOLF CARTS, LAWN MOWERS, MINIBIKES, MOTORCYCLES, MOTOR SCOOTERS, RECREATIONAL OFF-HIGHWAY VEHICLES AND UTILITY VEHICLES OPERATING ON ANY HIGHWAY, STREET, ALLEY, SIDEWALK OR PUBLIC RIGHT-OF-WAY WITHIN THE CORPORATE LIMITS OF THE CITY; RULES; MOPED EXCEPTION; MOPED RULES AND REGULATIONS; ENFORCEMENT.

ARTICLE 4

SPEED REGULATIONS

Section 15-401 SPEED LIMITS GENERALLY, EXCEPTIONS
Section 15-402 SCHOOL ZONES
Section 15-403 SPEED NEVER TO EXCEED THAT WHICH IS REASONABLE OR
PRUDENT FOR EXISTING CONDITIONS;
Section 15-404 MINIMUM SPEED REQUIREMENTS; EXCEPTIONS
Section 15-405 OBEDIENCE TO MAXIMUM AND MINIMUM SPEED LIMITS

ARTICLE 5

DRIVING, OVERTAKING, PASSING

Section 15-501 CHANGING LANES
Section 15-502 DRIVING ON RIGHT SIDE OF ROADWAY REQUIRED;
EXCEPTIONS
Section 15-503 WHEN OVERTAKING ON THE RIGHT IS PERMITTED
Section 15-504 OVERTAKING A VEHICLE ON THE LEFT
Section 15-505 LIMITATIONS ON OVERTAKING ON THE LEFT; EXCEPTIONS
Section 15-506 PASSING VEHICLES PROCEEDING IN OPPOSITE
DIRECTIONS
Section 15-507 ONE-WAY ROADWAYS AND ROTARY TRAFFIC ISLANDS
Section 15-508 FOLLOWING TOO CLOSELY
Section 15-509 NO PASSING ZONES
Section 15-510 DRIVING THROUGH FUNERAL OR OTHER PROCESSION
PROHIBITED; EXCEPTIONS
Section 15-511 DRIVERS IN A PROCESSION
Section 15-512 FUNERAL PROCESSIONS TO BE IDENTIFIED
Section 15-513 OVERTAKING AND PASSING IN SCHOOL ZONES
Section 15-514 OVERTAKING AND PASSING SCHOOL BUS
Section 15-515 SCHOOL BUS REQUIREMENTS; LIGHTS; SIGNS; PAINTING
Section 15-516 DRIVING OF VEHICLES ON SIDEWALK PROHIBITED;
EXCEPTION
Section 15-517 LIMITATIONS ON BACKING VEHICLE
Section 15-518 LIMITATIONS ON USE OF MOTORCYCLES, BICYCLES, AND
MOTOR SCOOTERS
Section 15-519 REQUIRED MOTORCYCLE EQUIPMENT, HEADGEAR
Section 15-520 CLINGING TO VEHICLES PROHIBITED
Section 15-521 ENTERING AND LEAVING CONTROLLED ACCESS HIGHWAYS
Section 15-522 RECKLESS DRIVING
Section 15-522.1 RESERVED
Section 15-523 CARELESS OR NEGLIGENT DRIVING, STOPPING, OR
PARKING

Section 15-524 FULL TIME AND ATTENTION REQUIRED
Section 15-525 REQUIREMENT OF ANY PERSON DRIVING A VEHICLE ON A
PUBLIC WAY TO OPERATE SAME IN A CAREFUL AND
PRUDENT MANNER
Section 15-526 SPEED CONTEST PROHIBITED
Section 15-527 DRIVING THROUGH SAFETY ZONE
Section 15-528 STARTING PARKED VEHICLE
Section 15-529 OPENING AND CLOSING VEHICLE DOORS
Section 15-530 OBSTRUCTIONS TO DRIVER'S VIEW OR DRIVING
MECHANISM
Section 15-531 BOARDING OR ALIGHTING FROM VEHICLES
Section 15-532 UNLAWFUL RIDING
Section 15-533 PRIVATE SERVICE DRIVES
Section 15-534 TRUCK ROUTES
Section 15-535 LOADS ON VEHICLES
Section 15-536 VEHICLE APPROACHING OR ENTERING INTERSECTION
Section 15-537 VEHICLE TURNING LEFT AT INTERSECTIONS
Section 15-538 VEHICLE APPROACHING A "YIELD RIGHT-OF-WAY" SIGN
Section 15-539 VEHICLE ENTERING THROUGH HIGHWAY
Section 15-540 VEHICLES FACING STOP, SLOW, WARN OR CAUTION
SIGNAL
Section 15-541 THROUGH STREETS
Section 15-542 INTERSECTIONS WHERE STOP OR YIELD REQUIRED
Section 15-543 STOP OR YIELD SIGN CONSTRUCTION AND PLACEMENT
Section 15-544 VEHICLE ENTERING STOP Intersection
Section 15-545 VEHICLE ENTERING YIELD Intersection
Section 15-546 VEHICLE ENTERING HIGHWAY FROM PRIVATE ROAD OR
DRIVEWAY
Section 15-547 VEHICLES ENTERING TRAFFIC FROM PARKING
Section 15-548 EMERGING FROM THE ALLEY, DRIVEWAY, OR BUILDING
Section 15-549 STOP WHEN TRAFFIC OBSTRUCTED
Section 15-550 OBEDIENCE TO SIGNAL INDICATING APPROACH OF TRAIN
Section 15-551 CERTAIN VEHICLES TO STOP AT ALL RAILROAD GRADE
CROSSINGS
Section 15-552 SEAT BELTS AND CHILD PASSENGER RESTRAINTS
REQUIRED
Section 15-552 DRIVING THROUGH DRIVEWAYS, PARKING AREAS;
CIRCLING

ARTICLE 6

TRAFFIC CONTROL DEVICES

Section 15-601 AUTHORITY TO INSTALL TRAFFIC CONTROL DEVICES
Section 15-602 TRAFFIC CONTROL DEVICES; UNIFORM REQUIREMENTS

Section 15-603 OBEDIENCE TO OFFICIAL TRAFFIC CONTROL DEVICES
Section 15-604 WHEN OFFICIAL TRAFFIC CONTROL DEVICES REQUIRED
FOR ENFORCEMENT PURPOSES
Section 15-605 TRAFFIC CONTROL SIGNAL LEGEND
Section 15-606 PEDESTRIANS; SIGNAL INDICATORS; REGULATIONS
Section 15-607 FLASHING SIGNALS
Section 15-608 PEDESTRIAN-ACTIVATED SCHOOL CROSSING SIGNALS
Section 15-609 UNAUTHORIZED TRAFFIC CONTROL DEVICES PROHIBITED
Section 15-610 DEFAACEMENT OF TRAFFIC CONTROL DEVICES
Section 15-611 PLAY STREETS, AUTHORITY TO ESTABLISH
Section 15-612 PLAY STREETS, RESTRICTION ON USE
Section 15-613 DESIGNATION OF CROSSWALKS AND SAFETY ZONES
Section 15-614 TRAFFIC LANES

ARTICLE 7

STOPPING, STANDING AND PARKING GENERALLY

Section 15-701 ILLEGAL PARKING DECLARED PUBLIC NUISANCE
Section 15-702 APPLICATION OF STANDING OR PARKING REGULATIONS
Section 15-703 PARKING TIME LIMITS MAY BE ESTABLISHED, SIGNS
Section 15-704 PARKING MORE THAN FORTY-EIGHT (48) HOURS,
DISABLED VEHICLES
Section 15-705 BRAKES; MOTOR NOT TO BE LEFT RUNNING
Section 15-706 SIGNS OR MARKINGS INDICATING ANGLE PARKING
Section 15-707 OBEDIENCE TO ANGLE PARKING SIGNS OR MARKINGS
Section 15-708 PARKING IN SPACES MARKED OFF
Section 15-709 PERMITS FOR LOADING OR UNLOADING AT AN ANGLE TO
THE CURB
Section 15-710 HAZARDOUS OR CONGESTED PLACES; STOPPING,
STANDING, PARKING
Section 15-711 STOPPING, STANDING OR PARKING PROHIBITED IN
SPECIFIED PLACES
Section 15-712 BLOCKING OF INTERSECTION OR CROSSWALK PROHIBITED
Section 15-713 STANDING OR PARKING ON ONE-WAY ROADWAY
Section 15-714 STANDING OR PARKING ON LEFT SIDE OF ONE-WAY
STREETS
Section 15-715 PARKING ADJACENT TO SCHOOLS
Section 15-716 PARKING PROHIBITED AT INTERSECTIONS
Section 15-717 PARKING IN ALLEYS, BLOCKING DRIVEWAYS
Section 15-718 ENTRY ON PRIVATE PROPERTY; TRESPASS; EVIDENCE;
BURDEN OF PROOF
Section 15-719 PARKING ON MAIN TRAVELED PORTION OR ROADWAY
Section 15-720 DOUBLE PARKING PROHIBITED

Section 15-721 TRUCK PARKING PROHIBITED; TRUCKS TRANSPORTING
HAZARDOUS MATERIALS PROHIBITED
Section 15-722 PARKING FOR CERTAIN PURPOSES PROHIBITED
Section 15-723 METHOD OF PARKING, STANDING OR PARKING CLOSE TO
CURB
Section 15-724 NEGLIGENT PARKING
Section 15-725 RIGHT-OF-WAY TO PARALLEL PARKING SPACE
Section 15-726 HANDICAPPED PARKING, ENFORCEMENT OF PUBLIC OR
PRIVATE PARKING

ARTICLE 8

LOADING

Section 15-801 DEFINITIONS
Section 15-802 CURB LOADING ZONES, DESIGNATION
Section 15-803 LOADING ZONES TO BE USED ONLY FOR DESIGNATED
PURPOSE
Section 15-804 STOPPING, STANDING OR PARKING IN PASSENGER CURB
LOADING ZONE
Section 15-805 STOPPING, STANDING OR PARKING IN COMMERCIAL CURB
LOADING ZONE
Section 15-806 DESIGNATION OF PUBLIC CARRIER STOPS AND STANDS
Section 15-807 USE OF BUS AND TAXICAB STANDS RESTRICTED
Section 15-808 STOPPING, STANDING AND PARKING OF BUSES AND TAXIS

ARTICLE 9

TURNING MOVEMENTS

Section 15-901 TURNING MARKERS OR INDICATORS
Section 15-902 DESIGNATION OF RESTRICTED TURNS
Section 15-903 OBEDIENCE TO NO-TURN SIGNS
Section 15-904 U-TURNS
Section 15-905 LEFT TURNS ACROSS CENTER LINE PROHIBITED,
EXCEPTIONS
Section 15-906 POSITION AND METHOD OF TURNING
Section 15-907 TURNING MOVEMENTS AND REQUIRED SIGNALS
Section 15-908 MEANS OF GIVING TURN SIGNALS
Section 15-909 METHOD OF GIVING HAND AND ARM SIGNALS

ARTICLE 10

PEDESTRIANS

Section 15-1001	PEDESTRIANS SUBJECT TRAFFIC CONTROL SIGNALS
Section 15-1002	PEDESTRIANS' RIGHT-OF-WAY AT CROSSWALKS
Section 15-1003	PEDESTRIANS TO USE RIGHT HALF OF CROSSWALK
Section 15-1004	CROSSING AT RIGHT ANGLES
Section 15-1005	WHEN PEDESTRIANS SHALL YIELD
Section 15-1006	PEDESTRIANS WALKING ALONG ROADWAYS
Section 15-1007	PEDESTRIANS PROHIBITED FROM SOLICITING RIDES, BUSINESS OR DONATIONS FROM VEHICLE OCCUPANTS
Section 15-1008	DRIVERS TO EXERCISE DUE CARE
Section 15-1009	CROSSING PROHIBITED
Section 15-1010	OBEDIENCE OF PEDESTRIANS TO RAILROAD SIGNALS

ARTICLE 11

BICYCLES

Section 15-1101	APPLICATION OF BICYCLE REGULATIONS
Section 15-1102	APPLICATION OF TRAFFIC LAWS TO BICYCLES
Section 15-1103	OBEDIENCE TO TRAFFIC CONTROL DEVICES
Section 15-1104	RIDING ON BICYCLES
Section 15-1105	RIDING ON ROADWAYS AND BICYCLE PATHS
Section 15-1106	SPEED OF BICYCLE
Section 15-1107	EMERGING FROM ALLEY OR DRIVEWAY
Section 15-1108	CARRYING ARTICLES
Section 15-1109	PARKING
Section 15-1110	RIDING ON SIDEWALKS
Section 15-1111	LAMPS AND EQUIPMENT ON BICYCLES

ARTICLE 12

ELECTRIC SCOOTERS

Section 15-1201	DEFINITIONS.
Section 15-1202	RESTRICTION ON USE OF ELECTRIC SCOOTERS.
Section 15-1203	RULES OF THE ROAD.
Section 15-1204	PARKING.
Section 15-1205	SIDEWALKS.
Section 15-1206	EXCEPTIONS.
Section 15-1207	TRAFFIC LAWS APPLY.
Section 15-1208	PENALTY.

ARTICLE 13

IMPOUNDMENT OF VEHICLES

Section 15-1301	PURPOSE AND EFFECT OF IMPOUNDMENT PROVISIONS
Section 15-1302	PLACE OF IMPOUNDMENT
Section 15-1303	DURATION OF IMPOUNDMENT
Section 15-1304	POLICE GRANTED AUTHORITY TO IMPOUND VEHICLES
Section 15-1305	DISABLED VEHICLES
Section 15-1306	VEHICLES ON BRIDGE
Section 15-1307	ARREST AND DETENTION OF DRIVER OF VEHICLE
Section 15-1308	VEHICLE CONSTITUTES TRAFFIC HAZARD
Section 15-1309	ILLEGAL TRESPASS BY VEHICLE
Section 15-1310	VEHICLES PARKED OVERTIME
Section 15-1311	VEHICLES BLOCKING FIRE EXITS OR HYDRANTS
Section 15-1312	VEHICLES PARKED IN Intersection
Section 15-1313	STOLEN VEHICLES; RECOVERY BY POLICE
Section 15-1314	VEHICLES WITH OUTSTANDING TRAFFIC CITATIONS

ARTICLE 14

PENALTIES

Section 15-1401	OBEDIENCE TO TRAFFIC CODE
Section 15-1402	PENALTIES, SPECIFIC AND GENERAL

\

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 Perry", 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 ever 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 mayor, 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 flag persons. 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 Manager, 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 15-212.1 ELUDING POLICE OFFICERS

A. No person operating a motor vehicle who has received a visual and audible signal (a red light and a siren in the case of a clearly designated police vehicle driven by a police officer) directing the operator to bring his vehicle to a stop shall willfully increase his speed or extinguishes his lights or in any other manner attempt to or actually elude such police officer.

B. Any person convicted of violating any of the provisions of Subsection A shall be punished by a fine of not to exceed \$500.00, plus costs.

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; UNLAWFUL TO COMMIT OTHER UNLAWFUL ACTS WITH DRIVERS LICENSE OR IDENTIFICATION CARD.

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:

- a. To lend one's own license or identification card to any other person or knowingly permit the use thereof by another,
- b. 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,
- c. To permit any unlawful use of a license or identification card issued to oneself, or
- d. To add to, delete from, alter, or deface the required information on a driver license or identification card.

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 judgment, 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;
DEFINITIONS; 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 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 a law enforcement officer.

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, bypass 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:

1. In good working order and adjustment and is in such safe mechanical condition as not to endanger the driver or other occupants; and

2. Bearing a valid official inspection sticker issued by an official inspection station licensed by the Department of Public Safety.

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.

Section 15-307 MUNICIPALLY OWNED ALL-TERRAIN VEHICLES AND
MUNICIPALLY OWNED GOLF CARTS

Municipally owned all-terrain vehicles (hereinafter "all-terrain vehicles") and municipally owned golf carts (hereinafter "golf carts"), may be operated on the city streets within the corporate limits of the City of Perry, subject to the following rules and conditions:

1. All-terrain vehicles and golf carts shall not be registered pursuant to the provisions of the Oklahoma Vehicles License and Registration Act.

2. All-terrain vehicles and golf carts shall not be operated on any state or federal highway located within the corporate limits of the City of Perry, except that such restriction shall not apply to the crossing of any state or federal highway at an approximate ninety (90) degree angle at an improved intersection, unless the posted speed limit on the state or federal highway being crossed is more than thirty-five miles per hour in the area of the crossing, and in such event the all-terrain vehicles and golf carts may not cross such state or federal highway.

3. All-terrain vehicles and golf carts shall be operated only during daylight hours.

4. Miscellaneous:

A. Application of Traffic Laws to All-Terrain vehicles and Golf Carts

Every person operating an all-terrain vehicle or golf carts upon city streets shall be granted all rights and shall be subject to all the duties applicable to the driver of motor vehicles by the laws of this state and the traffic provisions of this code applicable to the driver of motor vehicle (excepting required equipment regulations shall not be required).

B. Obedience to Traffic Control Devices.

Any person operating an all-terrain vehicle or golf cart upon city streets shall obey the instructions of official traffic control signals, signs, and other control devices applicable to motor vehicles, unless otherwise directed by a police officer.

C. Operating All-Terrain Vehicles and Golf Carts

1. No person operating an all-terrain vehicle or golf cart shall ride other than upon the permanent and regular seat affixed thereto.

2. No all-terrain vehicle or golf cart shall be used to carry more persons at one time than the number for which it is designed and equipped.

3. Every person operating an all-terrain vehicle or golf cart upon the city streets 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.

D. Speed of the All-Terrain Vehicle or Golf Cart

No person shall operate an all-terrain vehicle or golf cart at a speed greater than is reasonable and prudent under the conditions then existing.

E. License

No person shall operate an all-terrain vehicle or golf cart on the city streets without having in his possession at all times a valid operator license as required by the laws of the state, when operating the all-terrain vehicle or golf cart on the city streets, unless such person is specifically exempted from such laws by any provision contained in this Chapter or federal or state law or regulation.

Section 15-308 GOLF CART REGULATIONS

1. Definitions.

The following word shall have the following meaning in this section:

"Golf Cart" shall mean a vehicle specifically designed and

intended for the purpose of transporting one or more persons and their golf clubs or maintenance equipment while engaged in the playing of golf, supervising the play of golf, or maintaining the condition of the grounds on a public or private golf course.

2. Policy Statement:

This section is adopted in the interest of public safety. Golf Carts are not designed or manufactured to be used on public streets and roads, and the City of Perry in no way advocates or endorses the operation of Golf Carts on streets or roadways. The City of Perry, by regulating such operation, is merely addressing safety issues. This section is not to be relied upon as a determination that operation on streets is safe or advisable even if done in accordance with this section. All persons operating Golf Carts must be observant of and attentive to the safety of themselves and others, including their passengers, other motorists, bicyclists, and other pedestrians. All persons who operate or ride Golf Carts on streets inside the corporate City limits of the City of Perry do so at their own risk and peril. The City of Perry has no liability under any theory of liability for permitting Golf Carts to be operated on the streets of the City of Perry, Oklahoma.

3. Rules and Regulations. Golf Carts may only be operated in the City of Perry upon the street and roads on Grove Street, as a southern boundary, and upon all streets and roads north of Grove Street, in strict accordance with the following rules and regulations:

a. Any person who operates a Golf Cart in the City of Perry takes full responsibility for all liability associated with operating such vehicle. It is recommended, but not required, that Golf Carts operated upon the streets be insured by a currently effective liability insurance policy in the same minimum amount as is required for motor vehicles which operate upon the street by the laws of the State of Oklahoma and their drivers possess on their person, while operating such Golf Cart, proof of such liability insurance.

b. No person shall operate a golf cart upon the City streets and alleys without having in his/her possession at all times, an unrevoked and unsuspended operator's or chauffeur's license as required by the laws of the state, unless such person is specifically exempted from such laws by any provision contained

in this Article or federal or state law or regulation. In addition to those persons authorized to operate golf carts upon the City streets and alleys pursuant to the previous provision, any person who is at least fourteen (14) years old and passes a golf cart driver safety course taught by the Perry Chief of Police or designee and receives and carries a permit to operate golf carts and does not have a revoked or suspended operator's or chauffeur's license may operate a golf cart upon the City streets and alleys pursuant to this section. The Police Chief or his designee shall approve all applicants to take the course and may for good cause, suspend or revoke such operator's permit to operate golf carts upon the City streets and alleys, after providing the permittee notice and opportunity to be heard on the proposed suspension or revocation.

c. No person shall operate, and no owner of any Golf Cart shall permit another person to operate a Golf Cart upon any City of Perry streets unless such operator is in full compliance with this section.

d. Golf Carts may not operate at any time upon U.S. Highway 77, including but not limited to the crossing of the U.S. Highway 77.

e. Application of Traffic Laws to Golf Carts. Every person operating a Golf Cart upon the streets shall be granted all rights and shall be subject to all the duties applicable to the driver of a motor vehicle by the laws of this state and the traffic provisions of this code applicable to the driver of a motor vehicle.

f. Obedience to Traffic Control Devices. Any person operating a Golf Cart upon the streets shall obey the instructions of official traffic control signals, signs and other traffic control devices applicable to vehicles, unless otherwise directed by a police officer.

g. It shall be an offense for any person to operate a Golf Cart at any location not specifically provided for hereinabove or in violation of any of the provisions of this section.

h. Except as otherwise provided, Golf Carts may only be operated from sun rise to sunset; No person shall operate a golf cart before sun rise or after sunset or any time due to conditions the operation is not safe. Provided however, Golf

Carts operating upon the streets before sun rise or after sunset must be equipped with headlights, running lights (front and rear), taillights and brake lights of a type, kind and nature equal to or better than such similar equipment required on motorcycles authorized to travel on state highways, with such headlights and running lights illuminated at all times the Golf Cart is being operated before sun rise or after sunset.

i. Golf Cart may not be operated on sidewalks.

j. Golf Cart drivers must always yield the right-of-way to overtaking vehicles.

k. Any person who operates a Golf Cart on the streets of the City of Perry must adhere to all applicable state laws concerning the possession and use of alcoholic beverages and all illegal drugs, as well as all other state traffic laws.

l. Golf Carts are only allowed to park in handicapped parking spaces if the driver or at least one passenger has a valid handicapped parking sticker.

m. The operator of a Golf Cart shall obey all ordinances of the City of Perry and all provisions of the Oklahoma Motor Vehicle Code, as amended from time to time, and which ordinances are incorporated herein as if set out in full.

n. Miscellaneous Rules:

1. Reserved.

2. Every person operating a Golf Cart upon the streets shall ride as near to the right-hand side of the street as practicable and shall not pass any vehicle being operated in the same direction of travel.

3. Every person driving a Golf Cart upon any street shall ride only one (1) abreast.

4. The operator of a Golf Cart shall yield the right-of-way to all pedestrians and vehicles approaching or traveling along on any city street or other authorized location.

5. Required Equipment:

A Golf Cart operated on City of Perry streets and roads shall always have the following equipment in good working condition:

- Brakes
- Steering apparatus
- Tires

Enforcement:

a. Except as otherwise provided, the City of Perry may prosecute violators for any act constituting a violation of this section. Any person who violates any provisions of this section shall be guilty of an offense and shall be punished by a fine of not more than One Hundred and Twenty-Five Dollars (\$125.00), plus court costs, fees and state assessments, if applicable, unless a different fine is otherwise specified elsewhere in this municipal code.

b. Golf Carts privileges may be suspended by the Chief of Police, or his designee, for a violation of this section or (3) there is evidence that the owner can no longer safely operate the Golf Cart or (4) for any reason that such Police Chief reasonably believes is appropriate to insure the safety and well-being of the citizens of the City of Perry.

c. Repeat offenders may have the privileges granted by this section revoked by the Police Chief. Appeals to the decision of the Chief of Police may be appealed to the City Council, if a written appeal is filed with the City Clerk within ten (10) of the date of the written notice revoking the permit.

Section 15-309 PROHIBITION AGAINST ALL-TERRAIN VEHICLES, GOLF CARTS, LAWN MOWERS, MINIBIKES, MOTORCYCLES, MOTOR SCOOTERS, RECREATIONAL OFF-HIGHWAY VEHICLES AND UTILITY VEHICLES OPERATING ON ANY HIGHWAY, STREET, ALLEY, SIDEWALK OR PUBLIC RIGHT-OF-WAY WITHIN THE CORPORATE LIMITS OF THE CITY; RULES; MOPED EXCEPTION; MOPED RULES AND REGULATIONS; ENFORCEMENT.

1. Definitions:

For purpose of this Section, the following words shall have the meaning as provided:

"All-terrain vehicle" means a vehicle manufactured and used exclusively for off-highway use, traveling on four or more non-

highway tires, having a seat designed to be straddled by the operator, and which is steered by the use of handlebars.

"Golf Cart" shall mean a vehicle specifically designed and intended for the purpose of transporting one or more persons and their golf clubs or maintenance equipment while engaged in the playing of golf, supervising the play of golf, or maintaining the condition of the grounds on a public or private golf course.

"Lawn mower" is a self-propelled machine used for cutting grass on lawns.

"Minibike" or "motorcycle" or "Motor scooters" or "dirt bike" are motor-driven cycles traveling on two or more tires, with an electric or internal combustion motor which produces in excess of two brake horsepower and is capable of propelling the vehicle at a speed in excess of thirty-five (35) miles per hour on level ground. If an internal combustion engine is used, the displacement exceeds fifty cubic centimeters (50 cc). If the power source is an electric motor, the motor exceeds seven hundred fifty (750) watts.

"Moped" is any motor-driven cycle with an electric or internal combustion motor which produces not to exceed two brake horsepower and which is not capable of propelling the vehicle at a speed in excess of thirty-five (35) miles per hour on level ground. If an internal combustion engine is used, the displacement shall not exceed fifty cubic centimeters (50 cc), and the moped shall have a power drive system that functions directly or automatically without clutching or shifting by the operator after the drive system is engaged. If the power source is an electric motor, the motor shall not exceed seven hundred fifty (750) watts.

"Recreational off-highway vehicle" means a vehicle manufactured and used exclusively for off-highway use, traveling on four or more non-highway tires, having non-straddle seating and which is steered by a steering wheel, including but not limited to go-carts.

"Utility vehicle" means a vehicle powered by an internal combustion engine, manufactured and used exclusively for off-highway use, equipped with seating for two or more people and a steering wheel, traveling on four or more wheels.

2. Rules:

Except as otherwise specifically provided by Section 15-307 and/or Section 15-308 of this municipal code, or as otherwise permitted by state law as provided herein, and in such case strictly in conformance with such ordinance and/or state law, no person shall operate any all-terrain vehicle, utility vehicle, golf cart, recreational off-highway vehicle, minibike, motorcycle, motor scooter or lawn mower (unless the lawn mower is being driven to another location for the purpose of cutting a lawn or for another lawn related purpose), on any highway, street, alley, sidewalk or public right-of-way within the corporate limits of the City. This prohibition shall not apply if: 1) the all-terrain vehicle, utility vehicle, recreational off-highway vehicle, minibike, motorcycle or motor scooter is properly registered and has a current, unexpired tag issued by the State of Oklahoma and 2) possesses all required lights and safety equipment in operable order as required by state law or 3) is being driven in a permitted parade or 4) as authorized by the City Manager of the City.

3. Moped Exception.

Mopeds may be operated on any street, alley, sidewalk or public right-of-way within the corporate limits of the City. All persons operating mopeds must be observant of and attentive to the safety of themselves and others, to include other motorists, bicyclists, and other pedestrians. All persons who operate or ride mopeds do so at their own risk and peril. The City of Perry has no liability under any theory of liability for permitting mopeds to be operated as provided herein.

4. Moped Rules and Regulations. Mopeds may only be operated in strict accordance with the following rules and regulations:

o. Any person who operates a moped in the City of Perry takes full responsibility for all liability associated with operating such vehicle. It is recommended, but not required, that mopeds operated upon the street, alley, sidewalk or public right-of-way be insured by a currently effective liability insurance policy in the same minimum amount as is required for motor vehicles which operate upon the street by the laws of the State of Oklahoma and their drivers possess on their person, while operating such moped, proof of such liability insurance.

p. No person shall operate a moped upon the street, alley, sidewalk or public right-of-way without having in his/her possession at all times, an unrevoked and unsuspended operator's or chauffeur's license as required by the laws of the state

q. mopeds may not operate at any time upon U.S. Highway 77, including but not limited to the crossing of the U.S. Highway 77.

r. Application of Traffic Laws to mopeds. Every person operating a moped upon the street, alley, sidewalk or public right-of-way shall be granted all rights and shall be subject to all the duties applicable to the driver of a motor vehicle by the laws of this state and the traffic provisions of this code applicable to the driver of a motor vehicle.

s. Obedience to Traffic Control Devices. Any person operating a moped upon the street, alley, sidewalk or public right-of-way shall obey the instructions of official traffic control signals, signs and other traffic control devices applicable to vehicles, unless otherwise directed by a police officer.

t. Except as otherwise provided, mopeds may only be operated from sun rise to sunset; no person shall operate a moped before sun rise or after sunset or any time due to conditions the operation is not safe; provided however, mopeds operating upon the streets before sun rise or after sunset must be equipped with headlights, running lights (front and rear), taillights and brake lights of a type, kind and nature equal to or better than such similar equipment required on motorcycles authorized to travel on state highways, with such headlights and running lights illuminated at all times the moped is being operated before sun rise or after sunset.

u. Moped drivers must always yield the right-of-way to overtaking vehicles.

v. Any person who operates a moped on the street, alley, sidewalk or public right-of-way of the City of Perry must adhere to all applicable state laws concerning the possession and use of alcoholic beverages and all illegal drugs, as well as all other state traffic laws.

w. Every person operating a moped upon the street shall ride as near to the right-hand side of the street as practicable and

shall not pass any vehicle being operated in the same direction of travel.

x. Every person driving a moped upon any street shall ride only one (1) abreast.

y. The operator of a moped shall yield the right-of-way to all pedestrians and vehicles approaching or traveling along on any city street or other authorized location.

z. Required Equipment: A moped shall always have the following equipment in good working condition:

- Brakes
- Steering apparatus
- Tires

5. Enforcement:

Except as otherwise provided, the City of Perry may prosecute violators for any act constituting a violation of this section. Any person who violates any provisions of this section shall be guilty of an offense and shall be punished by a fine of not more than One Hundred and Twenty-Five Dollars (\$125.00), plus court costs, fees and state assessments, if applicable, unless a different fine is otherwise specified elsewhere in this municipal code; provided however, each day the violation shall continue shall be considered a subsequent offense.

ARTICLE 4

SPEED REGULATIONS

Section 15-401 SPEEDLIMITS 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 City 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.

a. Speeds less than ten (10) mph over the posted speed limit in a designated school zone on days when school is in session shall carry a maximum fine of One Hundred and Sixty Dollars (\$160.00), plus costs, fees and state assessments.

b. Speeds higher than ten (10) mph but less than fifteen (15) mph over the posted speed limit in a designated school zone on

days when school is in session shall carry a maximum fine of One Hundred and Eighty Dollars (\$180.00), plus costs, fees and state assessments.

c. Speeds higher than fifteen (15) mph over the posted speed limit in a designated school zone on days when school is in session shall carry a maximum fine of Two Hundred Dollars (\$200.00), plus costs, fees and state assessments.

State Law Reference: Local authority to set speed limits, 47 O.S. Section 15-102, 11-803.

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.

1. Any person driving a vehicle on a street, road or alley shall drive the same at a careful and prudent speed not greater than nor less than is reasonable and proper, taking into consideration among other things, the condition of the vehicle, the traffic, roadway surface or width, the amount of light or darkness, the presence of pedestrians in or near the roadways, obstruction of views and any other condition then existing, and no person shall drive any vehicle upon a highway at a speed greater than will permit him to bring it to a stop within the assured clear distance ahead.

B. The driver of every vehicle shall, consistent with the requirements of subsection A1 of this section, drive at an appropriate reduced speed when approaching and crossing an intersection or railway grade crossing, when approaching and going around a curve, when approaching a hill crest, when driving upon any narrow or winding roadway, and when special hazard exists with respect to pedestrians or other traffic, or by reason of weather or highway conditions.

2. Any person who shall violate Subsection A or B hereinabove, by act or omission, shall be guilty of any offense.

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.

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.

3. 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. 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 grade crossing.

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 Council 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 or motor scooter shall be ridden upon any sidewalk of the city.

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 exempted 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 and during the hours of 10:00 P.M. of one day and 4:00 A.M. of the next day.

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. Handlebars 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 RESERVED.

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 seat 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.

Section 15-553 DRIVING THROUGH DRIVEWAYS, PARKING AREAS; CIRCLING

A. Prohibition. No driver shall drive a motor vehicle through any public or private driveway, service area, or parking area, to avoid a turn at an intersection or a traffic control device.

B. Exception: Subsection A shall not be interpreted to prohibit deliveries to the premises.

C. Presumption. It shall be presumed that the driver intended to avoid an intersection or traffic control device if the driver or passenger of the motor vehicle never exits the motor vehicle or obtains services or merchandise on the premises.

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 officer, 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 shall 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 11-203.

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 DEFACEMENT 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.

City personnel, subject to directions given by the 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. No such time limits shall be effective unless a sign is erected and in place at the time of the alleged violation.

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.

The City Manager, 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 ANGLE TO CURB.

A. The 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 twenty (20) 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 twenty (20) 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 liquefied 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 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:

- 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
- "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 Council 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. The City Manager, subject to any directions given by the council by motion or resolution, 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 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 return 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 place's 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.

D. 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 handlebars.

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 15-1111 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

ELECTRIC SCOOTERS

Section 15-1201 DEFINITIONS.

"Electric Scooter" shall mean a vehicle with two tandem wheels, handlebars and foot support for the use of the operator that is powered by an electric motor and/or human power and has a maximum speed of no more than 20 miles per hour.

Section 15-1202 RESTRICTION ON USE OF ELECTRIC SCOOTERS.

No person shall operate an electric scooter on any roadway with a posted speed limit of greater than thirty miles per hour. Electric Scooters must be equipped with lights to be operated on roads.

(State law reference: 47 O.S. §11-805)

Section 15-1203 RULES OF THE ROAD.

A. Every person operating an electric scooter upon a roadway at less than the normal speed of traffic at the time and place and under the conditions then existing shall ride as close as is safe to the right-hand curb or edge of the roadway except in the following situations:

1. When over taking or passing a vehicle proceeding in the same direction;
2. When preparing for a left turn at an intersection, into a private road or driveway;
3. When reasonably necessary to avoid conditions and while exercising due care, including but not limited to fixed or moving objects, parked or moving vehicles, pedestrians or animals; surface hazards, or,
4. Anytime it is unsafe to continue along the right-hand curb or edge of the roadway; and when riding in the right turn only lane.

B. Any person riding an electric scooter upon a one-way street or highway with two or more marked lanes of travel may ride as

close is safe to the left-hand curb or edge of the street or highway.

C. No person riding an electric scooter shall pass other vehicles between lanes of traffic traveling in the same direction.

D. No person riding an electric scooter upon a roadway shall ride more than two abreast except on paths or parts of roadways set aside for the exclusive use of bicycles or electric scooters. Persons riding two abreast shall not impede the normal and reasonable flow of traffic, and, on a laned roadway shall ride in a single lane.

E. An electric scooter may only carry one person on it.

F. Any person riding an electric scooter on a roadway shall wear a safety helmet.

(State law references: 47 O.S. §11-1203; §11-1205)

Section 15-1204 PARKING.

1. Electric Scooters may be parked in bicycle racks, designated electric scooter locations, parking spots for motorcycles, or on private property for which the rider has permission from the owner.

2. Electric Scooters shall not be left in the right of way for longer than twenty-four hours and if left in the right of way the location must not be in the roadway or on a sidewalk.

3. Rented electric scooters shall be picked up for maintenance, service, charging and relocation within thirty-six hours of the completion of their use by the rental company or its agents.

Section 15-1205 SIDEWALKS.

Electric Scooters may be used on the City sidewalks but scooters must give the right of way to pedestrians and persons in wheelchairs.

Section 15-1206 EXCEPTIONS.

1. An electric scooter is not required to be registered by the state.

B. The operator of an electric scooter is not required to possess a driver's license or to comply with the vehicle insurance or financial responsibility laws of the state.

(State law reference: 47 O.S. §1-133.3)

Section 15-1207 TRAFFIC LAWS APPLY.

Every person riding an electric scooter upon a roadway shall be granted the rights and shall be subject to all of the duties applicable to a driver of a vehicle, unless excepted by this Chapter or by state law.

(State law reference: 47 O.S. §11-1202)

Section 15-1208 PENALTY.

A violation of this chapter is punishable by a maximum fine of \$100.00, plus costs

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.

PAGE LEFT INTENTIONALLY BLANK

CHAPTER 16

TRANSPORTATION

ARTICLE 1

RAILROADS

- Section 16-101 RAILROADS TO IMPROVE STREETS AND ALLEYS
- Section 16-102 SIDEWALKS TO BE CONSTRUCTED BY RAILROADS
- Section 16-103 CLIMBING ON TRAINS
- Section 16-104 RESERVED
- Section 16-105 CROSSING GATES OR SIGNALS
- Section 16-106 TRAINS BLOCKING STREETS
- Section 16-107 UNNECESSARY NOISE PROHIBITED

ARTICLE 2

AIRPORT

- Section 16-201 LEASE OF AIRPORT
- Section 16-202 AIRPORT MANAGER
- Section 16-203 RESERVED
- Section 16-204 RESERVED
- Section 16-205 ANNUAL GROUND LEASE PAYMENTS FOR LOTS AT THE
AIRPORT
- Section 16-206 RENTAL FEES FOR CITY HANGARS AUTHORIZED.
- Section 16-207 RESIDENTIAL THROUGH THE FENCE ACCESS PROHIBITED
- Section 16-208 PARKING CERTAIN VEHICLES OR TRAILERS OR USING ANY
VEHICLE OR ANY BUILDING OR OTHER STRUCTURE AS A
DWELLING WITHIN THE ENCLOSED FENCED AREA AT THE
PERRY MUNICIPAL AIRPORT
- Section 16-209 FUEL FLOWAGE FEE; TEMPORARY AERIAL APPLICATION
SITE FEE

ARTICLE 3

PERRY MUNICIPAL AIRPORT HEIGHT HAZARD ZONING

- Section 16-301 PURPOSE.
- Section 16-301 TITLE.
- Section 16-302 DEFINITIONS.
- Section 16-303 AIRPORT ZONES.
- Section 16-304 AIRPORT ZONE HEIGHT LIMITATIONS.
- Section 16-305 USE RESTRICTIONS.
- Section 16-306 NONCONFORMING USES.
- Section 16-307 PERMITS.
- Section 16-308 ENFORCEMENT
- Section 16-309 BOARD OF ADJUSTMENT.
- Section 16-310 APPEALS.
- Section 16-311 JUDICIAL REVIEW.
- Section 16-312 PENALTIES.
- Section 16-313 CONFLICTING REGULATIONS.

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 RESERVED.

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

Section 16-201 LEASE OF AIRPORT.

The City leases its municipal airport to the Perry Municipal Authority (hereinafter "authority" or "Authority" or "trust" or "Trust") a public trust pursuant to the Lease Agreement and Operation and Maintenance Contract dated May 19, 2008. The Trust Manager shall direct, control and supervise the operations of the municipal airport, subject to the direction of the Chairman and Trustees of the Perry Municipal Authority.

Section 16-202 AIRPORT MANAGER.

There shall be an airport manager, who shall be appointed by, and subject to the direction and control of the Trust Manager. The Trust Manager shall exercise all administrative and executive authority over the employees of the airport, including the Airport Manager, in the same degree as that exercised by the City Manager over the employees of the City.

Section 16-203 and Section 16-204 RESERVED.

Section 16-205 ANNUAL GROUND LEASE PAYMENTS FOR LOTS AT THE AIRPORT.

For all ground leases at the Perry Municipal Airport renewed or originally begun on and after October 16, 1989, an annual ground lease payment shall be required in the sum set by the city and ratified by the Perry Municipal Authority. Such annual lease payment shall be paid in full on or before each successive anniversary date (execution date) of such ground lease.

Section 16-206 RENTAL FEES FOR CITY HANGARS AUTHORIZED.

There are hereby authorized and levied the rental fees for city-owned airplane hangars as provided in Chapter 18, Section 16-206.

Section 16-207 RESIDENTIAL THROUGH THE FENCE ACCESS PROHIBITED.

The City of Perry hereby declares that the Perry Municipal Airport does not have Residential through the Fence Access, as defined by the Federal Aviation Administration in the Interim Policy located in the 76 Fed. Reg. 15028, dated as of the 18th day of March 2011, and as further explained in the FAA Compliance Guidance Letter 2011-1 dated March 21, 2011.

The City of Perry hereby states that it will prohibit future Residential through the Fence Access at the Perry Municipal Airport and such developments shall not be allowed.

The Perry Municipal Authority ratifies the action of the City.

Section 16-208 PARKING CERTAIN VEHICLES OR TRAILERS OR USING ANY VEHICLE OR ANY BUILDING OR OTHER STRUCTURE AS A DWELLING WITHIN THE ENCLOSED FENCED AREA AT THE PERRY MUNICIPAL AIRPORT

A. No person or other entity shall cause or permit any recreation vehicle, camper, trailer, semi-truck, semi-truck trailer, cattle truck or any similar vehicle or trailer to be parked within the enclosed fenced area of the Perry Municipal Airport, unless found to be incident to an aviation related business, providing service to the general public, utilizing the Perry Municipal Airport as a primary base of operation. This will be on a case by case basis and at the discretion of the Airport Manager. A violation of this provision shall be considered a public trespass and the vehicle or trailer shall be subject to immediate removal. Appropriate signage shall be placed along the entrance to the airport advising persons of this section.

B. No person shall use any vehicle or trailer or building or any other structure as a dwelling unit for sleeping or other dwelling purposes within the enclosed fenced area of the Perry Municipal Airport unless found to be incident to an aviation related business, providing service to the general public, utilizing the Perry Municipal Airport as a primary base of operation. This will be on a case by case basis and at the discretion of the Airport Manager. A violation of this provision shall be considered a public trespass and the person shall be subject to immediate removal. Appropriate signage shall

be placed along the entrance to the airport advising persons of this section.

C. Any violation of this section shall be considered a violation of the rules and regulations governing the Perry Municipal Airport and shall be considered a default under the terms of any lease with the City of Perry or the Perry Municipal Authority.

Section 16-209 FUEL FLOWAGE FEE; TEMPORARY AERIAL APPLICATION SITE FEE

A. Fuel Flowage Fee. Any person, firm or corporation who has delivered to or brings upon the premises of the Perry Municipal Airport, any type of fuel product for use in or by an aircraft or for other aviation related activities, shall pay a fuel flowage fee of \$0.10 for each such gallon of fuel to be paid to the Perry Municipal Authority, prior to or at the same time of its delivery. This does not apply to Liquefied Petroleum Gas (Propane) used for the purpose of heating hangars and/or structures on the airport or for other purposes. Propane shall be limited to containers or tanks with a capacity not greater than 100 lbs. The funds derived from fuel flowage fees shall be utilized solely for the maintenance, operation and improvements of the Perry Municipal Airport.

B. Temporary Aerial Application Sites. Any person, firm or corporation desiring to rent a temporary location at the Perry Municipal Airport as an Aerial Application Site shall pay to the Perry Municipal Authority a site fee of \$10.00 per day or \$300 per month. No reservations will be accepted and payment must precede use. The funds derived from Temporary Aerial Application Sites shall be utilized solely for the maintenance, operation and improvements of the Perry Municipal Airport.

ARTICLE 3

PERRY MUNICIPAL AIRPORT HEIGHT HAZARD ZONING

Section 16-301 PURPOSE.

It is further declared 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 16-301 TITLE.

This Article shall be known and may be cited as Perry Municipal Airport Height Hazard Zoning Ordinance.

Section 16-302 DEFINITIONS.

As used in this Article, unless the context otherwise requires, the following definitions shall have the following meaning:

1. AIRPORT - Article 3 shall be known and may be cited as the Perry Municipal Airport Height Hazard Zoning Article.

2. AIRPORT ELEVATION - The highest point of an airport's usable landing area measured in feet from sea level. For Perry Municipal Airport, airport elevation is 1002' 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 is the board appointed pursuant to Chapter 12, Article 1, Division 2.

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. PRECISION INSTRUMENT RUNWAY - A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS) or a Precision Approach Radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated on an approved airport layout plan or any other planning document.

16. 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.

17. RUNWAY - A defined area on an airport prepared for landing and take-off of aircraft along its length.

18. 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.

19. 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.

20. TREE - Any object of natural growth.

21. 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.

22. 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 Perry Municipal Airport. Such zones are shown on the Perry Municipal Airport Airspace Drawing, which is part of the Airport Layout Plan for the Perry Municipal Airport, and which sheet is located in the City Clerk's Office and available for inspection and review. 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:

A. Runway Larger Than Utility with A Visibility Minimum Greater Than 3/4 Mile Non-Precision Instrument Approach Zone. The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone extends outward uniformly to a width of 3,500 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

B. Runway Larger Than Utility with A Visibility Minimum as Low As 3/4 Mile Non-precision Instrument Approach Zone. The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 4,000 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

C. Precision Instrument Runway Approach Zone. The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 16,000 feet at a horizontal distance of 50,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

D. Transitional Zones. The transitional zones are the areas beneath the transitional surfaces.

E. Horizontal Zone. The horizontal zone is established by swinging arcs of 10,000 feet for Runway 17 (Precision Runway) radii from the center of the end of the primary surface of such runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone is established by swinging arcs of 10,000 feet for Runway 35 (Precision Runway) radii from the center of the end of the primary surface of such runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The floor of the horizontal surface is 150 feet above the highest elevation of the runway (1152 feet). The horizontal zone does include the approach and transitional zones.

F. 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:

A. Runway Larger Than Utility with A Visibility Minimum Greater Than 3/4 Mile Non-Precision Instrument Approach Zone. Slopes thirty-four (34) 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 10,000 feet along the extended runway centerline.

B. Runway Larger Than Utility with A Visibility Minimum as Low As 3/4 Mile Non-Precision Instrument Approach Zone. Slopes thirty-four (34) 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 10,000 feet along the extended runway centerline.

C. Precision Instrument Runway Approach Zone. Slopes fifty (50) 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 10,000 feet along the extended runway centerline; thence slopes upward forty (40) feet horizontally for each foot vertically to an additional horizontal distance of 40,000 feet along the extended runway centerline of Runway 17. In addition, slopes fifty (50) 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 10,000 feet along the extended runway centerline; thence slopes upward forty (40) feet horizontally for each foot vertically to an additional horizontal distance of 40,000 feet along the extended runway centerline of Runway 35.

D. 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 1002 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.

E. Horizontal Zone. Established at 150 feet above the airport elevation or at a height of 1152 feet above mean sea level.

F. 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.

G. 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.

A. 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.

B. 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 Perry.

SECTION 16-307 PERMITS.

A. Future Uses. Except as specifically provided in subsections 1, 2, and 3 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.

1. 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.

2. 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.

3. 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.

B. 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.

C. Nonconforming Uses Abandoned or Destroyed. Whenever the Airport Manager 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.

D. 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 Perry (hereinafter "Board of Adjustment") 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 Mayor for advice as to the aeronautical effects of the variance. If the Mayor does not respond to the application within fifteen (15) days after receipt, the Board of Adjustment may act on its own to grant or deny said application.

E. 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 Perry, Oklahoma, 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 Airport Manager to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the Airport Manager upon a form published for that purpose. Applications required by this Article to be submitted to the Airport Manager shall be promptly considered and granted or denied. Application for action by the Board of Adjustment shall be forthwith transmitted by the Airport Manager.

Section 16-309 BOARD OF ADJUSTMENT.

A. The Board of Adjustment as provided by Chapter 12, Article 1, Division 2 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 Airport Manager 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.

B. 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.

C. 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 Airport Manager, unless such reversal violates an FAA standard or regulation, or decide in favor of the applicant on any matter upon which it is required to pass under this Article, or to effect variation to this Article.

Section 16-310 APPEALS.

A. Any person aggrieved, or any taxpayer affected, by the decision of the Airport Manager made in the administration of the Article, may appeal to the Board of Adjustment.

B. All appeals hereunder must be taken within a reasonable time as provided by the rules of the Board of Adjustment, by filing with the Airport Manager a notice of appeal specifying the grounds thereof. The Airport Manager shall forthwith transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken.

C. An appeal shall stay all proceedings in furtherance of the action appealed from unless the Airport Manager 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 Airport Manager 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 Airport Manager and on due cause shown.

D. 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.

E. 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 Noble County as provided in Section 12-126 of Chapter 12 of this Code.

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 \$100.00 dollars and court costs; and each day a violation continues to exist shall constitute a separate offense.

Section 16-313 CONFLICTING REGULATIONS.

Where there exists a conflict between any of the regulations or limitations prescribed in this Article and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, and the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail.

PAGE LEFT INTENTIONALLY BLANK

CHAPTER 17. UTILITIES

ARTICLE 1

UTILITY SYSTEMS GENERALLY

Section 17-101 LEASE OF SYSTEMS
Section 17-102 ACCESS TO CITY AND AUTHORITY AGENTS
Section 17-103 RULES ADOPTED, PENALTY

ARTICLE 2

BILLINGS AND GENERAL PROVISIONS

Section 17-201 UTILITY FEES AND BILLINGS IN GENERAL
Section 17-202 UTILITY TAPS AND CONNECTIONS; FEES;
UTILITY DEPOSITS
Section 17-203 OTHER UTILITY FEES OR CHARGES
Section 17-204 APPLICATION FOR SERVICE
Section 17-205 CONSUMER TO ADVISE OF CORRECT ADDRESS
Section 17-206 JOINT BILLING
Section 17-207 DUE DATE AND PENALTY FOR PAYMENT
Section 17-208 NOTICE OF INTENTION TO TERMINATE SERVICE
Section 17-209 TERMINATION OF SERVICE FOR FAILURE TO PAY BILLS;
RECONNECTION SERVICE CHARGE
Section 17-209A DISCONNECTION OF UTILITY SERVICES WITHOUT NOTICE
Section 17-210 PAYMENT ARRANGEMENTS
Section 17-211 RURAL ELECTRIC CUSTOMERS
Section 17-212 PERSONNEL MAY INSPECT PRIVATE PREMISES
Section 17-213 AUTHORITY'S RIGHTS AND RESPONSIBILITIES
Section 17-214 CUSTOMER REGULATIONS AND RESPONSIBILITIES
Section 17-215 COLLECTION FEE
Section 17-216 AVERAGE BILLING PROGRAM
Section 17-217 DISTRIBUTED GENERATION RULES AND REGULATIONS
Section 17-218 ADMINISTRATIVE FEE AUTHORIZED
Section 17-219 TEMPORARY UTILITY TURN-ON/TURN OFF SERVICE FEE
Section 17-220 AUTOMATED METER READING OPT OUT PROGRAM
Section 17-221 ALL MUNICIPAL UTILITY RATES ANNUALLY SUBJECT TO
INCREASE OR DECREASE IN THE CONSUMER PRICE INDEX
Section 17-222 CHARGE FOR DAMAGED OR DESTROYED AMI WATER METER
CAPS AND/OR ANTENNAS

ARTICLE 3

ELECTRIC SYSTEM

DIVISION 1

GENERALLY

Section 17-301 ACTS AUTHORIZED
Section 17-302 CONNECTION TO ELECTRICAL SERVICE, APPLICATION
section 17-303- Section 17-306 RESERVED
Section 17-307 STANDARDS FOR WIRING AND APPARATUS,
REFUSAL TO CONNECT
Section 17-308 DISCONTINUATION, RE-CONNECTION
Section 17-309 SPECIAL CONNECTION REQUIREMENTS
Section 17-310 INDUSTRIAL, COMMERCIAL AND/OR CERTAIN
RESIDENTIAL CUSTOMERS TO PAY THE UPFRONT
ESTIMATED COSTS OF ESTABLISHING, ALTERING AND/OR
ADDING ELECTRIC SERVICE

DIVISION 2

RATES

Section 17-305 SMALL RESIDENTIAL ELECTRIC SERVICE; AVAILABILITY
Section 17-306 LARGE RESIDENTIAL SERVICE
Section 17-307 COMMERCIAL SERVICE
Section 17-308 LARGE COMMERCIAL SERVICE

ARTICLE 4

WATER SERVICE

Section 17-401 APPLICATION FOR WATER SERVICE
Section 17-402 METERS
Section 17-403 THEFT OF WATER
Section 17-404 FAILURE OF WATER SUPPLY
Section 17-405 CITY LIABILITY
Section 17-406 WATER METER LOCATION
Section 17-407 MAIN VALVES
Section 17-408 RESERVOIR, PUMPING AND FILTER PLANTS,
TANKS AND TOWERS
Section 17-409 REMOVAL BILLS; SPECIAL BILLS
Section 17-410 SERVICE REGULATION
Section 17-411 RESERVED

Section 17-412 RESTRICTING THE USE OF WATER DURING AN EMERGENCY
Section 17-413 WATER RATES

ARTICLE 5

SEWER SERVICE

Section 17-501 DEFINITION OF TERMS
Section 17-502 PROHIBITED DISCHARGES
Section 17-503 UNSEWERED AND MISCELLANEOUS DISCHARGES
Section 17-504 INDUSTRIAL WASTES
Section 17-505 INFILTRATION ALLOWANCES
Section 17-506 OFFICE OF SEWER INSPECTOR CREATED; DUTIES
Section 17-507 CONNECTING BUILDING TO SEWER
Section 17-508 SANITARY SEWERS, ALTERNATE DISPOSAL
Section 17-509 PENALTIES
Section 17-510 SANITARY SEWER USE RATES
Section 17-511 SANITARY SEWER BACKUP PREVENTION PROGRAM
Section 17-512 REGULATING SANITARY SEWER CONNECTION FOR THE
PURPOSE OF ELIMINATING THE INTRODUCTION OF
PROHIBITED WATERS INTO THE PERRY SEWER SYSTEM;
PROVIDING FOR PERIODIC INSPECTIONS AND/OR TESTS
OF SEWER LINES AND FACILITIES OF HOMES,
BUILDINGS AND APPURTENANCES CONNECTED TO SAID
SEWER, PROVIDING FOR PENALTIES AND VIOLATIONS
THEREOF

ARTICLE 6

SOLID WASTE COLLECTION AND DISPOSAL

Section 17-601 DEFINITIONS
Section 17-602 USE REQUIRED
Section 17-603 CITY MANAGER OR DESIGNEE
Section 17-604 COLLECTION PRACTICES--GENERALLY
Section 17-605 STORING OF TRASH
Section 17-606 POINTS OF COLLECTION FOR BRUSH & YARD TRIMMINGS
Section 17-607 OTHER MATTERS
Section 17-608 USE OF ANOTHER'S TRASH CONTAINER

ARTICLE 7

STORMWATER MANAGEMENT SYSTEM

DIVISION 1 IN GENERAL

SECTION 17-701 STATUTORY AUTHORIZATION
SECTION 17-702 FINDINGS OF FACT
SECTION 17-703 STATEMENT OF PURPOSE
SECTION 17-704 DEFINITIONS
SECTION 17-705 DUTIES OF DIRECTOR
SECTION 17-706 STORMWATER DRAINAGE FUND
SECTION 17-707 MASTER DRAINAGE PLAN
SECTION 17-708 SUBDIVISION PLAT, SITE PLAN AND BUILDING PERMIT
APPROVAL
SECTION 17-709 STORMWATER MITIGATION
SECTION 17-710 DEVELOPMENT FEE REQUIREMENTS; CREDITS

DIVISION 2 STORMWATER DRAINAGE FEES

SECTION 17-720 DEFINITIONS
SECTION 17-721 STORMWATER UTILITY SERVICE CHARGE AND EXEMPTIONS
SECTION 17-722 COLLECTION OF SERVICE CHARGE
SECTION 17-723 CALCULATION OF EQUIVALENT SERVICE UNIT (ESU
SECTION 17-724 STORMWATER DEVELOPMENT FEE

DIVISION 3 STORMWATER DEVELOPMENT FEE/STORMWATER UTILITY SERVICE
CHARGES

SECTION 17-730 STORMWATER UTILITY SERVICE CHARGES
SECTION 17-731 STORMWATER DEVELOPMENT FEES

DIVISION 4 TECHNICAL STANDARDS

SECTION 17-740 TECHNICAL STANDARDS

CHAPTER 17. UTILITIES

ARTICLE 1

UTILITY SYSTEMS GENERALLY

Section 17-101 LEASE OF SYSTEMS.

The city leases its water, electric, sewer and sanitation systems to the Perry Municipal Authority, (hereinafter "authority" or "Authority" or "trust" or "Trust") a public trust. The trust has the power to set rates and otherwise to regulate the water, sewer, electric and sanitation systems. The motions and resolutions adopted by the trust replace any ordinances which the city had relating to these matters. For the motions and resolutions passed by the trust, please refer to the minutes of the Perry Municipal Authority. A copy of the trust indenture relating to the leasing of these systems is on file in the office of the city clerk.

Ed. Note: See also special ordinances for various ordinances setting rates and governing the utilities.

Ed. Note: Water, sewer, electric and refuse collection systems are leased to the Perry Municipal Authority and regulated by the authority. The ordinances and indenture grant to the authority the ability to govern these utilities.

Section 17-102 ACCESS TO CITY AND AUTHORITY; 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 in the city by the city or authority, its agents, employees, or officers by parking any vehicle or place any obstruction over or on top of the water meter covers or to permit any vehicle to be parked or located above or on top of the water meters. 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 or authority in the performance of their duties or to prevent the officers, agents, or employees from performing their official duties in reading the water meters or by limiting the access to water meters in any other manner not limited to those mentioned above.

Section 17-103 RULES ADOPTED, PENALTY.

The rules, regulations, or rates of the Perry Municipal Authority, as amended from time to time, are hereby adopted and incorporated herein by reference. Any violation of the rules, regulations or rates is punishable as provided in Section 1-108 of this code.

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 water facility system, the collection and disposal of refuse and garbage, or the electrical service system are billed in accordance with applicable rates set by motion or resolution of the authority. All fees and charges owing to any of these utility services shall be billed monthly. The utility bills submitted under the terms of this Section are payable on or before the past due date which is printed on the bill.

Section 17-202 UTILITY TAPS AND CONNECTIONS; FEES; UTILITY DEPOSITS; EXEMPTION TO POSTING DEPOSITS FOR VICTIMS OF DOMESTIC VIOLENCE.

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 applicable and set by motion or resolution. 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 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 to the state if unclaimed by the customer, 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	Effective April 30, 2015
-------------	--------------------------

Water	Initial \$50.00 *
Electric	Initial \$250.00 *

Commercial or Industrial

Water	Initial	\$100.00**
Electric	Initial	\$300.00**

All customers must show sufficient proof of rights as a tenant to the rental property (For Example: lease agreement, or signed letter from landlord) or ownership of the real property (For Example: deed, or closing documents) as a part and condition of receiving utility service.

* Notwithstanding the fact that an initial deposit is charged, for a new residential customer, a reasonable time, normally not to exceed three (3) months, shall be allowed to determine the deposit. The deposit should be at least equal to an average thirty (30) days use 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, the additional deposit must be paid within 10 business days in order to continue receiving that particular utility service. Provided however, if the customer's place of business has a prior twelve (12) months utility history, the City may charge an average thirty (30) days usage as the initial deposit if such usage is greater than \$300.00.

** Notwithstanding the fact that an initial deposit is charged, for a new commercial or industrial customer, a reasonable time, normally not to exceed three (3) months, shall be allowed to determine the deposit. The deposit should be at least equal to an average forty-five (45) days use 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, the additional deposit must be paid within 10 business days in order to continue receiving that particular utility service. Provided however, if the customer's place of business has a prior twelve (12) months utility history, the City may charge an average forty-five (45) days usage as the initial deposit if such usage is greater than \$400.00.

Such deposit shall be a cash deposit if the amount of deposit is less than \$300.00. All deposits in excess of \$300.00 may be posted 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 and by the Chief Financial Officer shall be acceptable in lieu of cash.

In appropriate circumstance, when the collection of the utility bill is as secure as reasonably possible, and the utility customer possesses excellent credit or payment history, the City Manager or City Clerk may waive a deposit, with the written consent of the Chief Financial Officer.

C. At any time, the person having made the deposit, should desire to discontinue the use of utility services, he shall notify the city clerk, 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. All utility customers shall be eligible to have their utility deposit refunded after a period of five (5) years from January 1 following the posting of said deposit. A refund may be made if all payments due and owed the city have been made in a timely manner. Payment in a timely manner is defined as no more than one late payment penalty having been assessed during the calendar year preceding the request for refund.

E. Upon request, the City Clerk will cause an examination of the payment histories and a determination made of those customers eligible for a refund of their utility deposits. The qualifying refunds may then be made. All refunds may be made by applying the deposit as a credit to a current utility billing or upon the customer's request, by a refund check.

F. 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 City Manager or designee shall direct a city employee, by appropriate work order, to disconnect the utility service(s). After 8:00 A.M. on cut-off day, a customer service charge of Twenty Dollars (\$20.00) (for reconnections occurring during normal business hours, Monday-Friday, 8:00 a.m. through 4:00 p.m.), 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, if the respective utility deposit is less than \$300.00 for residential service or a minimum of \$400.00 for commercial and industrial service, the delinquent utility customer's utility deposit shall be increased to \$300.00 or \$400.00, respectively, prior to the restoration of service. For each cut-off thereafter, the utility customer shall be required to post an additional \$50.00 deposit prior to the restoration of service. Provided however, any residential customer who has had continuous service with the City for at least five (5) years, and has received no more than one (1) assessed late payment penalty in the past three (3) years, shall receive one (1) waiver from the requirement to increase the deposit.

G. Notwithstanding any other provision in this municipal code, all utility customer payments received by the City, and made pursuant to a unified city billing statement, shall be credited the customer's account in the following order, and without regard to whether the customer actually uses or desires such service):

Taxes are credited first
Unpaid balances are credited second
Administrative Fees are credited third
Drainage fee is credited fourth
Solid Waste Collection and Disposal Fees are credited fifth
Sewer Fees are credited sixth

Water Fees are credited seventh
Electric fees are credited eighth
Voluntary Ambulance Subscription Fee Payments are credited
ninth
All other fees, interest and penalties are credited tenth

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.

H. The utility department shall waive any initial credit and deposit requirements for a customer or applicant that has been determined to be a victim of domestic violence, stalking, or harassment, as defined in Section 109 of Title 43 of the Oklahoma Statutes or Section 644 of Title 21 of the Oklahoma Statutes, by the customer or applicant providing proof of any of the following:

1. An existing protective order;
2. Law enforcement personnel statement; or
3. A statement from a designated representative of a certified domestic violence shelter or certified domestic violence program pursuant to Section 18p-6 of Title 74 of the Oklahoma Statutes.

This determination shall be evidenced by submission of a certification letter to the utility department. The utility department may accept a letter certifying those facts, a copy of which is on file in the Office of the City Clerk. The certification letter expires after ninety (90) days. The utility department shall deem the certification letter and the contents thereof as confidential and exempt from disclosure. All persons applying for utility service shall be advised in writing of this specific exemption by reference in the utility account record required to be signed by the customer to initiate the account. This exemption from posting deposit:

1. applies to the establishment of new utility accounts;
2. does not require a refund of deposits already held on an existing account except as provided under existing policies; and

3. does not waive any other amount due to the provision of the utility services.

Section 17-203 OTHER UTILITY FEES OR CHARGES.

The authority from time to time by motion or resolution has the power to establish rates 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 the electrical distribution system 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 electrical current, the application shall be approved and the installation made.

Section 17-205 CONSUMER TO ADVISE OF CORRECT ADDRESS.

Every utility consumer, whether he be the owner or tenant, shall keep the utility department advised as to his 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 date as set out in Section 17-207, each and every month. Bills of all utility customers not paid by 4:00 P.M. on the 20th day of each and every month, or in the event that the 20th falls on a holiday, then on the first business day after the 20th 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"), which date shall not be less than four (4) days nor more than seven (7) days from the date the written notice is mailed. Such notice shall also contain a statement to the effect that the owner or occupant may request a hearing before a trust officer or employee prior to such termination date and state the telephone number at city hall where such officer or employee 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, including but not limited to the following:

a. Payment by check which has been rejected for insufficient funds, closed account, or for which a stop payment

order has been issued is not deemed to be payment to the utility.

b. Payment at the City office or authorized payment agency is considered payment to the City.

c. The City is not obligated to accept payment of the bill when an employee of the City is at the utility customer's location to disconnect service.

2. Failure to comply with the terms and conditions of a payment agreement as provided for in Section 17-210.

3. Failure to post a deposit as prescribed by City Code, any amount required to be paid pursuant to Section 17-310 or any other lawful charge relating to utility services.

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. Refusal to grant access at reasonable times for the purpose of installation, inspection, maintenance, replacement, or reading of City equipment installed upon the premises of the utility consumer, or obstructed city easement of right-of-way, or maintaining any obstruction that would deny access for these premises.

8. Potential adverse effect of the service required by the consumer on the service of other utility customers of the City, provided the utility customer has been notified and given a reasonable opportunity to correct the adverse effect.

9. Abandonment of the premises served.

10. Causing an injury or threatening to cause an injury to an employee of the City or the family of an employee of the City or the property of the City for the purpose of preventing a City employee from engaging in activities authorized by law or in retaliation for such activities.

11. 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.

12. Violation of federal, state, or local laws or regulations through use of the service.

13. Causing damages to City property.

14. Failure of any utility customer or any entity owned in whole or in part by such utility customer or such utility customer's tenant or person or entity in lawful possession of any real property located within the corporate limits of the City of Perry, Oklahoma ("City"), and receiving utility service from the City (hereinafter referred to as "utility customer") which utility customer is subject to local sales taxes and/or hotel tax, and which utility customer fails to remit monthly the full amount of local sales tax lawfully owed the City to the Oklahoma Tax Commission or fails to monthly remit to the City the full amount of any hotel tax lawfully assessed pursuant to Section 7-603 of this municipal code for two (2) consecutive months or fails to file a hotel tax return pursuant to Section 7-609 of this municipal code for two (2) consecutive months, for services provided or sales made and/or subject to tax, as assessed by the City, at the real property.

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, with both the new tenant and landlord responsible for the payment of the monthly billing.

Section 17-209A DISCONNECTION OF UTILITY SERVICES WITHOUT NOTICE.

1. Utility service may be disconnected without prior notice for the following reasons:

A. Where a known and dangerous condition related to the type of service provided exists, or whenever the City has reason to believe that continued service will create a condition on the utility customer's premise that poses a health or safety hazard or water or sewage effluent is being discharged in significant quantities on the customer's property or upon the public right-of-way.

B. Upon request of the utility customer;

C. Where service is connected without authority by a person who has not made application for service;

D. Where service has been reconnected without authority following termination of service for nonpayment under Section 17-209A.1 of this municipal code;

E. In instances of tampering with the utility's meter or equipment, bypassing the same, or other instances of diversion.

2. Given the nature of the reason for disconnection, whenever reasonable, a written notice of the disconnection, explaining the reason service was disconnected, shall be posted at the entrance to the property, the place of common entry or upon the front door of the building or structure being served as soon as possible after service has been disconnected.

Section 17-210 PAYMENT ARRANGEMENTS.

Effective July 1, 2015, the city officer or employee may make payment arrangements with any utility customer who have had continuous utility service with the City for at least one year, have had no more than one (1) payment arrangement in the past twelve (12) months, and who make a personal visit to city hall before the termination date as set out in Section 17-208. If payment arrangements are desired and approved by the city officer or employee, the utility customer may be required to sign a written agreement acknowledging the owed amount and agreeing to the payment arrangements. Payment arrangements may only be signed after the account is delinquent (after the 21st day of each successive month). At least one half (1/2) 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 within the previously agreed upon payment arrangement date, the city may terminate the utility service without further notice.

Section 17-211 PERSONNEL MAY INSPECT PRIVATE PREMISES.

Authority 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.

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".

Section 17-212 RURAL UTILITY USERS.

A. Rural water service will be granted only after a request has been made in writing to the city. The Water Superintendent 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, which has been granted 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 city plumbing code, and after inspection, shall be accepted by the city council of the city, before being put in service.

B. 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, and that it would be in the best interest of the inhabitants of the city, to disconnect all water connections to rural users, those persons, firms or corporations shall be disconnected from the water system of the city, from and after being given a three (3) days written notice thereof by the city clerk.

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 authority. 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, without notice to the customer when necessary for repairs or some other emergency at the discretion of the city. 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 the rate schedule under which he is served provides for such a resale. The customer will not be permitted to extend or connect the installation of lines across or under a street, alley or other public space in order to obtain service for adjacent property through one meter or tap unless such adjacent property is a part of the same business, actually continuous except for intervening public space.

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, Fifty Dollars (\$50.00) shall be charged any person making a payment to the City with a credit card, debit card, ACH (Automated Clearing House) or other negotiable instrument or method or means of payment absolutely upon an account containing funds insufficient to pay the charge.

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"), pursuant to a written contract, a collection fee of thirty-five percent (35%) of the unpaid debt or account shall be added to the amount of the unpaid debt or account and assessed and collected.

Section 17-216 AVERAGE BILLING PROGRAM

There is hereby created the Average Billing Program for the City of Perry, 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 shall occur at least every four (4) 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 nine months 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 late fees assessed and/or returned checks or drafts for at least nine months prior to the date of signing up for the Program.
3. Enroll in the Program during the months of September through January 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 more than one 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 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.

If the Program is canceled by the City with respect to any customer or the customer properly withdraws from the Plan, the customer will not be eligible to enter into the Program for at least one full calendar year and thereafter only during the enrollment period. If the customer's account has a credit balance, this balance cannot be used for payment unless the customer withdraws from the Plan.

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 City Manager 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 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 ") connected for parallel operation with the electrical system of the City of Perry and the Perry 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. All customers shall ensure that 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.

3. The City will credit any customer 3.6 cents per kilowatt hour for any electric generation received by the Customer's Generation; provided however, such credit shall not exceed the customer's electric usage charge for such billing period and once such maximum credit has occurred, no further credit or

payment of any type for additional electricity received by the City shall be made.

4. 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.

5. All agreements contained in the original Application/Contract for Utility Services between the Customer and the City as well as other terms and conditions of service as provided in this municipal code shall remain in effect including, but not limited to paying for electricity used and the penalties assessed for payment failure.

B. Interconnection Requirements

1. 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.

2. Customer may operate, at its sole cost and expense, a non-utility owned Generation system; provided however, to avoid excess generation that is unable to be absorbed by the customer's facility, installed systems name plate capacity will be limited to the facilities annual peak kW; provided however, if the name plate capacity exceeds 15 kW for the non-utility owned Generation system, the Customer shall utilize at least 75% of the electricity generated by the non-utility owned Generation system at their facility, and in the event that the Customer fails to utilize 75% of the electricity generated by the non-utility owned Generation system at their facility during any

consecutive three-month period, the City may order the Customer to disconnect the non-utility owned Generation system from the City's electric grid, which shall be disconnected by the Customer within ten (10) days thereafter. In order to make this calculation, Customer shall permit the City to install, service and take readings from an electric meter which meter will measure and report the kWh being generated by the non-utility owned Generation system.

For facilities without at least one year of demonstrated electric usage, such customer shall submit a licensed professional engineering report estimating the expected installed name plate capacity limited to the facilities' annual peak kW. The City must review and approve all installations to be made by the Customer. No Customer shall install any system not in accordance with the requirements of this section.

3. 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.

4. 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.

5. Generation systems which produce frequencies that result in interference or generate distorted wave forms into the 60 Hertz City electric system which adversely affect the operation of City's electric system shall be corrected at the expense of the Customer.

6. 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.

7. Customer shall be the owner of the renewable attributes of the electricity that is generated, to include any and all credits, certificates, benefits, environmental attributes, emission reductions, offsets, and allowances, however entitled,

attributable to the generation of electricity from the Customer-owned renewable generation and its displacement of conventional energy generation; provided however, the City will not compensate, reimburse, refund, credit, or pay any customer for any generation created or received by the Generation system.

8. City may require Customer to interrupt the operation of their Generation system when necessary in order to construct, install, maintain, repair, replace, remove, investigate, or inspect any of its equipment or part of its system.

9. 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.

10. The meter and transformer or transformer pole serving the Generation system shall be labeled to indicate there is no potential electric current back feed into the City's electrical distribution system, and no change shall be made to the Generation system or label which permits electrical current back feed into the city's distribution system.

11. 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.

12. 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 within 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.

13. 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.

14. 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 and with the City possessing the only key. The switch shall be accessible to City personnel at all times. The switch shall always be in the "Off" position.

15. The Customer shall, at its own expense, maintain in force general liability insurance in the amount of \$500,000.00, which insurance will protect against third party claims of property damage or injury to persons, including death, and with the City of Perry and the Perry Municipal Authority added as additional insured, without any exclusion for liabilities related to the interconnection.

16. For purposes of gathering research data, City may at its expense install and operate additional metering and data-gathering devices on the Generation systems.

17. Nothing in this section shall apply to emergency generation of power on the customer's property during an emergency event when public power is not available; but shall fully apply at all other times.

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 Generation system 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 their Generation system.

5. 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.

Section 17-218 ADMINISTRATIVE FEE AUTHORIZED

Without regard to the service period, all customers billed for any utility service provided by the City of Perry on or after January 1, 2025, shall be monthly charged and shall monthly pay an administrative fee of \$7.50 to reimburse the City for the cost of utility billing, utility collection, postage, meter reading, and all other ancillary and incidental utility billing and collection service requests. This administrative fee shall be in addition to all other fees and charges charged and collected by the City.

Section 17-219 TEMPORARY UTILITY TURN-ON/TURN OFF SERVICE FEE

Whenever any owner of any real property connected to one or more of the City's utilities, or such owner's authorized agent, requests that one or more of the utilities servicing such real property be temporarily turned-on to permit an inspection, a realtor showing the real property or for any other permitted purpose, such owner shall prepay a Ten Dollar (\$10.00) service fee to the City Clerk to cover the cost of such turn-on, turn-off, and incremental utility usage; provided such temporary service and use shall not exceed three (3) hours.

Section 17-220 AUTOMATED METER READING OPT OUT PROGRAM

There is hereby created the Automated Meter Reading Opt out Program for the City of Perry, 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 February through July 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 February 1 through July 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 17-221 ALL MUNICIPAL UTILITY RATES ANNUALLY SUBJECT TO INCREASE OR DECREASE IN THE CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS.

Notwithstanding any other provision of this Code providing a differing municipal utility rate, all municipal utility rates authorized by Chapter 17 and/or provided for in Chapter 18 of this Perry Municipal Code, as amended, shall be automatically increased or decreased, each successive July 1, in the same percentage amount as the increase or decrease in the United States Department of Labor's Bureau of Labor Statistics Consumer Price Index for All Urban Consumers (Class B) in the South Region for all items during the period from March 1 of the previous year as compared with March 1 of the current year, and without any required action by the City Council for implementation. This increase or decrease in utility rates shall be in addition to any increase or decrease in utility rates approved by any municipal ordinance.

Section 17-222 CHARGE FOR DAMAGED OR DESTROYED AMI 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	520M PIT LID HOUSING	\$30.00
Antenna	520M SMARTPOINT 1-PORT	\$160.00
Wiring	PIT LID CABLE (6 ft.)	\$25.00

The charge for the antenna and/or cap shall be placed on the monthly utility bill of the customer and collected as are all utility charges of the City.

ARTICLE 3
ELECTRIC SYSTEM
DIVISION 1
GENERALLY

Section 17-301 ACTS AUTHORIZED.

Any act in this chapter required to be done by the authority 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 authority. 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 authority shall inspect the premises. If the premises conform with the rules and regulations of the authority for distribution of the electrical current, then the application shall be approved, and the installation made. For a new customer, a reasonable time, normally not to exceed three (3) months' time, shall be allowed to determine his service requirements before definitely selecting the appropriate rate schedule. Once selected, a rate adapted to his service may not change to another rate within a twelve (12) month period unless there is substantial change in the character or conditions of his service.

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 SPECIAL CONNECTION REQUIREMENTS

A. Any person requesting underground electric service within the City shall comply with the certain special connection requirements. Such person requesting service will:

1. Provide the trench for electric service wire.
2. Provide all conduit needed for the proper installation of the underground service.
3. Provide fill sand, if required.
4. Backfill the trench.

5. Customer has the option of installing wiring by plowing, boring or other means, provided installation is in conformance with Appendix A, and prior approval of Electric Superintendent is received.

The City will perform the following services:

1. Provide a dip pole, if required.
2. Inspect the depth of the trench and service entrance.
3. Install standoff brackets at the pole.
4. Install conduit at service pole.
5. Install ground rod and bonding ring at pole.
6. Furnish and install a non-spliced service wire (Up to 100' paid by the City. Customer will pay for all wire over 100' at City cost).
7. Connect service at meter and pole.
8. Provide and install ditch tape.
9. Install meter and meter seal.

B. The electric installation shall be made in strict conformance with the design plat, attached as Appendix A of Ordinance 94-3217 and which plat is incorporated herein by reference.

C. The City reserves the right to refuse to connect any electric user to the electric system of the City by underground connection, but only in the event that the Electric Superintendent reasonably believes that such connection or installation will adversely affect the overall electric system, that such connection would be unsafe or any other reason based on sound electric theory or principles.

Section 17-310 INDUSTRIAL, COMMERCIAL AND/OR CERTAIN RESIDENTIAL CUSTOMERS TO PAY THE UPFRONT ESTIMATED COSTS OF ESTABLISHING, ALTERING AND/OR ADDING ELECTRIC SERVICE.

A. Except as may be excepted by the terms of an economic development agreement, any industrial or commercial customer

requesting the establishment, alteration and/or addition of electric services within or without the City, shall first pre-pay the estimated cost of the installation, alteration and/or addition of such electric service, including but not limited to all capital expenditures required thereby, to include materials and labor.

B. Any residential customer requesting the establishment, alteration and/or addition of electric services larger than a 200-amp service, within or without the City, shall first pay the estimated cost of the installation, alteration and/or addition of such electric service, including but not limited to all capital expenditures required thereby, to include materials and labor.

C. In the event there is a difference between the estimate and the actual cost, the credit or debit, respectively, shall be required to be immediately paid to the proper party, or at the City's discretion, credited or debited on the customer's utility bill.

D. All electric installations, including but not limited to transformers, wire, conduit, poles and all other materials acquired pursuant to this section, whether placed in the right-of-way or upon the property of the customer, or awaiting installation in the warehouse of the City, shall remain the property of the City, and no credit or refund to the customer shall be provided in the event such installation do not occur or for any other reason. If the installation of the electric improvements do not occur within one (1) year of the date of receipt of such electric improvements, unless otherwise agreed in writing, the City shall be free to use the electric installation for another purpose. This section shall be referenced in all customer's service orders, when appropriate, and with a copy of this section attached to the service order when presented to the customer for approval and execution.

E. This section codified a long-standing oral policy of the City, and of the Perry Municipal Authority, in the operation of its electric system.

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 Superintendent 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 wrongdoing of the user, when same shall be repaired and charged against the consumer.

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 office of the department in regular form, 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 RESERVOIR, 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. No party or parties shall loiter about the reservoir or drainage canals, climb upon the dam, hunt, fish, use boats on, or bathe, or wade in the reservoirs or drainage canals; and the reservoirs or drainage canals shall be under the supervision of the city. Any party or parties guilty of such offense shall, upon conviction thereof, be punished accordingly, except that the council may at their pleasure grant hunting, fishing, and boating privileges on the reservoir or drainage canals from season to season and at such rates as they see fit.

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 RESERVED.

Section 17-412 RESTRICTING THE USE OF WATER DURING AN EMERGENCY.

Water restrictions imposed by mayor. In case of emergency caused by a shortage of water in the city water system, it shall be the duty of the mayor 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. Thereafter, and until the mayor 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 authority water system for any purpose or use specifically prohibited by the public notice.

Section 17-413 WATER RATES.

The water rates to be charged shall be as set out in Chapter 18 herein.

ARTICLE 5

SEWER SERVICE

Section 17-501 DEFINITION OF TERMS.

For the purpose of this chapter, the following are defined as provided herein:

1. "B.O.D. (Biochemical oxygen demand)" means the quantity of oxygen by weight, expressed in mg/l, utilized in the biochemical oxidation of organic matter under standard laboratory conditions for five (5) days at a temperature of twenty degrees (20) Centigrade;

2. "Domestic wastewater" means water-born wastewater normally discharging into the sanitary conveniences or dwellings (including apartment houses and hotels), office buildings, factories, and institutions and commercial establishments;

3. "Industrial waste" means water-born solids, liquids or gaseous wastes resulting from discharge, permitted to flow or escaping from the industrial, manufacturing, or food processing operation or process, or from the development of any natural resource, or any mixture of these with water or domestic wastewater, or distinct from normal domestic wastewater.

4. "Milligrams-per-liter (mg/l)" means the same as parts per million and is a weight-to-weight ratio; the milligram-per-liter value multiplied by the factor eight and thirty-four hundredth (8.34) shall be equivalent to pounds per million gallons of water;

5. "Normal domestic wastewater" means normal wastewater for the owner in which the average concentration of suspended solids and five-day BOD is established at not more than two hundred fifty (250) mg/l;

6. "Owner" means the City of Perry, Oklahoma, or any authorized person acting in its behalf;

7. "Sewer use charges" mean those charges levied on users of the wastewater facilities for the cost of operation and maintenance of such works; and

8. "Wastewater facilities" means all facilities for collection, pumping, treating, and disposing of wastewater and wastes, operated by the owner.

Section 17-502 PROHIBITED DISCHARGES.

A. No person shall discharge or cause to be discharged any of the following described waters or wastes to the wastewater facilities:

1. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas;

2. Any storm water, surface water, groundwater, roof runoff, subsurface drainage, or uncontaminated colling water to any sanitary sewer. Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural watercourse approved by the owner, and as covered elsewhere in this chapter;

3. Any liquid or vapor having a temperature higher than one hundred fifty degrees (150) Fahrenheit or any discharge which causes the temperature of the total wastewater treatment plant influent to increase at a rate of ten degrees (10) Fahrenheit or more per hour, or a combined total increase to a plant influent temperature of one hundred ten degrees (110) Fahrenheit;

4. Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperatures between thirty-two degrees (32) and one hundred fifty degrees (150) Fahrenheit (zero degree (0) to sixty-five degrees (65) Centigrade);

5. Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths ($3/4$) horsepower, (seventy-six hundredths (0.76) hp metric) or greater shall be subject to the review and approval of owner;

6. Any waters or wastes containing strong acid, iron pickling wastes, or concentrated plating solutions whether neutralized or not;

7. Any waters or wastes containing objectionable or toxic, or poisonous substances, or waste exerting an objectionable chlorine requirement. Discharge of the following materials into the sewer system is prohibited:

- a. Antimony;
- b. Arsenic;
- c. Barium;
- d. Beryllium;
- e. Bismuth;
- f. Boron;
- g. Cadmium;
- h. Chromium (Hexa);

- i. Chromium (Tri);
- j. Cobalt;
- k. Iron;
- l. Lead;
- m. Manganese;
- n. Mercury;
- o. Molybdenum;
- p. Nickel;
- q. Rhenium;
- r. Selenium;
- s. Silver;
- t. Strontium;
- u. Tellurium;
- v. Tin;
- w. Uranylion; and
- x. Zinc;

8. Any waters or wastes containing obnoxious, toxic or poisonous solids, liquids, or gases in sufficient quantity, either singularly or by interaction with other wastes, to injury or interfere with any wastewater treatment process, constitutes a hazard to humans or animals, or create any hazard in the receiving waters of the wastewater treatment plant;

9. Any waters or wastes having pH lower than five and five tenths (5.5) or higher than nine and five tenths (9.5), having any other corrosive property capable of causing damage or hazard to structure, equipment, and personnel at wastewater facilities;

10. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the wastewater works, such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, animal manure, hair and fleshings, entrails and paper dishes, cups milk containers, etc., either whole or ground by garbage grinders, lime slurry, lime residues, slops, chemical residues, paint residues or bulk solids;

11. Any waters or wastes containing phenols, hydrogen sulfide, or other taste-and-odor producing substances;

12. Any radioactive waste or isotopes; or

13. Waters or wastes containing substances which are not amenable to treatment processes employed or are amenable to treatment only to such degree that the wastewater treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving stream.

B. No person shall install or allow to be installed a house connection to the sanitary sewer system that is not accomplished in full accordance with the plumbing code.

Section 17-503 UNSEWERED AND MISCELLANEOUS DISCHARGES.

A. The public sewer system and wastewater facilities will be used, wherever such system is available, by all persons discharging any wastewater or other polluted liquids which are not otherwise prohibited, unless an exception is granted by the owner.

B. No person shall deposit or discharge any wastewater or other polluted liquids on public or private property, in or adjacent to any natural watercourse, or in any storm sewer, or in any area under the jurisdiction of the owner, without the approval of the owner.

C. The owner in providing approval will verify that such wastes will receive suitable treatment within the provisions of federal, state, or local laws, regulations, or ordinances, before discharge.

Section 17-504 INDUSTRIAL WASTES.

A. It is the intention of the owner to exclude industrial wastewater from the wastewater facilities which might be discharged by any non-governmental user of the facilities identified in the Standard Industrial Classification, U.S. Office of Management and Budget, as amended and supplemented, under the following divisions:

1. Division A - Agriculture, Forestry and Fishing;
2. Division B - Mining;
3. Division D - Manufacturing;
4. Division E - Transportation, Communications, Electric, Gas and Sanitary Services; and
5. Division I - Services.

B. A user in the divisions listed may be excluded if it is determined that it will introduce primarily segregated domestic wastes or wastes from sanitary conveniences only.

C. If, upon initial passage of this chapter a prohibited user locates within the area and wishes to discharge industrial waste or industrial wastewater to the facilities, this chapter will be amended or revoked in order to establish or revise industrial cost recovery provisions, which may be in effect or apply, of the State of Oklahoma, or the United States government or any agency thereof, as applicable to the user.

D. No present user of the wastewater facilities of the owner is hereby excluded or intended to be excluded from discharging to the wastewater facilities by reason of the passage of this ordinance.

Section 17-505 INFILTRATION ALLOWANCES.

The allowable infiltration for all existing sewers is hereby established at no more than two hundred (200) gallons per inch of sewer diameter per day per mile for sewers twenty-four (24) inches in diameter and smaller. All new sewers shall be tested for infiltration in accordance with an acceptable testing method.

Section 17-506 OFFICE OF SEWER INSPECTOR CREATED; DUTIES.

The office of sewer inspector is hereby created and established and until otherwise provided for by ordinance, shall enforce all ordinances relating to the connection, use and operation of sewers, mains, laterals and direct sewers and shall have the necessary rights of ingress and egress to private property so far as is necessary in the proper and full discharge of his duties.

Section 17-507 CONNECTING BUILDING TO SEWER.

Each building shall be separately and independently connected with the public sewer when one is provided. If there is no public sewer, a private sewer may be constructed when plans for the same is approved by the sewer inspector.

Section 17-508 SANITARY SEWERS, ALTERNATE DISPOSAL.

When a public sanitary sewage system is not available, an alternate method of sewage disposal for each lot may be approved. All lots in residential subdivisions where septic tanks or individual sewage disposal devices are to be installed shall not contain less than twenty-two thousand five hundred (22,500) square feet and the width of the lot at the building line shall be a minimum of one hundred (100) feet. All such lots to be serviced by private sewage facilities shall comply with the regulations of the county and State Board of Health.

Section 17-509 PENALTIES.

1. 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.

2. Any person found to be violating any provision of this chapter 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.

3. 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 Section 1-108 of this code for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.

4. 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.

Section 17-510 SEWER RATES.

The sewer rates to be charged shall be as set out in Chapter 18 herein.

Section 17-511 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 Perry Municipal 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 Council of the City.

Section 17-512 REGULATING SANITARY SEWER CONNECTION FOR THE PURPOSE OF ELIMINATING THE INTRODUCTION OF PROHIBITED WATERS INTO THE PERRY SEWER SYSTEM; PROVIDING FOR PERIODIC INSPECTIONS AND/OR TESTS OF SEWER LINES AND FACILITIES OF HOMES, BUILDINGS AND APPURTENANCES CONNECTED TO SAID SEWER, PROVIDING FOR PENALTIES AND VIOLATIONS THEREOF.

1. Definitions. Unless the context specifically indicates otherwise, the meaning of terms used in this Section shall be as follows:

"Compliance" shall, wherever necessary, mean compliance with the provisions of the Section set forth herein, and any amendments thereto and/or the provisions of this Section;

"System" shall mean all of the facilities for collecting, pumping, treating, and disposing of sewage owned by the City within the sanitary sewer service area of the City of Perry;

"City Council" shall mean the City Council of the City;

"City Manager" shall mean the City Manager of the City;

"Employees" shall, wherever necessary, mean and include such employees or designated representative or officials of the Perry Wastewater Treatment facility as the City Manager shall, from time to time, designate and utilize in making the inspection and/or tests hereafter described in carrying out the other duties as prescribed herein to be performed on behalf of the City;

"User" shall mean the owner, lessee, or occupant of the property on which the buildings and/or appurtenances that are connected to the System are located.

Throughout this Section, the masculine gender shall be deemed to include the feminine and/or the neuter, the singular, the plural and vice versa, wherever required by the contest.

2. Following the passage and adoption of this Section by the City Council of the City of Perry, all users of the sanitary sewage treatment and collection system of the City shall, on or before August 1, 2014, bring themselves into voluntary compliance with the terms and conditions of this Section, and any amendments thereto, and all other provisions of the municipal code, including but not limited to Section 17-502, governing connection to and use of the sanitary sewage treatment and collection system of the City, including but not limited to the requirements of this Section set forth herein. No connection

3. Upon expiration of the term provided for in Section 2, a User utilizing the System of the City may avoid the imposition or levy of any fines, fees, charges or penalties with regard to such use and utilization by presentation of proof of compliance and continuing compliance with the provisions of this Section, and any amendments thereto, and all other provisions of the municipal code, including but not limited to Section 17-502, which proof shall consist of and include compliance with the following procedures and conditions as to each building and/or appurtenance connected thereto:

A. Upon request by a Sewage Official or one of its designated employees, either in writing or by personal contact, each user utilizing the system shall, within ten (10) business days, as to each building and/or appurtenance so connected to the system execute a "Grant of Inspection" to the City, to permit entry upon the property served by the System on which the

building and/or appurtenances are located, to inspect and/or perform such tests as may be deemed necessary by the City to verify and prove compliance with the provisions of this Section and any amendments thereto, and all other provisions of the municipal code, including but not limited to Section 17-502.

B. The Grant of Inspection shall be deemed to include the right of periodic inspections and/or tests thereafter, as may be reasonably determined to be necessary by the City, to maintain, monitor and ensure continued compliance with the provisions of this Section, and any amendments thereto, and all other provisions of the municipal code, including but not limited to Section 17-502.

C. Once a Grant of Inspection has been executed, it shall be deemed to be an ongoing authorization as provided for herein. Once a Grant of inspection has been executed, it may not be revoked by the original grantor.

D. Reasonable written notice of at least twenty-four (24) hours shall be given by the City or designated employee to the User of the time and place at which the inspections and/or tests provided for herein are to be made.

E. There shall be no fees charged for any inspections to conducted and performed by the designated representatives.

F. In the event a User utilizing the System executes the Grant of Inspection, and the City determines that said buildings and/or appurtenances are in compliance, no surcharge, fines or other penalties shall be imposed or levied upon the User; provided, however, that the City shall have the right and authority, pursuant to the Grant of Inspection executed as required hereby and the terms of this Section, to conduct additional inspection and/or tests at a later date to determine that compliance still exists.

G. in the event a User utilizing the System fails or refuses to execute a Grant of Inspection to the City for the purposes provided for herein, a surcharge of Fifty Dollars (\$50.00) per month shall be imposed in addition to all other charges authorized and imposed under the Perry Municipal Code, as amended, commencing at the next billing period following the date of the failure and refusal to execute the Grant of Inspection to the City. if the User continues to refuse to

execute a Grant of Inspection after a period of sixty (60) days, the surcharge shall be raised to One Hundred Dollars (\$100.00) per month.

H. In the event a User utilizing the System executes the Grant of Inspection, and the City inspects, conducts tests, and determines that the buildings and/or appurtenances of said User are not in compliance with this Section, and any amendments thereto, and all other provisions of the municipal code, including but not limited to Section 17-502, then and in such event, the City by its designated employee shall provide written notice of the results of the inspection and tests to the User, who shall be required to permanently comply with the applicable provisions of this Section, and any amendments thereto, and all other provisions of the municipal code, including but not limited to Section 17-502, within forty-five (45) days of the date of the notice.

I. In the event that the building and/or appurtenances of the User are determined not to be in compliance with this Section, and any amendments thereto, and all other provisions of the municipal code, including but not limited to Section 17-502, and the time period referred to herein for corrective work expires, and the User refuses or fails to bring buildings and/or appurtenances in compliance with this Section, and any amendments thereto, and all other provisions of the municipal code, including but not limited to Section 17-502, a surcharge of One Hundred Dollars (\$100.00) per billing account for such User shall be imposed, in addition to all other charges authorized and imposed under the Municipal Code of the City, commencing at the next billing period following the date of the inspection or testing by the City wherein such non-compliance was determined, for permitting such violation to continue to exist.

J. The surcharge referred to herein shall be removed only upon the following conditions:

1. The User utilizing the System executes a Grant of Inspection to the City or takes the required corrective action required to bring about Compliance; and

2. The City inspects and/or performs tests on the buildings and/or pertinences connected to the System and determines that the buildings and/or appurtenances so connected

to the System are in Compliance; and

3. The payment in full of all surcharges billed to the User utilizing the System until the time period the buildings and/or appurtenances in question of the User are determined to be in compliance.

K. The failure or refusal by the User utilizing the System to execute a Grant of inspection or to cause his buildings and/or appurtenances to be in compliance, after being determined not to be in compliance, within the statutory guidelines from date of the failure, refusal or notice of non-compliance shall cause the City, by its Wastewater Treatment Plant Supervisor or other City official, to prepare a Notice of Violation of this Section as to the property and to file the Notice for recording in the Office of the County Clerk of Noble County, Oklahoma.

L. In the event a User is found to be in compliance and subsequent inspections and/or tests determine that non-compliance now exists, the terms and provisions of Section 3, paragraphs D, H, I and J, thereof shall be applicable, except that in addition to the surcharge to be charged in accordance with Section 3, Paragraph I, if any, the User shall be liable for payment of a sum equal to the sum of the months since the original determination of compliance was made, multiplied by the monthly surcharge amount provided for in Section 3, Paragraph I, for knowingly, willfully and/or intentionally creating or permitting such violation to commence and continue.

M. In the event a User if found to be in a state of non-compliance a second or subsequent time, then the User shall be liable for the payment of a sum equal Five Hundred Dollars (\$500.00), plus an amount equal to the sum of the months since the original non-compliance was corrected (and if never corrected, from the date of such non-compliance determination), multiplied by the monthly surcharge amount provided for in Section 3, Paragraph I or G, for knowingly, willfully and/or intentionally permitting such violation to commence and continue; each such day of continued noncompliance shall be considered an additional violation.

N. Any User violating any of the provisions of this Section, and any amendments thereto, and all other provisions of the municipal code, including but not limited to Section 17-502,

shall be liable to the City for any expenses, costs and fees, including but not limited to reasonable attorney fees, occasioned or caused to the City by reason of seeking enforcement of this Section against the violator, as well as for any losses or damages occasioned or cause to the City or the System's Users by reason of such violation.

O. The City Council of the City of Perry shall have full power and authority to invoke any legal, equitable or special remedy for the enforcement of this Section. In addition, the City Council is hereby authorized to institute proceedings on behalf of the City in the District Court of Noble County or other appropriate state or federal forum, for prohibitory or mandatory injunctive relief to prevent of discontinue any violations of this Section.

P. This Section shall be deemed supplemental to all other ordinances and provisions thereof for enforcement and compliance purposes, and shall not be deemed to amend or rescind said other ordinances and provisions; further, that any fines, fees, charges or penalties levied or imposed pursuant to this Section shall be in addition to any fines, fees, charges or penalties levied or imposed pursuant to all other ordinances and provisions thereof.

Q. The City Council of the City of Perry, by passage hereof, has determined that the measures hereinbefore set out are a reasonable means of ensuring compliance with the Section set forth herein and any amendments thereto, and further that the same are necessary to protect and ensure the health, safety and welfare of the residents of the City and the area served by the System.

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. If the garbage and refuse is placed in such properly secured plastic bags, the plastic bags can be placed for collection without the necessity of placing such plastic bags in a secondary container or other trash can. If the Contractor provides poly-carts, the garbage and refuse must be bagged as provided herein before placement into the poly-cart.

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 Perry, Oklahoma.

D. Collectible limbs and brush: Trees, shrubs and brush trimmings, placed for collection by the Contractor, securely tied together forming an easily handled package, not exceeding four (4) feet in length or 50 lbs. in weight, and placed 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: A two (2) cubic yard receptacles used for commercial and industrial solid waste users.

H. Contractor: The person, corporation or partnership performing solid waste collection and disposal services for 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.

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 bags or 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 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 or designee, all garbage and refuse accumulated in the City shall be collected, conveyed, and disposed of by the City, or the Contractor, and not by any other person.

Section 17-603 CITY MANAGER OR DESIGNEE

All garbage and refuse accumulated in the City shall be collected, conveyed, and disposed of by the Contractor, under the supervision of the City Manager or designee. The City Manager or designee is hereby authorized to implement the duties and obligations of the City and to supervise the actions of the Contractor pursuant to the terms and conditions of the Contract in effect between the City and Contractor (hereinafter the "Contract"). Such Contract, and any amendment thereto in the future, is hereby incorporated into this Article by reference as if fully set out.

Section 17-604 COLLECTION PRACTICES--GENERALLY

A. Collection Location. Garbage and refuse shall be placed for collection by all users in a location as directed by the Contract and City Manager or designee.

B. Poly-carts: If a poly-cart is furnished for use to the residential user, it shall be used by such residential user. Curbside residential service requires the placement of garbage and refuse in bags and in poly-carts, if provided by the Contractor.

C. Street Department Collection Center. Users may deposit garbage and refuse as permitted in the roll-off dumpster located at the Street Department Collection Center ("Center"). Any user or customer making such deposit shall place cash or a check in the required and scheduled amount, as provided on a rate sheet located at the Center, which specific rate shall be based on the volume of garbage and refuse deposited by such user or customer at the Center, in an envelope, with the user or customer's name, address and telephone number provided, in the marked repository provided for such purpose ("paid daily permit"). In addition to paid daily permits, any user or customer may purchase monthly permits at City Hall for a monthly amount as set out in Chapter 18, 17-607E, Part IV. Each time a disposal is made, the user or customer shall remove a coupon attached to the monthly permit and place same in the marked depository. Any person who shall place garbage and refuse at the Center without paying the fee as required herein shall be guilty of an offense.

D. Convenience Center:

1. The Convenience Center is located in the NW/2 of the NW/4 of Section 14, T21N, R1W of the Indian Meridian, Noble County, Oklahoma, on city-owned property.

2. Any user may deposit garbage and refuse in properly marked containers at the Convenience Center on Friday and Saturday from 9:00 a.m. to 5:00 p.m., Central Standard Time, and from 1:00 P.M. to 5:00 P.M., on Sundays, and for an extra hour in the evening (until 6:00 p.m.) during Day Light Savings Time. The Convenience Center shall be closed on all national holidays. The Contractor shall accept and dispose of all garbage and refuse delivered by any user of the solid waste service of the City to the Convenience Center at no charge to the City or user and upon proof of such user's status (production of recent utility bill showing payment of solid waste and disposal fee).

E. Cardboard/Paper Bins. Any person, firm or entity may deposit cardboard, newspaper, and paper products in any authorized cardboard/paper bins. Cutting the cardboard boxes open before making a deposit is encouraged but not required.

F. 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 with the knowledge and consent of the City.

G. 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.

H. Complaints about Contractor to City. If any user maintains the Contractor is in violation of the City's ordinances or the Contract, the user shall report such matter to the City Manager or designee who shall investigate same and take appropriate action.

I. Complaints about Contractor to Contractor. All complaints made directly by users to the Contractor shall be recorded in writing by the Contractor and shall be given prompt and courteous attention. The record shall report the following information: (i) name of complaining user, (ii) nature of the complaint, including time and date of complaint, (iii) any reason of Contractor for nonperformance, and (iv) the date and time of correction by Contractor, if any. If, within any given month, the Contractor shall fail to record any such complaint, the same shall be deemed an act of noncompliance. The City may review these records of the Contractor at any time. In the case of an alleged missed scheduled collection, the Contractor shall investigate and if such allegations are verified, shall arrange for the collection of the refuse not collected within 24 hours after the complaint is received or within eight (8) working hours after a collection order is issued by the City, whichever occurs sooner. Contractor shall, at its own expense, provide a manned telephone answering service during regular office hours Monday through Friday, 8:00 A.M. to 5:00 P.M., for the purpose of handling complaints and other calls regarding collection and disposal services provided by Contractor. Contractor shall secure an annual toll-free telephone listing which can be used at no cost by the users.

J. Rates Charged the Public. The City may charge the users for solid waste collection and disposal services such monthly rates as are set out in Chapter 18, Section 17-607E.

K. 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 as described above that cannot be collected by the regular solid waste collection route will be paid for separately by the user. Contractor's price per loose cubic yard of extra refuse and garbage collection shall be as set out in Chapter 18, Section 17-201, Part IV. 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 Contractor 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 Contractor and the user with billing and collection being the Contractor's responsibility.

4. Pickup at each user's location shall be done in such a manner as to avoid spills whenever possible. All materials hauled by Contractor shall be contained, tied, or enclosed to prevent any leaking, spilling, or blowing. Any spills that do occur shall be promptly cleaned up by Contractor at no cost to the City or the user.

5. Each user shall provide access to the Contractor to the area where the garbage and refuse deposited for collection is to be placed.

6. All provisions contained in the Contract and pertaining to users shall be followed at all times by the user and Contractor.

Section 17-605 STORING OF TRASH.

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.

Section 17-606 POINTS OF COLLECTION FOR BRUSH AND YARD TRIMMINGS

Collectible limbs and brush and yard trimmings shall be placed within ten (10) feet of the curb of the street from which collection is made or at the edge of the roadway where there is no curb or at such other location as designated by the City Manager or designee.

Section 17-607 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 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 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, other than residential, 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 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 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 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 and shall further be liable for the monthly charges for carry out service for the prior months the person received such service at curb side rates. Certifications must be renewed on July 1 of each year.

E. The charges for residential, commercial, and industrial service are set out in Chapter 18 of this Code.

Section 17-608 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 the Contractor or by the individual or some other person, without permission of such other person.

Article 7

STORMWATER MANAGEMENT SYSTEM

DIVISION 1

IN GENERAL

Section 17-701 STATUTORY AUTHORIZATION.

The Oklahoma Legislature has, in Title 82 O.S. §§ 1601 through 1620.1 entitled "Oklahoma Floodplain Management Act", delegated the responsibility to local governmental units to adopt regulations designed to minimize flood losses. Therefore, the City does hereby adopt this stormwater management article.

Section 17-702 FINDINGS OF FACT.

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

(B) Because of its physical terrain and geographical location, the City is particularly subject to damage from stormwaters, which, from time to time, overflow from existing watercourses and drainage facilities.

(C) The presently existing stormwater drainage facilities of the City require continuous operation, maintenance, renewal and replacement.

(D) A comprehensive approach to managing stormwater runoff is required to address existing and future needs.

(E) Standardized drainage design criteria are necessary to ensure that all development projects are evaluated and constructed with consistent, reliable, and protective measures, thereby reducing localized flooding, protecting public infrastructure, and ensuring long-term sustainability.

(F) The cost of operating and maintaining all stormwater drainage systems, and the financing of existing and future necessary repairs, replacement, improvements and extensions thereof, should, to the extent practicable, be allocated in relationship to the benefit enjoyed and services received therefrom.

(G) Implementing a comprehensive stormwater management program requires a combination of strategies, including standardized drainage design criteria, construction of regional detention facilities identified in any future master drainage plans adopted by the City, on-site stormwater mitigation, and the use of stormwater development and utility service fees. These measures provide an equitable and effective framework for managing runoff impacts, supporting responsible development, and protecting public and private infrastructure.

Section 17-703 STATEMENT OF PURPOSE.

(A) It is the purpose of this article to promote public health, safety and welfare by providing for operating, constructing, equipping, maintaining, acquiring and owning within the City a stormwater drainage system.

(B) The establishment of a stormwater drainage system will:

(1) Minimize flood and storm losses and inconveniences from uncontrolled stormwater runoff in the City;

(2) Assure that the movement of emergency vehicles is not prohibited nor inhibited during storm or flood periods;

(3) Preserve the City's watercourses, improve and preserve purity of water, minimize water quality degradation and otherwise facilitate urban water resource management techniques, including both the reduction of pollution and the enhancement of the urban environment;

(4) Establish a long-term framework and future master drainage plans for stormwater and flood management, including a coordinated program for upstream ponding, detention, and other regional mitigation strategies as adopted by the City;

(5) Establish stormwater and flood management utility to coordinate, design, construct, manage, operate and maintain the stormwater and flood management system;

(6) Establish reasonable stormwater utility and flood management fees based on the use of stormwater drainage system and flood drainage facilities; and

(7) Establish reasonable stormwater and flood management fees based on the impact or future impact of development on the stormwater drainage system.

(8) Promote the use of standardized drainage design criteria and technical standards to ensure consistent, effective, and resilient development throughout the City.

Section 17-704 DEFINITIONS.

For the purpose of this article, the following definitions shall

apply unless the context clearly indicates or requires a different meaning.

Best Management Practices (BMPs): Structural and non-structural methods used to manage the quantity and quality of stormwater runoff in a manner that reduces pollution, controls flooding, and protects water resources. BMPs may include vegetated swales, detention basins, silt fences, erosion control blankets, infiltration systems, and good housekeeping practices on construction sites.

CHANNEL CAPACITY. The ability of a channel—whether natural or constructed—to convey stormwater runoff without causing excessive overflow or damage. Minimum design standards for channel capacity shall be specified in the City's technical standards.

DEPARTMENT. The City department or division responsible for administering the stormwater management program as established by the City Manager, or in absence of a dedicated division, the City Engineer shall serve this function..

DETENTION OR RETENTION FACILITIES. Facilities designed to hold stormwater for a short period and then to release it to a watercourse or to hold stormwater for a sufficient length of time to provide for it to be consumed by evaporation, infiltration into the soil or other natural means.

DEVELOPED REAL ESTATE (DEVELOPED PROPERTY. 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.

DEVELOPER. The person(s) who improves, subdivides land or alters real property from its natural state by the addition to, or construction of, any impervious surface such that the hydrology of the property is affected.

DIRECTOR. The duly appointed director of the Stormwater Management Department by the City Manager of the City and/or his designated representative.

DRAINAGE BASIN PLAN. A planning document adopted by the City for managing surface and stormwater facilities within a defined drainage basin. Such plans shall only be considered regulatory

when formally adopted by the City Council.

GREEN INFRASTRUCTURE: A set of stormwater management practices that use natural processes and landscape features to manage runoff and improve water quality. Examples include bioretention cells, rain gardens, permeable pavements, vegetated swales, green roofs, and infiltration trenches.

IMPACTED CHANNEL. The segment of a natural or constructed drainageway that receives stormwater runoff from a proposed development site and conveys it to the primary or regional drainage system. Impacted channels must be evaluated to determine whether additional runoff from the development will exceed their capacity, cause erosion, or contribute to downstream flooding..

IMPERVIOUS SURFACE: Any surface that significantly reduces or prevents the infiltration of stormwater into the soil. Impervious surfaces include, but are not limited to, rooftops, sidewalks, driveways, parking areas, patios, compacted gravel or stone surfaces, and paved or sealed surfaces, whether concrete, asphalt, or similar materials.

LOW IMPACT DEVELOPMENT (LID): A land development approach that manages stormwater runoff through decentralized, site-level practices that mimic natural hydrology. LID emphasizes conservation, infiltration, and volume reduction using techniques such as reduced impervious cover, on-site stormwater reuse, and green infrastructure.

MASTER DRAINAGE PLAN: A City-wide planning document identifying existing and proposed drainage facilities, regional detention sites, impacted channels, and flood-prone areas, to guide the development and prioritization of stormwater infrastructure. The master drainage plan shall not be regulatory unless formally adopted by the City Council.

OFF-SITE MITIGATION: Stormwater improvements or enhancements made outside the boundaries of a development site that reduce the impact of increased runoff on downstream drainage systems. Off-site mitigation may include channel upgrades, erosion protection, or contributions to regional detention facilities, subject to approval by the City Engineer.

ON-SITE DETENTION: A stormwater control measure constructed

within a development site that temporarily stores runoff generated by the site and releases it at a controlled rate to reduce downstream impacts. On-site detention is typically required when regional facilities are not available or adequate to mitigate increased runoff from the development.

ON-SITE RETENTION: A stormwater management practice that captures and permanently retains stormwater runoff on the development site through infiltration, evaporation, or reuse. Unlike detention, retention systems are designed with no surface discharge under normal conditions.

PREDEVELOPED CONDITION: The natural state of land prior to any grading, clearing, construction, or installation of impervious surfaces or other improvements. This includes the land's original topography, vegetation, and hydrologic characteristics, as they existed before any human-induced alteration or development activity.

POST-DEVELOPED CONDITION: The state of land after completion of construction or development activities, including grading, installation of impervious surfaces, structures, utilities, and other site improvements that alter the land's natural topography, vegetation, or hydrologic response.

REGIONAL DETENTION: A stormwater control facility designed and constructed to serve multiple developments or an entire drainage basin, typically located at a downstream point within the watershed. Regional detention is intended to provide collective stormwater mitigation by reducing peak flows and controlling runoff at a broader scale than individual on-site systems.

RESIDENTIAL PROPERTY. Any property designed and used principally for residential single-family, duplex or multi-family purposes and developed according to, and meeting the bulk and area requirements for, residential single-family, duplex or apartment zoned property as set forth in the City's zoning code at the time of development of such property.

STORMWATER DEVELOPMENT FEE. The fee levied within the boundaries of the City against proposed developing real estate to cover development's cost share of the stormwater management program.

STORMWATER DRAINAGE SYSTEM. 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 manmade channels, pipes, culverts and detention ponds whether public or private.

STORMWATER MANAGEMENT PROGRAM. The overall strategy and framework for the stormwater management activities of the City.

STORMWATER RUNOFF. That portion of the rainfall that is drained into the stormwater drainage system.

SUBDIVISION. Land that is separated into tracts, parcels or lots.

TRACT. A lot, or parcel of land. Properties that are not abutting or adjoining or are separated by any street, alley or other property shall be considered separate TRACTS.

UNDEVELOPED LAND ((UNDEVELOPED PROPERTY). Real property that remains in its natural state and has not been altered by the construction or addition of any impervious surface in a manner that would change the property's hydrology.

WATER QUALITY TREATMENT PRACTICES: Stormwater controls designed to improve the quality of runoff by removing pollutants through physical, chemical, or biological processes. These may include sedimentation basins, constructed wetlands, filter strips, or proprietary treatment devices.

Section 17-705 DUTIES OF DIRECTOR.

(A) The Director, as designated by the City Manager, shall exercise all lawful powers necessary and appropriate to administer the city stormwater management program. Where appropriate, the Director shall coordinate with and delegate technical responsibilities to the City Engineer or other hired professional as approved by the City Manager.

(B) The Director shall have the authority to:

(1) Develop and administer all phases of a comprehensive program of stormwater management, including planning, designing, establishing, acquiring, constructing, developing, installing,

administering, maintaining, operating, improving, repairing, replacing and reconstructing the stormwater drainage system of the City;

(2) Administer the accounting, budgeting, recordkeeping and support personnel necessary for the efficient operation of the stormwater management program in accordance with the City's Purchasing Manual;

(3) Administer the regulations contained in this article;

(4) Perform studies and analyses required to establish or modify the stormwater management program;

(5) Provide for public information and awareness that will improve management and reduce hazards to life and property;

(6) Coordinate enforcement of the regulations contained in this article with other city departments; and

(7) Seek the cooperation of counties and municipalities within the area in minimizing the contribution of all storm drainage systems to flooding and, in particular, cooperate with other affected political jurisdictions in preparing and implementing master drainage plans.

Section 17-706 STORMWATER DRAINAGE FUND.

A separate account or accounts shall be maintained for the purpose of identifying and controlling all revenues for stormwater drainage services. The costs of administration, data collection, planning, maintaining, operating and improving drainage services and facilities shall be paid from these revenues.

Section 17-707 MASTER DRAINAGE PLAN.

(A) Plan developed. The Director, in coordination with the City Engineer, shall develop a master drainage plan for the City, based on engineering studies and technical data. The plan shall identify the location of existing drainage facilities and evaluate the need for future improvements, including proposed regional detention facilities, drainage channels, impacted conveyances, and other system components. The plan may also show any other information that the Director deems necessary to

support effective stormwater management.

(B) Purpose of plan. The purpose of the Master Drainage Plan is to provide a comprehensive framework to guide long-term stormwater and flood management within the City. The plan shall present hydrologic and hydraulic data in an organized manner to help understand rainfall-runoff relationships, prioritize capital improvements, and reduce flood risk and drainage impacts. The plan shall serve as the official designation of drainage facilities, drainageways, and basins only upon formal adoption by the City Council.

(C) Cost estimate. The Director may undertake supplementary studies to determine the estimated cost of constructing the drainage facilities shown on the master drainage plan, including the expense of any necessary land acquisition.

(D) Individual basin plans. The Master Drainage Plan may include individual drainage basin plans for specific watersheds or sub-basins within the City. These basin plans may be developed and adopted independently or incorporated into the citywide plan by formal action of the City Council..

(E) Plan Adoption and Modifications. The Master Drainage Plan and any substantial modifications thereto shall be adopted by resolution or ordinance of the City Council before becoming enforceable. Until such adoption occurs, the plan shall serve as a planning tool but shall not impose binding development or mitigation requirements.

Section 17-708 SUBDIVISION PLAT, SITE PLAN AND BUILDING PERMIT APPROVAL.

All subdivision plats, replats, site plans, and industrial building permits shall be reviewed by the Community Development Director, or the Director's designee as appointed by the City Manager, in coordination with the City Engineer as needed. Approval of any such plat, replat, site plan, or industrial building permit shall require the submittal and written acceptance of a drainage plan that demonstrates conformance with the City's subdivision regulations, standard construction specifications and details, the requirements of this article, all adopted standardized drainage design criteria and technical standards, and any formally adopted Master Drainage Plan or individual basin plans applicable to the development area. No

plat shall be recorded, and no building or site work shall commence, until the drainage plan is reviewed and accepted by both the Community Development Director and the City Engineer.

Section 17-709 STORMWATER MITIGATION.

(A) Mitigation required. All development that involves the filing of a plat, replat, site plan or industrial building permit shall mitigate the impact of that development's increased stormwater runoff. Mitigation shall be accomplished by performing work on a regional detention facility identified in an adopted master drainage plan or basin plan located within the same drainage basin as the proposed development, or by paying the development fee as outlined in Section 17-710. Where appropriate, the City may also approve alternative mitigation measures, including but not limited to on-site detention or retention, water quality treatment practices, green infrastructure or low-impact development (LID) features, or off-site improvements to impacted drainage channels, provided such measures are demonstrated to reduce the development's peak discharge, volume, or downstream impact to acceptable levels as determined by the City Engineer.

(B) Amount of mitigation. The amount of mitigation required shall be sufficient to offset the total increase in stormwater runoff generated by the proposed development under post-developed conditions. Mitigation shall address both the increased runoff volume and peak flow rate resulting from the development, in accordance with the applicable design storm events and the City's technical standards. Mitigation may be provided through on-site detention or retention, improvements to downstream drainage systems, work on an adopted regional detention facility, or a combination thereof, as approved by the City Engineer..

(C) Responsibility to mitigate. This mitigation work does not relieve the developer from the responsibility to address stormwater impacts to downstream properties and infrastructure between the development site and the nearest main drainage channel identified in the applicable adopted drainage plan. Where the proposed development increases runoff volume or flow above the capacity of any downstream conveyance system, channel, or culvert, the developer shall implement mitigation measures such as on-site detention, channel improvements, or other solutions approved by the City Engineer to ensure that post-

developed conditions do not adversely affect downstream areas.

(D) Development fee. Where physical mitigation cannot be reasonably accomplished—either on-site, through downstream improvements, or at a regional detention facility identified in an adopted drainage plan within the same drainage basin—the developer shall pay the applicable stormwater development fee as outlined in Section 17-710. The City Engineer shall determine whether alternative mitigation options are feasible before the fee requirement is imposed.

(E) Developments outside limits of master plan. For developments located outside the boundaries, scope or current completion of an adopted master drainage plan, the drainage study for the proposed development shall include a plan to mitigate downstream stormwater impacts between the development site and the nearest main drainage channel. Where on-site detention is proposed to mitigate impacts, the detention facility shall be designed in accordance with the City's technical standards and is subject to approval by the City Engineer. It is the responsibility of the developer to demonstrate, through the technical submittal, that the proposed facility provides sufficient capacity and benefit to function as a regional detention basin if the facility is part of a broader planned future development.

Section 17-710 DEVELOPMENT FEE REQUIREMENTS; CREDITS.

(A) Development fee. Where physical mitigation is not performed or does not fully offset the stormwater impact of the proposed development, the developer shall be required to pay a stormwater development fee at the time of approval of any proposed development, including but not limited to subdivision plats, replats, site plans, or building permits, as provided for in Section 17-731.

(B) Obtaining credits. Credits can be obtained by developers to offset stormwater development fees for a particular tract of land by providing land or improvements that benefit the stormwater system in accordance with the adopted master drainage plan.. Credits are calculated in dollars based on the following.

(1) Dollar value of credits for land provided shall be based on the appraised value, less the cost of appraisal. Only land that provides for drainage improvements compatible with the

master drainage plan may be provided for credits. The dedication of property or the granting of easements normally provided as part of the development process cannot be used for credit.

(2) Dollar value of improvements provided shall be mutually agreed upon and shall be based on the beneficial share of a complete project based on the master drainage plan construction cost. Interim and incidental work such as erosion protection, engineering, staking, safety measures and access roads shall not be calculated as a beneficial share. Where detailed construction plans are not available, an interim construction plan shall be provided by the developer.

(3) Where engineering services are proposed for credit, the dollar value shall be mutually agreed upon based on a detailed proposal of the engineering services and conditioned upon acceptance of the construction plan.

(4) Other community benefits generated by the project that may be considered in evaluating whether those benefits offset the cost of required drainage improvements, as determined by the City Manager and Chief Financial Officer.

(C) Issuance of credits. Credits shall issued by letter upon the completion of the work and/or acceptance of the land by the City Council.

(1) Letter agreements shall establish the value of the credit. Credits shall be tied to a specific basin but may be transferred to a third party with notice to the City.

(2) Use of credits may be made at the time of approval of a plat, replat, lot split or building permit. Credits shall be set out on a per acre basis in the letter agreement.

(3) Application to use credit shall include a copy of the letter agreement and, if applicable, the credit transfer.

(4) Any credit amount applied against the stormwater development fee shall be deducted from the amount of the fee set out for the referenced tract or tracts.

(5) At any time the remaining credit for any tract shall fall below a value of \$500, no further credits can be applied for under the referenced letter agreement, and the tracking of the

use shall be discontinued.

(D) Application of credits. A developer may apply credits only to the development of land within the drainage basin in which the land or work was provided.

(E) Special credits. Special credits shall be established by letter agreement

DIVISION 2

STORMWATER DRAINAGE FEES

Section 17-720 DEFINITIONS.

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CITY. The City of Perry.

COMMON BILLED. A billing for water and/or sanitary sewer service for a tract that is billed to the tract as one bill and not directly to the individual units of that tract.

EQUIVALENT SERVICE UNIT (ESU). A unit of measure used to determine the stormwater utility service charge. One ESU is equal to 2,860 square feet of impervious surface. The total impervious surface on a tract shall be divided by 2,860 and rounded up to the nearest whole number to determine the number of ESUs assigned to the tract. The minimum number of ESUs for any tract with impervious surface shall be one (1).

INDIVIDUAL BILLED. Where billing for water and/or sanitary sewer services for a tract is by separate billing to the individual units of that tract.

STORMWATER UTILITY SERVICE CHARGE. The fee levied within the boundaries of the City for the use of the City's stormwater drainage facilities.

USER. The owner, renter or lessee of a tract of land that drains stormwater to the stormwater drainage system.

Section 17-721 STORMWATER UTILITY SERVICE CHARGE AND EXEMPTIONS.

(A) Charges established. There is hereby established a stormwater utility 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 city owned property;
- (2) State highway rights-of-way;
- (3) Railroad rights-of-way; and
- (4) Undeveloped land.

(B) Monthly rate. The monthly stormwater utility service charge rate shall be charged and collected as provided for in Section 17-730.

(C) Application for reduced impervious surface rate. Any individually billed single-family residential user may apply for a reduced impervious surface rate for the user's individually billed single-family unit where the total impervious surface of the tract associated to the unit is less than 1,250 square feet in area. Application shall be made to the Customer Service Department on forms provided. Review of applications shall be made by the Engineering Department for completeness and correctness. Upon approval of application for a unit, the stormwater utility service charge rate for that unit shall be changed to the reduced impervious surface rate at the next billing cycle. At such time as the impervious surface area of a unit exceeds 1,250 square feet, the standard rate shall apply and the reduced impervious surface rate shall not apply.

Section 17-722 COLLECTION OF SERVICE CHARGE.

(A) Monthly charges; billing; water termination for nonpayment.

(1) The stormwater utility service charges herein established for the use of the City's stormwater drainage system shall be billed to each user monthly, along with a bill for water or other utility services and such penalties as are now or may

hereafter be established for other utility service bills. All collecting agencies authorized by the City to accept payment of city utility bills are hereby directed to advise customers of the provisions of this section.

(2) In the event that any person, firm or corporation shall tender as payment of water service, sewer service, collection of solid waste service and/or stormwater utility service charge for the use of the City's systems an amount insufficient to pay in full all of the charges so billed, the payment shall be credited to the account or accounts in accordance with accounting procedures used by the Customer Service Department for utility bill payments.

(3) The City shall have the right and privilege of discontinuing any and all utility service to any premises for insufficient payment.

(4) In the event that any utility account shall become delinquent, water services may be terminated by the City until all delinquent charges for the use of the City's stormwater drainage system, collection of solid waste service, sanitary sewer service and water service shall have been paid in full.

(5) The provisions for collection provided herein shall be in addition to any rights or remedies which the City may have under the laws of the state.

(B) Billing for stormwater drainage only. In the case of users of real estate who are not billed for water, sanitary sewer or collection of solid waste, the owner of the real estate or agent of the owner shall be billed monthly for the service charges herein established.

Section 17-723 CALCULATION OF EQUIVALENT SERVICE UNIT (ESU).

(A) Basis for billing. The equivalent service unit (ESU) shall be calculated by determination of the amount of impervious surface that exists or will exist after development of any tract as set out in the definition of "equivalent service unit (ESU)" in Section 17-725. The ESU for certain tracts as calculated by, and on file in, the City Engineer shall be the official determination and shall be used as the basis for billing of the stormwater development fee charge.

(B) Application for determination.

(1) Upon the development of a tract or tracts of land, the owner or user of the same shall make application for a determination of ESU for the tract.

(2) Application shall include the measured square foot area of the site being developed, amount of impervious surface to be in place at the time of full development, location, legal description, name of owner or user of the tract and address.

(3) Application shall be made as part of the building or other city permit application. A building permit shall be required when no other city permit is applied for.

(4) Upon determination of the ESU for the tract, it shall be added to the official list, and billing for the stormwater utility service charge shall begin as set out in this article.

(C) Changes in list. Changes may be made in the official list of ESU, from time to time, to add tracts not included, add new developments or make corrections or adjustments.

(D) Appeal of determination. Determinations in the official ESU may only be appealed by the owner or user of the affected tract. Appeals shall be made in writing to the Director and shall include evidence of an error or miscalculation in the determination. The Director shall be given two weeks to review the application and, finding sufficient evidence, may direct the official list of ESU to be changed. A finding of insufficient evidence or no response in the two-week period shall be a denial of the appeal.

Section 17-724 STORMWATER DEVELOPMENT FEE.

(A) The stormwater development fee is a one-time fee required for proposed development to mitigate the impact of increased runoff in accordance with Section 17-710. Charges and regulations governing this fee are provided in Section 17-731.

DIVISION 3

STORMWATER DEVELOPMENT FEE/ STORMWATER UTILITY SERVICE CHARGES

Section 17-730 STORMWATER UTILITY SERVICE CHARGES.

(A) Rates effective February 1, 2026. Effective February 1, 2026, the following rates and charges are established. The rates and charges established in Section 17-722 shall be as follows:

(1) Rates per water meter: \$3.00 monthly.

Section 17-731 STORMWATER DEVELOPMENT FEES.

(A) Purpose. The purpose of stormwater impact fees is to provide an equitable mechanism for funding off-site improvements necessary to mitigate the increased stormwater volume runoff and peak flow rates resulting from development, based on the 100-year, 24-hour storm event.

(B) Applicability. Stormwater impact fees shall apply to all new developments, redevelopments, and expansions that increase impervious surface area or alter hydrologic response.

(C) The stormwater impact fee for development within commercial or industrial zones shall be based on a rate of two dollars and forty-two cents (\$2.42) for each equivalent service unit (ESU) assigned to a lot, tract, or parcel of real estate wherein the ESU is an average area of impervious surface material on a nonresidential parcel. One (1) ESU shall be defined as two thousand eight hundred sixty square feet (2,860 ft²) of impervious area. The one-time impact fee shall be calculated as follows:

(Square feet of new impervious surface ÷ 2,860) × \$2.42, where 2,860 represents the standard impervious surface unit.

(D) Pre- and Post-Development Conditions. Pre-developed conditions shall reflect the site in its natural, undisturbed state or as defined in the adopted stormwater ordinance. Post-developed conditions shall reflect full build-out under the proposed site plan.

(E) Hydrologic Criteria. Hydrologic and hydraulic analyses shall follow methods approved by the City Engineer, including

acceptable modeling software and design standards.

(F) Credits and Offsets. Developers may receive credits toward the impact fee for:

(1) Construction of regional detention improvements consistent with the adopted master drainage plan;

(2) Conveyance system upgrades that offset identified downstream deficiencies;

(3) Other City-approved mitigation strategies.

(G) Payment of Fee. Impact fees shall be paid prior to approval of the final plat, site plan, or issuance of a building permit, whichever occurs first.

(H) Annual Adjustment of Fees. The rates and fees charged under this section shall be adjusted annually in accordance with the Consumer Price Index calculation set forth in Section 17-221 of the City Municipal Code.

(I) The following additional fees pertaining to streets, stormwater and drainage shall be paid prior to the issuance of any permit or inspection:

(1)	Right-of-way Work Permit	\$75.00
(2)	Driveway Permit - Residential	\$35.00
(3)	Driveway Permit - Commercial	\$150.00
(4)	Street & Alleyway Closure Permit	\$30.00/days closed \$100.00 deposit
(5)	Sidewalk Permit	\$35.00
(6)	Culvert Inspection Fee	\$25.00
(7)	Damage to Public Infrastructure	Full cost of Repair and 20% administration fee
(8)	Culvert Inspection Fee	\$25.00 Culvert must be approved by the Street Foreman and reviewed after final inspection
(9)	Storm Drain Connection Permit	\$75.00

DIVISION 4

TECHNICAL STANDARDS

Section 17-740 TECHNICAL STANDARDS

(A) A site groundwork permit application for construction sites less than five acres in size shall be required and shall contain all applicable information listed.

(1) Name, address and telephone number of the applicant, land owner, developer and engineer;

(2) Project description; briefly describe the total land area in acres or boundary dimensions, the nature and purpose of the land disturbing activity, the amount of grading involved and project location including lot, block and addition or section, range and township;

(3) Existing site conditions; a description of the existing topography, vegetation and drainage;

(4) Immediate adjacent areas; a description of neighboring areas such as streams, lakes, residential areas, roads and the like, which might be affected by the land disturbance;

(5) Erosion and sediment control measures; a description of the methods, which will be used to control erosion and sedimentation on the site while under construction;

(6) Permanent stabilization; a brief description of how the site will be stabilized after construction is completed;

(7) Stormwater management considerations; explain how stormwater will be managed and determine detention requirements;

(8) General location map; a map shall be provided in sufficient detail to indicate the location of the project site; and (The map shall be at a scale of one inch equaling 1,000 feet and shall indicate the project site in relation to existing topography, transportation, features and land boundaries. The map shall show adjacent land drainage areas contributing to the site.)

(9) Sediment and erosion control plan. Maps of the proposed

development at a scale no smaller than one inch equaling 200 feet shall be included. The plan shall show the following:

(a) A boundary line survey of the site on which the work is to be performed;

(b) Existing topography at a maximum of two-foot contour intervals;

(c) Proposed topography at a maximum of two-foot contour intervals;

(d) Location of any existing structure or natural feature on the site;

(e) Location of any structure or natural feature on the land adjacent to the site and within a minimum of 100 feet of the site boundary line; (The map shall show the location of the storm sewer, channel or creek receiving the stormwater run-off from the site.)

(f) Location of any additional proposed structures or development on the site, if known; and

(g) Limits of clearing and grading areas which are to be cleared and graded.

(B) All site groundwork permit applications for residential construction sites less than two acres in size shall contain all applicable information listed.

(1) Name, address and telephone number of the applicant, land owner, developer and engineer;

(2) Project description; briefly describe the total land area in acres or boundary dimensions, the nature and purpose of the land disturbing activity, the amount of grading involved and project location including lot, block and addition or section, range and township;

(3) Existing site conditions; a description of the existing topography, vegetation and drainage;

(4) Immediate adjacent areas; a description of neighboring areas such as streams, lakes, residential areas, roads and the like, which might be affected by the land disturbance; and/or

(5) Erosion and sediment control measures; a description of the methods which will be used to control erosion and sedimentation on the site while under construction.

(C) Design policies and standards.

(1) Drainage policies.

(a) Whenever practicable, the City shall require that stormwater drainage systems be designed to convey peak runoff from both upstream areas and the subject property for storm events with durations of up to 24 hours and return periods of up to 100 years. Exceptions shall be made for updates to existing City infrastructure based upon budgetary considerations.

(b) All development, redevelopment, and earth changes shall be constructed so that it will not increase the frequency of flooding or the depth of flood flows for any storm, up to and including the 24-hour 100-year storm. Exceptions shall be made for updates to existing City infrastructure based upon budgetary considerations.

(c) Peak flows shall not be increased at any location for any storm, up to and including the 24-hour 100-year storm. Exceptions shall be made for updates to existing City infrastructure based upon budgetary considerations.

(d) Regulation of peak flows to allowable levels, as determined by divisions (C)(1)(a)(2) and (3) of this section, shall be achieved by on-site or off-site storage and/or other water management facilities as provided in the city drainage standards.

(e) Subject to requirements for a drainage plan or earth change permit and of the city drainage standards, downstream conveyance may be improved or easements obtained for inundated areas to compensate for increased flow depths if such improvements comply with the policies of this chapter.

(f) All development, redevelopment, and earth changes shall be constructed so that it will not cause harm to other properties as a result of concentrating flows.

(g) On-site storm water control may not be required for sites less than two and one-half acres in size if it is determined by the City Engineer that storm water runoff from the site will not cause adverse effects as described in this chapter. The City Engineer may request that the applicant provide such information as required to make this determination. In such cases, a cash payment in lieu of on-site storm water control shall be made to the Stormwater Capital Improvement Fund in an amount equal to the estimated cost of providing on-site stormwater control, consistent with the fee structures established in Section 17-731 (Stormwater Development Fees) and Section 17-732 (Stormwater Impact Fees).

(2) Erosion and sediment control policies.

(a) All development, redevelopment, and earth changes shall be designed, constructed and completed in a manner which minimizes the exposure of bare earth to precipitation.

(b) All development, redevelopment, and earth changes shall be constructed only if appropriate sedimentation facilities are installed and maintained throughout the construction period.

(c) All development, redevelopment, and earth changes shall be accompanied by best management practices for controlling sediment and erosion so as to minimize the amount of sediment leaving the site.

(3) Standards.

(a) Requirements and design standards for all components of drainage facilities shall be established by the city drainage standards.

(b) The city drainage standards shall govern all earth changes, drainage plans, excavating, grading, regrading, revegetation, landfilling, berming and diking of land within the jurisdictional area of the city and shall specifically regulate the following considerations:

1. The city drainage standards shall regulate the design, installation, utilization and removal of all temporary and permanent drainage facilities and best management practices; and

2. The city drainage standards shall regulate the placement and compaction of fill material.

(D) Regional detention systems.

(1) Regional detention systems may be permitted and are recognized as one of the preferred methods of providing storm water control. These systems may be designed to control the fully urbanized flows so as to permit the maximum use by developments in lieu of constructing small, on-site detention.

(2) If it is determined by the City Engineer that storm water runoff from the site will cause adverse effects as described in this chapter, the site shall not be eligible for the cash payment option. The City Engineer may request that the applicant provide such information as required to make this determination.

(E) Regulatory requirements.

(1) Develop all storm water design plans to ensure all applicable regulations are met:

- (a) Any applicable city codes;
- (b) Any applicable State of Oklahoma statutes.
- (c) Any applicable United State of America federal regulations.

(2) Develop all storm water system plans with applicable Oklahoma Department of Environmental Quality (ODEQ) design standards and to ensure proper permits are obtained.

(F) Construction plan requirements.

(1) Construction plan drawings shall include:

- (a) Contour lines and spot elevations to support construction;
- (b) Existing and proposed elevations;
- (c) Existing and proposed structures with elevation information;
- (d) Obstructions;
- (e) Storage basins;
- (f) Roadways, pavement, parking areas or other impervious surfaces;
- (g) Curbs/gutters;
- (h) All utilities (buried, elevated and/or abandoned);
- (i) Easements, property lines, and rights-of-ways;

- (j) Best management practices (BMPs) for erosion and sediment control;
- (k) All work limits;
- (l) FEMA regulatory floodplain zones (floodway, 100-year, 500-year);
- (m) Appropriate profiles and section details; and
- (n) Directions of flow.

(2) Building elevations. At a minimum, plans shall include ground elevations and grade at the buildings perimeter. Where buildings are within the FEMA regulatory floodplain, base floor elevations shall be identified.

(3) Hydraulic gradient. Plans shall include hydraulic gradient lines and/or 100-year floodplain water surface elevations, where applicable.

(4) Site context. Plans shall include any additional information for areas outside of the site limits that may require modification as part of the project to mitigate adverse impacts downstream.

(5) Easements and rights-of-way.

(a) All restricted drainage easements shall be clearly shown detailed as to type, location, and width on the construction plans, record drawings, and final plats, as well as described in the conditions and restrictions of the plat or by separate instrument.

(b) Adequate right-of-way shall be provided for access and maintenance to the drainage easement. Location and width shall be identified on the construction plans, record drawings, and final plats, as well as described in the conditions and restrictions of the plat or by separate instrument.

(G) Requirements for drainage reports and plans.

(1) Drainage report certification and submittal.

(a) The report to be submitted shall include a cover letter presenting the study for review.

(b) Drainage reports shall be prepared following the guidelines below and all reports and plans must be signed, sealed, and

dated by a professional engineer with certification that the report and plan is in compliance with good engineering practice and the requirements of this code.

(2) Cover letter required. A cover letter shall accompany all submittals and include the following:

(a) Summary statement identifying and characterizing (location, area of project in acres, and proposed land use) the proposed land development project and discussing how the project will adhere to the requirements of this code.

(b) Brief description of drainage system components, the overall concept of the proposed drainage system, and its interaction with existing drainage facilities.

(c) Policy statement discussing the design criteria and any proposed deviation from methodology, as set forth by this code.

(3) Preliminary drainage study. The report submitted as a preliminary drainage study shall be formatted in accordance with the following outline and contain all of the information listed:

(a) Project location map and information. The project location map shall contain the following information:

1. Map with township, range, section, quarter section.
2. Name and address of property owner.
3. Legal description of property.
4. Streets within and adjacent to the project.
5. Names of surrounding developments.

(b) Existing drainage map. The existing drainage map shall show the following:

1. Drainage area map at a scale of one-inch equals 20 feet to one-inch equals 100 feet identifying all predevelopment drainage basins and sub basins within and that contribute flow through or across the proposed land development project.

2. Existing land use and predominant cover type (shrubs, trees, grass).

3. Identify all existing basins and discharge points with unique alphanumeric labels, list area of each basin in acres,

and list runoff coefficients or curve numbers appropriate for the existing land use.

4. Existing contours at two-foot maximum intervals for all basins and sub basin.

5. Limits of floodplain and floodway located within or adjacent to (within 75 feet of the property) the proposed land development project.

6. Existing drainage facilities within and adjacent to (within 75 feet of the property) the proposed land development project.

7. Location, size and type of easements within and adjacent to the proposed land development project.

(c) Proposed drainage map. The proposed drainage map shall show the following:

1. Drainage area map at same scale as existing drainage map identifying all proposed (post-development) drainage basins and sub basins and existing basins that will not be altered.

2. Identify all proposed basins and proposed discharge points with unique alphanumeric labels, list area of each basin in acres, and list runoff coefficients or curve numbers appropriate for the proposed land use.

3. Existing and proposed contours at two-foot maximum intervals for all basins and sub basins.

4. Limits of floodplain and floodway located within or adjacent to (within 75 feet of the property) the proposed land development project.

5. Existing drainage facilities to remain and proposed drainage facilities within and adjacent to (within 75 feet of the property) the proposed land development project.

6. Existing and proposed easements within and adjacent to (within 75 feet of the property) the proposed land development project.

(d) Hydrology and hydraulics. The hydrology and hydraulics shall show the following:

1. A written summary of the existing drainage patterns and off-site drainage patterns and impact on the proposed development.
 2. A summary table of the following: existing (predevelopment) hydrologic characteristics, including, but not limited to, discharge points, basin areas, soil types, runoff coefficients, curve numbers, hydraulic lengths, and time of concentration values; and assumptions, including a written description of the basis for each assumption used in the calculations.
 3. A summary table of hydrologic analysis results for all of the basins and sub basins based on existing conditions for the minor and major storm events.
 4. A written general description of the proposed storm water drainage facilities and methods for controlling the post-development drainage including the proposed locations of storm water drainage facilities required to mitigate any potential adverse impacts.
 5. A summary table comparing existing and proposed peak flow rates at each discharge point for the minor and major storm events.
 6. Design rainfall data used for minor and major storms.
 7. Hydraulic capacity calculations for all existing drainage facilities that currently serve or will serve the proposed land development project.
 8. Volumetric computations for compensatory storage requirements for any alterations of the floodplain.
- (4) Final drainage study. The report submitted as a final drainage study shall include a final drainage plan, shall be formatted in accordance with the following outline, and shall contain all information listed for a preliminary drainage study in addition to the following information:
- (a) Drainage facility design. The drainage facility design shall show the following:

1. Post-development hydrologic characteristics, including but not limited to discharge points, basin areas, soil types, runoff coefficients, curve numbers, hydraulic lengths, and time of concentration values); and assumptions, including a written description of the basis for each assumption used in the calculations.

2. A summary table of hydrologic analysis results for all of the basins and sub basins based on proposed (fully developed) conditions for the minor and major storm events.

3. A summary table of hydraulic capacity calculations for all proposed drainage facilities, including but not limited to streets, storm inlets, storm sewers, drainage channels, swales, culverts, and on-site or regional detention facilities, that will serve the proposed development project (on-site and off-site) or convey pass through runoff from upstream or off-site basins and sub basins.

(b) Conclusions

1. A written summary statement indicating compliance with this code, the city drainage standards and the city standards, as well as any accepted drainage plans, where applicable.

2. A detailed statement concerning the projected effects of the proposed land development project on property adjoining the site and on existing drainage facilities and systems both on- and off-site.

(c) References. List all design criteria and technical information used.

(d) Appendices. The appendices shall contain the following:

1. Land use assumptions regarding adjacent properties.

2. Time of concentration flow path characteristics and calculations.

3. Runoff calculations at specific design points on-site and off-site.

4. Historic and fully developed runoff computations at points of compliance.

5. Hydrographs at critical design points, if applicable.
 6. Culvert capacity charts.
 7. Storm sewer capacity calculations.
 8. Street capacity calculations.
 9. Storm inlet capacity calculations.
 10. Open channel design calculations.
 11. Grade control and/or channel drop design.
 12. Detention area/volume capacity and outlet capacity calculations (stage-storage discharge table).
 13. Routing of off-site drainage flow through the development, easements, and/or right-of-way dedications.
 14. Location/alignment of watercourse and the appropriate hydraulic analysis for any alteration of a watercourse.
 15. Hydraulic analysis for compensatory storage requirements for any alterations of the floodplain.
 16. Detention facility outlet details and maintenance plan.
 17. All appropriate FEMA submittal data and application for a LOMR, if applicable.
- (5) Final drainage plan.
- (a) A drainage plan must contain a general location map in sufficient detail to identify all surface drainage entering and leaving the development and general drainage patterns. The map should be at a scale of one inch equals 200 feet up to one inch equals 2,000 feet and show the path of all drainage from the upper reach of any off-site basins to the defined major drainage ways.
- (b) Maps of the proposed development at a scale of one inch equals 20 feet to one inch equals 100 feet on a full size drawing (22 inches by 34 inches) oriented in plan view with

north arrow and scale shall be included with the drainage plan. The plan shall show the following:

1. Existing and proposed contours at one-foot maximum intervals.
2. Spot elevations and drainage arrows at all grade breaks within the development and at all locations where proposed surface improvements tie into existing grade around the perimeter of the property. In every instance, the plan shall include topography a minimum of 75 feet beyond the limits of proposed development.
3. Property lines, easements, and common areas with purposes noted.
4. Streets, roads, and highways adjacent to the property.
5. Overall drainage area boundary and drainage sub-area boundaries identified by bold, dashed lines.
6. Existing drainage facilities and structures, natural or manmade, including roadside ditches, drainage ways, gutter flow directions, and culverts. All pertinent information such as material, size, shape, slope and location shall also be included.
7. Proposed storm sewers and open drainage ways, including inlets, manholes, culverts, retaining walls, erosion control measures, and other appurtenances.
8. Drainage arrows indicating individual lot grading patterns shall be clearly illustrated. Surface drainage from the lesser of three residential lots or three acres is allowed to combine before entering storm water drainage facilities designed to collect and transport surface drainage.
9. Proposed discharge points for runoff from the project area and all facilities designed to convey flows to the final outfall point without adverse effects to downstream property.
10. The on-site 100-year flood elevations and the limits of regulatory floodway, floodplain and/or water surfaces. In every instance, the plan shall include a determination of the 100-year water surface elevation and the area of inundation based on

routing off-site drainage flow through the development for a 100-year 24-hour storm.

11. Location and elevation of all existing and proposed utilities affected by or affecting the drainage design.

12. Details for the construction of all proposed storm water drainage facilities at a scale sufficient to demonstrate conformance with city drainage standards and city standards shall be included. Details shall include, but not be limited to, plan and profile view of all drainage facilities, culvert and underground pipe trench details, detention storage and outlet details, street inlet details, low-flow concrete swale and curb cut details and channel and swale standard cross sections.

13. Water surface profiles for the major storm shall be computed using standard backwater analysis (taking into consideration all losses due to changes in velocity, drops, bridge openings, culverts, and other obstructions) and delineated in the profile view of all channels and drainage facilities.

14. The existing and proposed surface area (in units of square feet) of impervious materials for nonresidential land development projects shall be calculated and included in tabular form for proper assignment of equivalent residential units (ERUs) for drainage fees.

15. When construction is phased or when temporary facilities are used, an outline of the sequence of construction activities shall be provided that notes when the various aspects of the drainage study will be implemented.

(H) Drainage system requirements.

(1) Storm water drainage system design capacity.

(a) The storm water drainage system shall be designed to receive and pass the runoff from a 1% (100-year) frequency rainstorm under full urbanization. The entire flow shall be confined within the storm water drainage system and shall include easements and drainage facilities within the public rights-of-way.

(b) When roadways are used as a part of the storm water drainage system, all street design requirements shall be

followed.

(1) Storm water flow.

(a) The storm water flow of a collector system shall be designed within the confines of dedicated rights-of-way or restricted drainage easements to ensure that storm water runoff can pass through a project site without inundating the lowest level of any building, dwelling, or structure.

(b) When storm water drainage system features are located between buildings or lots rather than within the right-of-way of a street, designs shall include restricted drainage easement as platted. City code prohibits structures from being located within restricted drainage easements.

(c) The adjacent water surface elevation produced from a 1% (100-year) storm shall be no closer than one foot from the finished floor of any structure.

(d) Drainage easement language shall state on the plat that the restricted drainage easement is provided for storm water flow, and that the area shall be maintained by the property owner in accordance with the Land Development Code.

(2) Bridges, culverts, and swales.

(a) All bridges shall be designed to pass the flow produced by the regulatory 1% (100-year) storm with two feet of freeboard from the water surface to the low chord of the bridge. All culverts determined to be bridge box culverts, shall be designed to pass the flow produced by the regulatory 1% (100-year) storm with two foot of freeboard from the water surface to the inside top of the culvert.

(b) All culverts under roadways, regardless of size, shall be designed to pass the flow produced by the regulatory 1% (100-year) storm with one foot of freeboard from the water surface to the upstream edge of pavement, for which backwater from 100% blockage would flood upstream structures. Backwater analysis shall be provided to illustrate compliance with this requirement.

(c) Maximum upstream headwater allowed shall be one and one-half times the vertical interior dimension the culvert; the

culverts shall be designed to have overland relief in a restricted drainage easement or right-of-way assuming 100% blockage of the culvert.

(d) Culverts, gutter lines, and associated longitudinal street grades for all streets shall be designed without street overtopping for floods produced by all storms up to and including the regulatory 1% (100-year) storm. Where overtopping will occur, the design shall include roadside swales, storm sewers or other storm water appurtenances.

(e) Culverts shall be designed such that backwater from the culvert does not inundate any structure.

(f) Provide protective measures for culverts and embankments to minimize embankment damage during overflow.

(g) When roadside swales without storm sewers are to convey storm water, the swales shall convey the regulatory 1% (100-year) flow and have a maximum depth of 30 inches to limit traffic and pedestrian safety hazards, regardless of right-of-way width, slope or paved bottom. If a greater depth is required, by design and/or site conditions, an alternative storm water conveyance system must be used. Special considerations will be made for use of engineered bioswales which require a greater depth than 30 inches; traffic and pedestrian safety will be required to be addressed as part of the design. Roadside swale cross-slopes shall be no steeper than 3:1 (H:V). Wherever practical, side slopes of 4:1 (H:V) shall be required to allow for maintenance safety.

(h) Roadside swales with vegetative cover shall have a longitudinal slope of no less than 2% to ensure drainage. When slopes greater than 2% are used, the channel must be designed to ensure that surfaces are protected from erosion.

(I) Rainfall. All hydrological analyses for projects within the city shall utilize the rainfall data published by the National Oceanic and Atmospheric Administration (NOAA) Atlas 14 as the basis for rainfall intensity or cumulative depth.

(J) Runoff.

(1) General.

(a) A drainage study which compares pre-project conditions to proposed conditions and shall be developed and submitted as a report as part of the design submittals.

(b) For new construction projects, "pre-project conditions" refers to the natural state.

(2) Soil Conservation Service (SCS) Unit Hydrograph Method. The method of runoff analysis that shall be used for the design of storm drainage system components is the SCS Method.

(a) Soil-Cover Complex Number (CN) Determination. When using the SCS unit hydrograph method for a sub-basin, the SCS basin lag time shall be used in conjunction with the CN value to determine runoff. The soil type and vegetative covers of a watershed are generally classified separately. A combination of a specific soil type and a specific cover is referred to as a Soil-Cover Complex Number (CN) and a measure of this complex can be used as a watershed parameter in estimating runoff. The CN for each area in the hydrologic analysis can be derived by first determining the classification of the soil, and then choosing the CN from the NRCS Urban Hydrology For Small Watersheds (TR-55 report).

(b) Basin characteristics. Sub-basin characteristics needed for the SCS Unit Hydrograph Method are:

1. Drainage area of the sub-basin;
2. Longest flow path length;
3. Characteristics of individual flow paths that make up the longest flow path (e.g., overland, grassed channel, gutter);
4. Slope of individual flow paths; and
5. Land use types and areas throughout the basin (e.g., agricultural, residential, business).

(3) Time of concentration. The time of concentration (T_c) for the basin is made up of two time components, according to the following equation:

$$T_c = T_o + T_t$$

Where: T_c = time of concentration (minutes)

To = initial, inlet, or sheet flow time (minutes)

Tt= travel time in the ditch, channel, gutter, storm
, etc. (minutes)

(a) For urban areas, the time of concentration consists of an overland sheet flow time (To) plus the time of travel (Tt) in the storm sewer, paved gutter, roadside drainage ditch, or drainage channel.

(b) For non-urban areas, the time of concentration consists of an overland sheet flow time (to) plus the time of travel (Tt) in a combined form, such as a small swale, channel, or drainage way.

(c) Overland sheet flow time, To, varies with surface slope, surface coverage and distance of surface flow.

(d) Overland flow distance shall not exceed 200 feet.

(e) A one-minute time increment shall be used in developing the rainfall distribution.

(4) Rational formula. The Rational Method shall only be used to determine pipe sizes for storm water drainage systems. It shall not be used for any routing calculations for storm water storage facilities.

(a) The Rational Method, using the Wright-McLaughlin modifier (correction factor) is based on the formula:

$$Q = CIA$$

Where: Q = peak discharge, (cubic feet per second, cfs)

C = runoff coefficient (dimensionless) (see Table 1800.2 or 1800.3)

I = rainfall intensity for a duration equal to the time of concentration, (inches/hour)

A = watershed area (acres)

(b) Runoff coefficient. Runoff coefficients for different land use or surface characteristics are found in Table x. If the sub basin is not homogeneous in its land use type, then a composite runoff coefficient should be calculated by averaging the areas of different runoff coefficients.

(c) Rainfall intensity. The rainfall intensity is the average rainfall rate in inches per hour for the period of maximum rainfall of a given frequency having a duration equal to the time of concentration. As described in the February 1988 ODOT Drainage Design Manual, the following equations shall be used. The most current ODOT Intensity-Duration-Frequency curves shall supersede this information.

$$I = a / (T_c + b)^c$$

Where: I = rainfall Intensity (inches per hour)

T_c = time of concentration (minutes)

a, b, c = defined through regression of NOAA Atlas 14 data

PAGE LEFT INTENTIONALLY BLANK

CHAPTER 18. FEE SCHEDULE

Pursuant to Section 1-112 of this code and for purpose of providing a clear and concise listing of the fees and charges authorized by the provisions of this code in payment for licenses, permits and services performed in accordance with the regulations and controls upon which the licenses and permits are conditioned and to provide uniformity in the supervision and administration of the issuance of licenses and permits and the collection of the amounts prescribed, a schedule of fees and charges, or fee schedule, is hereby set forth in this Section. The heading gives the titles of the appropriate chapters and articles as applicable.

Code	Section	Fee
Administration and Government		
ALCOHOLIC BEVERAGES		
<u>Alcoholic Beverages and Tax</u>		
Reserved		
ANIMALS		
<u>Dog and cat</u>		
4-122	Lost tag	1.00
<u>Animal Control Shelter</u>		
4-134	Taking up and impounding each animal	15.00
	Providing sustenance for each animal per day	5.00
	Tranquillizer Fees	10.00
4-137	Owner may claim excess above fees For impounding and keeping and reimburse city for expenses	
<u>Wild, Exotic or Dangerous Animals</u>		
4-150	Permit or license	20.00

4-171 Quarantine of animal for observation
at owner's expense

BUILDING REGULATIONS AND CODES

5-101 Demolitions with each thirty-day renewal
permit 25.00

5-106 Building permit and other Fees.

1. Except as other specifically provided with this municipal code, all new construction, including add-ons, in Single Family Residential, Multi-Family Residential, Accessory Buildings, including portable buildings and other improvements shall be as set forth below:

Residential Plan Review Fee is \$150.00 plus \$0.04 above 1600 square feet

New House: \$100.00 plus \$0.01 per square foot of floor space

House additions: \$25.00 plus \$0.01 per square foot of floor space

New Commercial: \$300.00 plus \$0.01 per square foot of floor space

Garage/shop
buildings: \$50.00

Storage sheds/
Accessory Buildings
Larger than 200 sq. ft. \$20.00

Carports/Decks
Larger than 200 sq. ft. \$20.00

Reinspection of any previously inspected residential item:
\$16.00

Storms Shelters	until 6/30/2014	after 6/30/2014
	Free	\$10.00

4. All commercial, special use and industrial construction, whether new, involving additions, remodels, accessory buildings, including fire and other inspections, shall require payment of the following fees prior to the issuance of a building permit or certificate of occupancy:

A. Building Code Plan Reviews (included 1st review and one re-review)

(1) 0.08% x valuation

(2) Valuation = square feet times ICC valuation data sheet per square feet

(3) Re-review fee for each review beyond first re-review: 25% of the plan review fee

B. Building Inspection Fee:

(1) 0.08% x valuation

(2) Valuation = square feet times ICC valuation data sheet per square feet

(3) Valuations: per group occupancies

C. New Buildings, Addition and Accessory Structures:

(1) Plan examination: \$750.00 plus calculated valuation fee

(2) Inspections: \$300.00 plus calculated valuation fee

D. Remodel/Renovations:

(1) Plan examination: \$450.00 plus calculated valuation fee

(2) Inspections: \$200.00 plus calculated valuation fee

(3) Valuation: 50% of occupancy group areas being remodeled

E. Individual Inspection or re-inspection fee:

\$75.00 per inspection

F. Fire Plan Review, when applicable:

(1) Fire Sprinkler: 3 cents per square foot

(2) Fire Alarm: 3 cents per square foot

(3) Kitchen Hoods: \$80.00 per hood

G. Fire Inspections:

(1) Fire Alarm Permit: \$150.00 plus 0.01% of valuation

(2) Fire Sprinkler permit: \$150.00 plus 0.01% of valuation

(3) Kitchen Hoods: \$120.00 per hood

H. Annual Fire Protection/Life Safety Inspection:

\$75.00 per hour; 1.5 hours minimum (\$112.50)

I. Electrical: \$220.00 plus (0.00057 x valuation)

J. Mechanical: \$180.00 plus (0.00046 x valuation)

K. Plumbing: \$220.00 plus (0.00057 x valuation)

L. In addition to the foregoing fees, the following permit fees shall also be charged for all construction:

(1) All construction under 500 square feet	\$25.00
(2) All construction 501-1000 square feet	\$100.00
(3) All construction 1001-2000 square feet	\$125.00
(4) All construction 2001 square feet and above	\$150.00

5-108	Moving a building permit	200.00
	Moving a mobile home	50.00

Section 5-112 Residential Building Contractor's Annual Registration Fee.

The Residential Building Contractor's annual registration fee as provided in Chapter 5, Section 5-112 of the Perry Municipal Code shall be Twenty Dollars (\$20.00).

Plumbing Code

5-203	Contractors annual registration	50.00
	Journeyman and apprentices	No fee

5-204C Plumbing

Permit inspection fee:

See Section 5-106 for appropriate fees for Plumbing Fees for Commercial, Special Use and/or Industrial Structures and Uses.

Electrical Code

Annual Fee

5-306	Contractors Registration (per contractor)	\$50.00
-------	--	---------

Permit inspection fee:

See Section 5-106 for appropriate fees for Electric Fees for Commercial, Special Use and/or Industrial Structures and Uses.

Mechanical Code

5-403	Mechanical contractor Annual registration (unlimited or limited)	<u>Annual Fee</u> \$50.00
-------	--	------------------------------

5-404C Mechanical Permit Inspection Fee:

See Section 5-106 for appropriate fees for Mechanical Fees for Commercial, Special Use and/or Industrial Structures and Uses.

Oil and Gas Regulations

5-803	Drilling permit (oil, gas, or disposal)	\$2,000.00
5-812	Inspection permit (oil, gas, or disposal)	250.00

FAIR HOUSING

5-905 transcribed testimony cost to be paid

by requesting party

COURT

Municipal Court

6-126	Witness fee per day	10.00
	Witness fee per mile	as set by IRS
6-129	Court costs	30.00

HEALTH AND SANITATION

Weeds and Trash

8-105	Cleaning of weeds and trash or grass cut or mowed; actual costs will be assessed the owner
-------	--

Dilapidated Building

8-503	Dismantling and removal; actual cost will be assessed the owner
-------	---

LICENSING AND BUSINESS REGULATIONS

Occupational Licenses Fees

9-101	Certain occupations
9-102	Separate licenses required

Itinerants Vendors/Transient Street Vendor

9-207	Licenses for solicitor, peddler, itinerant merchant/transient street vendor coupon book seller, solicitor's business license or coupon book seller's business license (per day)	\$10.00
	Itinerant Merchant/Transient Street Vendor Who resides in Noble County and exclusively? Sells foods and/or beverage (annual)	\$75.00

Itinerant Merchant/Transient Street Vendor
 Who resides outside Noble County and exclusively
 Sells foods and/or beverage (annual) \$250.00

Alarm Systems

9-304 Private alarm system equipment permit 10.00

OFFENSES AND CRIMES

Offenses Against the Public

10-704 Supervised public displays of fireworks permit
 PARKS, RECREATION AND CEMETERY

Cemetery

11-211 Grace Hill Cemetery Fee Schedule

Opening and closing of graves will be charged an additional fee if performed on weekends and legal holidays and will only be conducted on weekends and legal holidays in the morning only and not provided in the afternoons.

1. Opening and closing of adult graves and infant/child graves outside of Baby Land-not to include cremations \$750.00
 Additional charge if performed on weekends or any city legal holiday A>M Only \$500.00
2. Opening and closing of infant graves in Baby Land \$200.00
 Additional charge if performed on weekends or any City legal holidays-A.M. only \$25.00
3. Opening and closing of cremation graves \$50.00
 Additional charge if performed on above listed City legal holidays: \$25.00
4. Price for all grave sites including cremation sites, except for Baby Land sites, regardless of the number of grave sites purchased at one time: \$400.00
5. Price for Baby Land sites: \$200.00

Infant/Child sites outside of Baby Land:	\$400.00
6. Permit charge for setting monuments:	\$5.00
7. Permit charge for setting four (4) corner stones:	\$5.00
8. Disinterment charges:	
a. Completed opening and closing to another part of cemetery	\$1500.00
b. Opening and closing to be moved out of cemetery	\$750.00
c. Disinterment move at city request will be borne by city. An application for approval of the disinterment and removal of the bodily remains shall be first filed with, and approval obtained from the State Health Department	
9. Charge for setting above ground mausoleum	\$100.00
10. Transfer ownership of a grave site	\$25.00
11. Cemetery Pavilion/Grave Site Services. The use of the Cemetery Pavilion shall be free. Grave site services shall be subject to the \$200.00 city charge, plus any additional fee charged by the third-party service provider.	
12. Burial of Urns	\$50.00
Additional charge if performed on weekends or any city legal holiday A.M. only	\$50.00
Setting vault for an Urn	\$100.00

Lake Regulations

11-308 Permit Fees

1. Boat Permits

Perry Lake and CCC Lake

Daily	\$5.00
Yearly	\$25.00

2. Daily Pavilion Reservation Permits

A.	Reserved Lions Pavilion - Perry Lake	\$50.00
B.	Reserved Lower Pavilion - CCC Lake	\$50.00
C.	Reserved Upper Pavilion - CCC Lake	\$50.00
D.	Reserved Camp Tan-Da-Ko - 1 st building	
	Or area	\$50.00
	Each additional	\$25.00
	CCC Church	\$100.00

There will be a \$25.00 deposit on all pavilion reservation permits (\$100.00 for CCC Church deposits), which will be refunded, if the building or area is cleared of trash after use. The permit and deposit will be waived for Perry Girl Scouts, Boy Scouts, Cub Scouts, Camp Fire Girls and Noble County school groups.

3. Fishing Permits at CCC Lake and Perry Lake

A.	Daily per person	\$3.00
B.	Yearly per person	\$10.00
C.	Daily per family	\$5.00
D.	Yearly per family	\$20.00

4. Duck and Goose hunting and Blind Permits at Perry Lake

Duck blind entry application fee	\$100.00
Duck Blind Specific Location Permit Fee	\$400.00
Seasonal Hunting	\$20.00

5. Reserved.

6. Primitive Camping Permits at Perry Lake

No utilities	Residents of County	Non-Residents
Daily	\$5.00	\$10.00

7. Recreational Vehicle Permits at Perry Lake

Includes access to electric, water and sewer service

Daily: \$25.00

Weekly: \$125.00

Maximum two (2) week stay except as authorized by the City Manager or designee such as a multiple week stay for multiple week local construction projects or temporary residence for city employee(s).

Section 11-400 Swimming Pool Fees:

The following fees shall be charged for daily admission to the Perry Municipal Pool:

A. Fees:

18 years or under	\$3.00
Over 18 years	\$4.00

B. Other Rates and Charges:

1. Under age 18 - swimming lessons - 20 sessions \$15.00
2. 18 years and older - swimming lessons -10 sessions \$15.00

3. Private Use of the Pool:

The pool may be leased to private persons for parties upon the approval of the City Manager or designee.

Pool parties shall be scheduled by the pool manager at times when the pool is not open to the general public; but shall not remain open past 8:30 P.M.

The cost for rental of the pool for a private party shall be \$125.00 for three lifeguards and not more than fifty (50) guests per 1 ½ hours and \$175.00 for three or more lifeguards and fifty-one (51) guests or more for 1 ½ hours. In addition, the renter shall execute the approved pool rental agreement. Lifeguards' hours shall include a sufficient amount of time after the party for cleanup and closure of the pool facility.

4. Supervised Play:

Supervised Play shall continue as scheduled without charge

5. Season Passes:

\$60.00 per season for persons 17 years of age or younger.
\$70.00 per season for persons 18 years of age or older.

PLANNING, ZONING AND DEVELOPMENT

Board of Adjustment

12-122	Notice of appeal fee; Cost of publishing notice and any other costs associated with the hearing	100.00
12-247T	Mobile Home Permit Fee	50.00
12-286	Site Plan Review Fee	100.00

Enforcement and Administration

12-307	Zoning clearance permit	No Fee
12-308	Building permit	

Amendments

12-311	Re-zoning Application Fee	100.00
12-320	Subdivision Plan Review	100.00
	Subdivision Regulations:	100.00
6.05	Applications for lot splits shall be accompanied by the following fee:	
	Lot Split Review	100.00

Flood Damage Prevention

12-415	Development permit	
--------	--------------------	--

PUBLIC SAFETY

Fire Department and Service

13-211	Rate per call (with contract)	
13-602	If property is recovered by owner, purchaser is refunded amount paid by submitting a verified claim.	

]

STREETS, SIDEWALKS AND PUBLIC WORKS

Excavating or Cutting Streets and Alleys

- 14-201 Permit fee for Cutting, Boring, or excavation of a street, alley, bar ditch or shoulder \$50.00
- 14-205 Permit Fee for Curb Cut and/or Driveway Opening to a Streets \$25.00

TRAFFIC AND VEHICLES

Vehicle Equipment, Inspection

- 15-305 Width, height, length, weight, or load which exceeds State Law permit

Stopping, Standing and Parking Generally

- 15-709 Special permits for loading or unloading at curb

Impoundment of Vehicles

- 15-1303 Impoundment costs and storage charges to be paid prior to release

TRANSPORTATION

16-205 ANNUAL GROUND LEASE PAYMENTS FOR LOTS AND RENTAL FEES FOR CITY HANGARS AT THE AIRPORT

The annual ground lease for privately owned hangars shall be \$200.00 per year.

Overnight Transient Hangar Rent (Maintenance Hangar) shall be \$25.00 per day with Airport Manager or designee able to waive the rental in the event of fuel purchase.

RENTAL FEES FOR CITY HANGARS

Subject to adjustment as hereinafter provided, rental rates are established as listed below for City-owned Hangars:

Overnight tie down service \$3.00 per night or \$30.00 per week with Airport Manager or designee able to waive the rental in the event of fuel purchase.

a. City Hangar No. 3:

Monthly \$120.00/space 6 spaces available	Overnight as set by manager
---	--------------------------------

Other City Hangars

- | | | |
|----------------------|---|------|
| 1. Hangars No. 4 & 5 | \$225.00 | N/A6 |
| 2. T-Hangars (4) | \$125.00 | N/A |
| 3. Terminal Hangar | \$200.00 to \$400.00 per aircraft
per month based on
size | |
| 4. Hangar 14S | \$500.00 | |
| 5. Hangar 15S | \$500.00 | |
| 6. Hangar 16S | \$500.00 | |
| 7. Hangar 17S | \$500.00 | |

Overnight tie down service \$3.00 per night or \$30.00 per week with Airport Manager or designee able to waive the rental in the event of fuel purchase.

Any person, firm or other entity storing an aircraft in City Hangar No. 3 shall execute a document granting permission to the City, its officers and employees, to move aircraft within the hangar in order to provide ingress and egress for all aircraft in the hangar. The document shall also permit other persons to move another's aircraft at times when city personnel are not available, and the City shall be indemnified from any liability therefrom.

An after regular hours call out fee of Forty Dollars (\$40.00) is hereby authorized to be charged and collected as deemed appropriate by the Airport Manager. 8:00 a.m. to 5:00 p.m., Monday through Friday are considered regular hours.

-
- 6 If desired, Lessee shall provide for the installation and pay for the monthly cost for electric and water services.

UTILITIES

Billing and General Provisions

17-201 Electric Utility Fees and billings in general

Without regard to the service period, all customers billed for electric service mailed by the City of Perry on or after January 1, 2025, shall provide for payment of the following rates and charges:

1. Electric rates for Large, Medium & Small Electric Industrial Users, Commercial Rates and Meter Deposits.

A. Industrial & Commercial Definitions, Rates & Meter Deposits:

Large Industrial User:	over 100,000 KWH monthly
Medium Industrial:	9,000 to 100,000 KWH monthly
Small Industrial:	less than 9,000 KWH monthly

Users and all Commercial Electric Rates and Meter Deposits.

(1) Large and Medium Industrial Energy Charge is: \$183.02 per month plus:

All kWh at \$0.106 per kWh; and

The appropriate Demand Rate as provided hereinafter.

(2) Large Industrial User's Demand Rate

a. The Demand is the kW supplied during the fifteen (15) minute period of maximum use during the month, as determined by the city's demand meter, but not less than five (5) kW;

b. The Demand Rate charged to the Large Industrial User is \$30.50 per month, plus

All KW of Demand at \$6.05 per kW

c. The minimum bill for any Large Industrial User is \$54.60 per month.

d. The minimum monthly kW is the kW for the highest Demand established during the twelve (12) months ending with the current month.

(3) Small Industrial Energy Charge.

a. Small Industrial Energy Charge is the Commercial Electric Rate with a special minimum and choice of Demand Rate. This Small Industrial Energy Charge is for typical monthly use of less than 9,000 KWH.

b. The rate charged to the Small Industrial Energy User is \$22.58 plus

(1) First 2000 KWH per month at \$0.151 per KWH plus

(2) Over first 2000 KWH at \$0.117 per KWH

c. The special monthly minimum is \$1.20/KVA of transformer capacity (each phase is to be counted separately when establishing the minimum; for example: 3-50 KVA transformers is a \$207.36 minimum). PCA adjustments are to follow determination of minimum bill.

d. Further, a choice of Demand Rate shall be made.

(4) Standard Medium and Small Industrial Demand Rate.

a. The Demand is the kW supplied during the fifteen (15) minute period of maximum use during the month, as determined by the city's demand meter, but not less than five (5) kW.

b. The rate charged to the customer is \$30.50 per month, plus

c. All KW of Demand at \$6.05 per kW. The minimum bill for Medium and Small Industrial Users shall be \$54.60.

(4a) Alternate Medium and Small Industrial Demand Rate (Time of Use Demand Rate).

a. This type of service is Time of Use Demand Rate. Medium and Small Industrial Users may elect and have Time of Use Demand metering. Any such election shall commence with June

usage, be for a minimum of one year, and will automatically renew until otherwise canceled.

- b. Summer usages: (months of June, July August, and September usages).

All kW demand will be metered from 2:00 PM to 7:00 PM local time Monday through Friday (15-minute intervals to determine maximum use).

Each kW of maximum demand \$9.02

Winter usages (October through May)

The billed usage shall be 60% of the maximum usage occurring during the 4 summer months and to be billed at a charge per kW of \$8.03.

(5) Commercial Electric.

- a. The rate charged to the consumer is \$21.65 per month (minimum bill) plus:

- (1) First 2000 kwh per month \$0.144 per kwh plus
- (2) Over 2000 kwh @ \$0.113 per kwh.

b. A special rate is available to commercial rate and alternate industrial rate customers using one or more electric heat pumps for space heating. Qualifying heat pumps shall have electric resistance supplemental heat or no supplemental heat. Each qualified consumer must make application to the city before rate will apply; and

c. During each of the 7 winter months of October through April, up to 250 kwh per KW of connected heat pump kW (excluding supplemental electric resistance heating kW) shall be billed at \$0.096 per kwh. Heat pump heating kwh shall be the last kwh billed and shall not exceed 50% of the total kwh billed each month.

(6) Electric Rates to be Charged at the Perry Municipal Airport

Effective with the institution of electric service at the Perry Municipal Airport, all users desired electric service shall pay

the following fees, charges, and rates.

1. The deposit permit and inspection fees currently charged for similar in-town installations shall be charged users at the Perry Municipal Airport.

2. There shall be no fee for connection of service.

3. The following rates shall be charged all such users:

(a) A base charge of \$20.36 per month

(b) All kwh @ 0.138 per month

4. The City will work with the user to determine the nearest point of delivery for all electrical installations.

5. The user will provide or pay the cost of all electrical equipment required for such user's installation.

(7) ELECTRIC VEHICLE CHARGING STATION RATE

Without regard to the service period, all customers billed for electric service mailed by the City of Perry on or after May 1, 2022, shall provide for payment of the following rates and charges:

Customer Charge of \$161.05 per month plus:

All kWh at \$0.086 per kWh (energy charge) plus the Power Cost Adjustment as provided hereinbelow; and

Demand Charge is \$10.20/KW for highest daily peak for the previous year or the highest daily peak in August of the current year for the initial year of service.

B. Residential and rural electric rate and meter deposits.

(1) Residential and rural rates for "all electric" structures, and meter deposits.

The following are rates for residences and rural residences with "all electric" service needs for October through April billing periods: (Bills dated on or about October 1 through

April 30):

- a. Minimum bill \$9.51 per month, plus
- b. First 1000 kwh per month \$0.139 per kwh; plus
- c. All over 1000 kwh per month \$0.112 per kwh.

(2) The following are rates for residences and rural residences with "all electric" service needs for May through September (bills dated on or about May 1st through September 30):

- a. Minimum bill \$9.51 per month, plus
- b. First 2000 kwh per month \$0.139 per kwh; plus
- c. All over 2000 kwh per month \$0.118 per kwh.

(3) The following are Summer rates Non-all electric for residential and rural residential usages for May through September: (Bills dated on or about May 1 through September 30):

- a. Minimum bill: \$9.51 per month, plus
- b. First 2000 KWH per month \$0.139 per kwh; plus
- c. All over 2000 KWH per month \$0.118 per kwh.

(4) The following are Winter rates for Non-all electric residential and rural residential with electric usages for October through April billing periods: (Bills dated on or about October 1 through April 30):

- a. Minimum charge bill: \$9.51 per month, plus
- b. First 1000 KWH per month: \$0.139 per kwh; plus
- c. All over 1000 KWH per month: \$0.118 per kwh

(5) Residential Generation Customer's Rate. Wind, Solar and other Grid-Connected Non-Utility Owned Residential Electric Distributed Generation Customers (hereinafter referred to as "Residential Electric Distributed Generation Customers" or "customers") shall pay a customer charge of \$65.47 per month and the usage rate per month based on actual metered consumption of \$0.081 per kilowatt hour (kWh) for the first 800 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. The City will credit any customer 3.6 cents per kilowatt hour for any electric generation received by the City from a Customer's Generation system; provided however, such credit shall not exceed the customer's electric usage charge for such billing period and once such maximum credit has occurred, no further credit or payment of any type for additional electricity received by the City shall be made. No customer who constructs, installs or uses, or permit the construction, installation or use of a distributed generation service at the customer's residence, shall fail to 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 switched 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. No customer may install any wind, solar or other grid-connected non-utility owned Generation System at any location in the city which will generate more than that customer's annual peak kWh. 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.

(6) Commercial or Industrial Electric Distributed Generation Customer's Rate. Wind, Solar and other Grid-Connected Non-Utility Owned Commercial or Industrial Electric Distributed Generation Customers (hereinafter referred to as "Commercial or industrial Electric Distributed Generation Customers" or "customers") shall pay a customer charge of \$198.19 per month and the usage rate per month based on actual metered consumption of \$0.098 per kilowatt hour (kWh) energy charge, which per kilowatt hour (kWh) charge shall be used to calculate the rate as provided in this code. In addition, the customer shall be charged a Demand Rate at \$5.60 per kW, with the minimum monthly kW being the kW for the highest Demand established during the twelve (12) months ending with the

current month. The City will credit any customer 3.6 cents per kilowatt hour for any electric generation received by the City from a Customer's Generation system; provided however, such credit shall not exceed the customer's electric usage charge for such billing period and once such maximum credit has occurred, no further credit or payment of any type for additional electricity received by the City shall be made. No customer who constructs, installs or uses, or permit the construction, installation or use of a distributed generation service at the customer's business or industry, shall fail to notify the City of such fact by making a personal visit to city hall at least thirty (30) calendar 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 switched to the rate provided herein and a date and time for inspection of the facilities at the customer's business or industry 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. No customer may install any wind, solar or other grid-connected non-utility owned Generation System at any location in the city which will generate more than that customer's annual peak kWh. 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.

(7) The energy charge for electric charging stations shall be set at the Medium Industrial Electric Rate (9,000 to 100,000 KVH Monthly) plus the appropriate Demand Rate and other factors as provided in that electric rate classification as provided in Section 17-201.1.A. (7).

C. General electric service conditions and rates.

(1) Rates shall apply to any customer for all services supplied at one point of delivery and measured through one meter. The rates are not applicable to resale, breakdown, or standby service.

(2) Customers are served by the city.

(3) The department will supply single or three-phase service and any standard voltage from its distribution system

and through one standard transformation. Where entire service cannot be measured at one utilization voltage with one standard type meter, it will be measured at primary voltage.

(4) The contract period is for not less than one year.

D. Temporary Type Service (Oil Wells Etc.) [same as (I) hereinbelow:

The consumer will pay an amount equal to the full amount for construction of the electric lines for oil well or booster pump locations.

The consumer will be reimbursed at the rate of ten percent (10%) of their usage bill per month until the full amount has been reimbursed. Should service be discontinued prior to full reimbursement consumer forfeits further reimbursement?

A charge of \$53.68 per month minimum on motors of ten (10) horsepower or more will be paid by the consumer. A charge of \$26.84 per month minimum on motors nine (9) horsepower or less will be paid by the consumer.

The charge for disconnection and reconnection of service shall be \$10.74.

E. Security lighting.

(1) A one-time installation charge of \$21.47 per luminaire. Luminaires will be installed on existing utility poles.

(2) The monthly security lighting rate is as follows:

a. \$6.74 per month for each 100-watt high pressure sodium or 100-watt LED equivalent security light installed on department pole;

b. \$16.99 per month for each 175-watt metal halide or 175-watt LED equivalent security light installed on department pole.

c. \$21.29 per month for each 400-watt metal halide or 400-watt LED equivalent security light installed on department pole.

d. \$38.22 per month for each 1000-watt metal halide or 1000-watt LED equivalent security light installed on department pole.

(3) The department shall be obligated to furnish lighting from dusk to dawn and at all times replace and repair at its own cost and expense all broken or damaged lamps, poles, and other facilities used in providing this lighting.

(4) The contract period shall be for not less than one year.

F. Miscellaneous Rules

(1) Rates shall apply to any customer for all services supplied at one point of delivery and measured through one meter. They are not applicable to resale, breakdown, or standby service.

(2) The territory includes all customers served by the city.

(3) The department will supply single or three-phase service and any standard voltage from its distribution system and through one standard transformation. Where entire service cannot be measured at one (1) utilization voltage with one standard type meter, it will be measured at primary voltage.

(4) The department reserves the right to limit the wattage to a size approximate to the needs of the desired location as determined by the Electric Superintendent.

G. Construction deposit and meter base charge for electric service.

(1) A deposit as provided by this code shall be charged for any electric service to a residential or commercial construction or renovation plus the applicable electric meter base charge.

(2) The fee to be charged for electric meter bases shall be as follows:

Three Phase:

a. Two hundred (200) amp base - \$118.10 (1990 cost basis \$106.85); and

b. One hundred (100) amp base - \$75.16 (1990 cost basis \$62.00);

Single Phase:

a. Two-hundred-amp base - \$42.95; and

b. One-hundred-amp base - \$26.84

H. Additional charges for underground electric service.

Any person requesting underground electrical service within the city shall pay at the time underground electrical services are requested the sum set by the city to help defray the cost of installation.

Installation	Initial Charge for Underground Service
Up to 200 Amp wire	\$214.74 per hundred feet, thereafter on a prorata basis
Over 200 Amp wire	\$429.47; costs of current transformers
First 100 feet	wire looms, meter cans, additional wire
All other	and other costs to the city.

I. Service to potentially temporary locations.

In potentially temporary locations, the consumer will pay an amount equal to an agreed upon estimate of the full amount of costs for construction of the electric lines and service equipment for oil well, booster pump or similar location. The consumer will be reimbursed at the rate of ten percent (10%) of their usage bill per month until the full amount of these construction costs has been reimbursed. Should service be discontinued prior to full reimbursement, the consumer forfeits further reimbursement. Commercial rates as set out in the fee schedule with a special minimum shall apply to the usage. A minimum charge of \$53.68 per month on motors of 10 horsepower or more will be paid by the consumer. A minimum charge of \$26.84 per month on motors of 9 horsepower or less will be paid by the consumer.

J. Purchased power cost adjustment (PCA).

Purchase power adjustment costs are based on a wholesale cost of \$0.061 KWH. Billing for each KWH sales will be adjusted to properly reflect changes in the monthly purchase power cost from the wholesaler suppliers. The adjustment factor shall be as follows:

$$a. \quad PCA = (A / B) - \$0.061) \times \$1.25$$

Where: PCA is the additional dollars, either positive or negative, rounded to the nearest tenth of a mill, per KWH to be applied to all KWH sold to any each customer;

A is amount of the month's billing OMPA power purchase for total demand and energy charge without consideration of any demand discount.

B is total KWH City purchased for the month;

\$0.061 KWH is base purchase power cost in \$/KWH;

1.25 is a constant reflecting system losses and unbilled city uses.

b. OMPA billings occur 10 days after customers are billed, therefore the resulting PCA adjustment is to be applied each month based on customer's prior month usage. The PCA amendment shall apply for all billings mailed on or after July 1, 2015.

For testing electric meters, the charge is \$10.39 per test - if the test is inaccurate the city will refund the customer's deposit or otherwise keep it.

Section 17-413 Water Rates

A. Water Rates.

1. Without regard to the service period, all residential customers billed for water service mailed by the City of Perry on or after March 1, 2023, whether the service address is located inside or outside the city corporate limits, shall pay the following monthly rates and minimum charges:

Per 1000 gallons

- a. First 1000 gallons of water (minimum monthly base charge) \$42.48
- b. Additional usage from 1001 through 2000 gallons \$5.63
- c. Additional usage from 2001 through 3000 gallons \$5.64
- d. Additional usage from 3001 through 4000 gallons \$5.66
- e. Additional usage from 4001 through 5000 gallons \$5.68
- f. Additional usage per 1000 gallons from 5001 through 8000 gallons \$5.80
- g. Additional usage per 1000 gallons from 8001 through 10,000 gallons \$6.14
- h. Additional usage per 1000 gallons over 10,000 gallons \$6.65

i. Provided however, beginning on January 1, 2027, and continuing thereafter until lawfully amended, the rates provided in Subsection A.1.a through A.1.h, and as increased by Subsection A.1.i and A.1.j, shall be increased by 15%;

j. The rates may also be annually adjusted as provided by Section 17-221 (all municipal utility rates annually are subject to increase or decrease in the Consumer Price Index).

k. Provided however, notwithstanding the foregoing, the rates charged customers located outside of the corporate limits shall be reduced by the amount necessary to ensure that only those costs attributable to the City's ability to maintain and provide water service to those customers shall be charged and collected pursuant to its enterprise accounting system.

2. Without regard to the service period, all commercial customers billed for water service mailed by the City of Perry on or after March 1, 2023, whether the service address is located inside or outside city corporate limits, shall pay the following monthly rates and minimum charges:

Per 1000 gallons

- a. First 1000 gallons (minimum monthly base charge) \$47.43
- b. Additional usage from 1001 through 2000 gallons \$6.25

- c. Additional usage from 2001 through 3000 gallons \$6.27
- d. Additional usage from 3001 through 4000 gallons \$6.29
- e. Additional usage from 4001 through 5000 gallons \$6.31
- f. Additional usage from 5001 through 8000 gallons \$6.44
- g. Additional usage from 8001 through 10,000 \$6.82
- h. Additional usage over 10,000 gallons \$7.39

i. Provided however, beginning on January 1, 2027, and continuing thereafter until lawfully amended, the rates provided in Subsection A.2.a through A.2.h, and as increased by Subsection A.2.i and A.2.j, shall be increased by 20%;

j. The rates may also be annually adjusted as provided by Section 17-221 (all municipal utility rates annually are subject to increase or decrease in the Consumer Price Index).

k. Provided however, notwithstanding the foregoing, the rates charged customers located outside of the corporate limits shall be reduced by the amount necessary to ensure that only those costs attributable to the City's ability to maintain and provide water service to those customers shall be charged and collected pursuant to its enterprise accounting system.

3. Without regard to the service period, all industrial customers billed for water service mailed by the City of Perry on or after March 1, 2023, whether the service address is located inside or outside city corporate limits, shall pay the following monthly rates and minimum charges:

Per 1000 gallons

- a. First 1000 gallons (minimum monthly base charge) \$47.43
- b. Additional usage from 1001 through 2000 gallons \$6.25
- c. Additional usage from 2001 through 3000 gallons \$6.27
- d. Additional usage from 3001 through 4000 gallons \$6.29
- e. Additional usage from 4001 through 5000 gallons \$6.31

- f. Additional usage from 5001 through 8000 gallons \$6.44
- g. Additional usage from 8001 through 10,000 \$6.82
- h. Additional usage over 10,000 gallons \$7.39

i. Provided however, beginning on January 1, 2027, and continuing thereafter until lawfully amended, the rates provided in Subsection A.3.a through A.3.h, and as increased by Subsection A.3.i and A.3.j, shall be increased by 20%;

j. The rates may also be annually adjusted as provided by Section 17-221 (all municipal utility rates annually are subject to increase or decrease in the Consumer Price Index).

k. Provided however, notwithstanding the foregoing, the rates charged customers located outside of the corporate limits shall be reduced by the amount necessary to ensure that only those costs attributable to the City's ability to maintain and provide water service to those customers shall be charged and collected pursuant to its enterprise accounting system.

Without regard to the service period, all customers billed for water service mailed by the City of Perry on or after the 1st day of January 2023, shall be monthly charged an additional Five Dollars and Fifty-one cents (\$5.51) to be added to the minimum monthly base charge (the "charge"), in order to repay the indebtedness incurred by the DWSRF Loan secured through the Oklahoma Water Resource Board in September 2022, to make improvements to the City's Water Distribution System. All monies collected from such charge shall be placed in a special account and used only for the payment of this indebtedness necessarily incurred to engineer and construct such improvements, including the costs of such indebtedness, with such charge terminating automatically upon the payment in full of such indebtedness.

Sprinkler Rate:

4. For those users having a separate meter for lawn watering purposes the rate shall be \$17.91 minimum for the first 1500 gallons of water plus the appropriate water rate, as provided herein for water customers, whether located inside or outside

the corporate limits; provided this rate shall be increased by an additional 15% on and after January 1, 2027.

5. The rates shall apply for water used during each month from reading to reading of the water meters. If a water customer's line has a leak which occurs through no fault of the customer, and the customer immediately has the leak repaired at his own expense, the city clerk or designee is authorized to credit the customer's water bill for a maximum of thirty (30) days in an amount equal to 1/2 of the metered amount over the historic average usage of the service address for a twelve (12) month period and the sewer bill shall be adjusted in the same manner as the water adjustment provided however, only one such water and sewer adjustment shall be permitted in any twelve (12) month period. In order to receive the credits, the customer must provide an invoice marked paid showing the leak was fixed and/or a letter, signed and dated, setting out how the leak occurred and how it was fixed.

B. 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:

Inside City Limits:

- | | | |
|----|-----------------------|---|
| a. | 3/4 inch tap material | \$400.00 plus cost of meter and cost of material |
| b. | 1 inch tap material | \$600.00 plus cost of meter and cost of material |
| c. | 2 inch tap material | \$1200.00 plus cost of meter and cost of material |
| d. | 4 inch tap material | \$2000.00 plus cost of meter and cost of material |
| e. | 6 inch tap material | \$2600.00 plus cost of meter and cost of material |
| f. | 8 inch tap material | \$3000.00 plus cost of meter and cost of material |

- g. 10 inch tap \$3500.00 plus cost of meter and cost of 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:

Outside City Limits

- a. 3/4-inch tap \$700.00
- b. 1-inch tap \$750.00
- c. Over 1-inch tap \$2650.00

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. If taps are to be used exclusively for private fire hydrants or sprinkler systems meters may be omitted. The following monthly charge will be made by the city, according to the following schedule:

- a. 2 inch tap \$12.00 per month;
- b. 4 inch tap \$12.50 per month;
- b. 6-inch tap \$17.50 per month;
- c. 8-inch tap \$30.00 per month;
- d. 10-inch tap \$40.00 per month;

In order to encourage building renovation and development within the downtown historic square, as defined by 6th Street on the East, 7th Street on the West, Cedar Street on the South and Delaware on the North (hereinafter the "square"), any building located within and fronting the square which requires, as a part of its building permit, pursuant to the applicable building code, the installation of a private fire hydrants or fire sprinkler systems, and which building will be used for retail purposes, the costs of installation of the service line to the building shall be shared by and between the owner or persons in

lawful custody or control of the building (hereinafter the "owner") as follows:

A. The City shall pay for all labor necessary to cut the street, curb, and sidewalk;

B. The owner shall pay all required connection fees including the cost of the water tap, tap the main water line, install the lateral within the street/sidewalk right-of-way and to the edge of the building, pay the cost of all materials required, including but not limited to pipe, fittings, concrete, and brick, and make the connection from the lateral water line lying in the ditch to the installation to be made within or upon the building.

C. After final inspection, the City will pay the cost of labor to retrofit the street, curb, and sidewalk.

The City may require a cash deposit not to exceed \$500.00 to be made in the amount of the anticipated cost by the owner prior to commencing any work.

The fee charge for fire service shall apply to all systems now or hereinafter to be connected to city mains.

C. Bulk Water Rates

1. The following rate is set to be collected by the city for bulk water sales for raw water from the city's lakes: \$0.10 per gallon or fraction thereof.

2. The following rate is set to be collected by the city for bulk water sales of treated water at the water plant: 0.10 per gallon or fraction thereof.

Provided however, the City Manager may negotiate the rate for the purchase of bulk water with third parties based on the quantity of water to be purchased, provided such rate shall never be less than the rate paid by Perry residential water utility customers. Such water sales shall be evidenced by a contract for sale in substantial form as that form approved by the City Council.

D. Charge and procedure for testing meters.

Any person receiving water through a meter supplied by the City who desires to have the accuracy of same tested, may do so by making a deposit of \$10.53 with the cashier of the department. The superintendent will then make a proper test of such meter and if after proper test it is found to be incorrect more than two percent (2%) in favor of the city, the deposit of \$10.53 shall be returned to the consumer and correction made only for that month for which the bill was last rendered. If, however, the meter is found to be correct, then the \$10.53 shall become the property of the city and be paid to the credit of the water fund. In case of a meter failing to register, the monthly water rent due the city shall be determined by an average of the three (3) months previously that the meter registered. In all cases where the consumer's piping or plumbing is divided, thus necessitating the use of two (2) meters, each meter shall be handled and regarded as for separate and distinct consumers to each of which will apply the regular water rates and minimum charges until such plumbing or piping is so arranged as to permit the use of but one meter. Under no circumstances shall the consumption be added or "lumped" in order to reduce the net sum due the city.

III. SEWER USE RATES.

Section 17-510 SANITARY SEWER USE RATES.

A. Sewer Rates

1. Without regard to the service period, all residential customers billed for sanitary sewer service mailed by the City of Perry on or after July 1, 2022, with the service address located inside the city corporate limits, shall pay the following monthly rates and minimum charges:

- a. First three thousand (3000) gallons of water used (minimum): \$35.33 per month, plus \$0.00334 per gallon of water used above three thousand (3000) gallons during the months of September through April.
- b. First seventy-five hundred (7500) gallons of water used (minimum): \$35.33 per month, plus \$0.00334 per gallon of water used above seventy-five hundred (7500) gallons during the months May through August.
- c. Provided however, beginning on January 1, 2027, and

continuing thereafter until lawfully amended, the rates provided in Subsection A.1.a and A.1.b, and as increased by Subsection A.1.c and A.1.d, shall be increased by 15%; and

- d. The rates may also be annually adjusted as provided by Section 17-221 (all municipal utility rates annually are subject to increase or decrease in the Consumer Price Index).

2. Without regard to the service period, all commercial customers billed for sanitary sewer service mailed by the City of Perry on or after July 1, 2022, with the service address located inside the city corporate limits, shall pay the following monthly rates and minimum charges:

- a. First three thousand (3000) gallons of water used (minimum): \$39.26 per month, plus \$0.00371 per gallon of water used above three thousand (3000) gallons during the months of September through April.
- b. First seventy-five hundred (7500) gallons of water used (minimum): \$39.26 per month, plus \$0.00371 per gallon of water used above seventy-five hundred (7500) gallons) during the months May through August.
- c. Provided however, beginning on January 1, 2027, and continuing thereafter until lawfully amended, the rates provided in Subsection A.2.a and A.2.b, and as increased by Subsection A.2.c and A.2.d, shall be increased by 20%; and
- d. The rates may also be annually adjusted as provided by Section 17-221 (all municipal utility rates annually are subject to increase or decrease in the Consumer Price Index).

3. Without regard to the service period, all industrial customers billed for sanitary sewer service mailed by the City of Perry on or after July 1, 2022, with the service address located inside the city corporate limits, shall pay the following monthly rates and minimum charges:

- a. First three thousand (3000) gallons of water used (minimum): \$39.26 per month, plus \$0.00371 per gallon

of water used above three thousand (3000) gallons during the months of September through April.

- b. First seventy-five hundred (7500) gallons of water used (minimum): \$39.26 per month, plus \$0.00371 per gallon of water used above seventy-five hundred (7500) gallons) during the months May through August.
- c. Provided however, beginning on January 1, 2027, and continuing thereafter until lawfully amended, the rates provided in Subsection A.3.a and A.3.b, and as increased by Subsection A.3.c and A.3.d, shall be increased by 20%; and
- d. The rates may also be annually adjusted as provided by Section 17-221 (all municipal utility rates annually are subject to increase or decrease in the Consumer Price Index).

4. Any rural user of the sanitary sewer system will be charged double the above rates and minimum charges provided for in Subsections A.1, A.2 and A.3; and

5. In addition to the rates and minimum charges provided for in Subsections A.1, A.2 and A.3; hereinabove, without regard to the service period, all customers billed for sanitary sewer service mailed by the City of Perry on or after July 1, 2022, shall provide for the monthly payment of the following Sanitary Sewer Capital Improvement rates and minimum charges:

a. First three thousand (3000) gallons or the first seventy-five hundred (7500) gallons based on the applicable month as provided in Subsection A3b or Subsection A3c, respectively, used by:

Residential customers located inside or outside of the corporate limits: \$7.40;

Commercial customers located inside or outside of the corporate limits: \$18.49;

Industrial customers located inside or outside of the corporate limits: \$18.49; plus

b. For customers located within the corporate limits for each gallon of water used above three thousand (3000) gallons per month except during May, June, July and August, shall pay

\$0.000612; for customers located outside the corporate limits for each gallon of water used above three thousand (3000) gallons per month except during May, June, July and August, shall pay \$0.00133; plus

c. For customers located within the corporate limits for each gallon of water used above seventy-five hundred (7500) gallons per month shall pay \$0.000612; for customers located outside the corporate limits for each gallon of water used above seventy-five hundred (7500) gallons per month during the months of May, June, July and August, shall pay \$0.00133;

These minimum fees and charges shall be placed in a special account and used only for the payment of any indebtedness necessarily incurred by the Perry Municipal Authority to engineer and construct certain Sanitary Sewer Capital Improvement, including the costs of such indebtedness, with such minimum fees and charges terminating automatically upon the payment in full of such indebtedness.

B. Sewer tap fees.

1. All openings required to connect the public sewer line with a private sewer line shall be made in the presence of the sewer inspector by a qualified plumber holding a current city plumbing license, by the payment of a tap fee to be paid to the city clerk, in advance, as follows:

a. Inside city limits, sewer tap fee \$50.00 (any other pipe material) with the customer responsible for paying for all materials and the road or street bore, if applicable; and

b. Inside city limits, sewer tap fee \$175.00 (polypipe material) with the customer responsible for paying for all materials and the road or street bore, if applicable; and

c. Outside city limits, sewer tap fee \$100.00 (any other pipe material) with the customer responsible for paying for all materials and the road or street bore, if applicable; and

d. Outside city limits, sewer tap fee \$500.00 (polypipe material) with the customer responsible for paying for all materials and the road or street bore, if applicable.

Provided however, the sewer tap fees shall be increased by an

additional 15% on and after January 1, 2027.

REFUSE RATES

Section 17-607E

I. SOLID WASTE COLLECTION AND DISPOSAL RATES.

Without regard to the service period, all customers billed for solid waste and collection mailed by the City of Perry on or after June 28, 2024, to every person, firm, or corporation, shall provide for payment of the following monthly rates corresponding to the particular service received by such user as provided by the following schedule attached hereto and incorporated herein by reference.

Residential

Frequency#	Service Details	
Weekly		
2x	User Furnished Container	\$22.99
2x	With Contractor's polycart	\$27.17

Commercial

Frequency#	Service Details	
Weekly		
2X	User furnished container	\$29.01
2X	Contractor furnished Polycart	\$33.19
2X	One 2-yard dumpster, not shared (\$58.09 for each additional 2 yards for larger dumpster).	\$82.48
4x	One 2-yard dumpster, not shared (\$104.55 for each additional 2 yards for larger dumpster).	\$144.23
6X	One 2-yard dumpster, not shared (\$139.63 for each additional 2 yards for larger dumpster).	\$213.06

dumpster).

In addition to the above fees, any Perry residential utility customer whose service location is outside the corporate limits of the City of Perry may sign up for monthly convenience center service permitting such residential customer to dump at the convenience center with a current utility bill for the monthly charge of \$6.36. These charges shall be annually computed during each successive June and paid to the Solid Waste Collection and Disposal Contractor with the July contractor payment.

Persons having the following uses will not be charged a monthly Solid Waste Collection and Disposal Fee:

- Vacant Lots
- A house or other structure without any other city utilities
- New construction will not be charged a monthly Solid Waste Collection and Disposal Fee so long as a roll off or similar dumpster is being actively used.

All other utility customers will be charged a monthly Solid Waste Collection and Disposal Fee.